

# Standards and Audit Committee

**Tuesday 9 February 2010 7.30pm**

**Committee Room  
Runnymede Civic Centre, Addlestone**

## Members of the Committee

Councillors A J Davis, R J Edis, Mrs C E Gant, Mrs L M Gillham and A P Tollett

### Additional Non-Elected Members of Standards and Audit Committee

Mrs C A Spurling (Vice-Chairman) and Mr S Tully (Chairman)

In accordance with Standing Order 29.2 any non-member of the Committee who is considering attending the meeting should first request the permission of the Chairman.

## A G E N D A

### Notes:

- i) Any report on the Agenda involving confidential information (as defined by section 100A(3) of the Local Government Act 1972) must be discussed in private. Any report involving exempt information (as defined by section 100I of the Local Government Act 1972), whether it appears in Part 1 or Part 2 below, may be discussed in private but only if the Committee so resolves.
- ii) The relevant "background papers" are listed after each report in Part 1. Enquiries about any of the Agenda reports and background papers should be directed in the first instance to **Miss C Pinnock, Administration and Leisure Department, Committee Section, Civic Centre, Station Road, Addlestone (Tel: Direct Line: 01932 425627). (Email: [clare.pinnock@runnymede.gov.uk](mailto:clare.pinnock@runnymede.gov.uk)).**
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## **LIST OF MATTERS FOR CONSIDERATION**

### **PART I**

#### **Matters in respect of which reports have been made available for public inspection**

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### **PART II**

#### **Matters involving Exempt or Confidential Information in respect of which reports have not been made available for public inspection.**

a) Exempt Items

Exempt Appendix 'B' to Item 5: Internal Audit

b) Confidential Items

(No items to be considered under this heading).

1. FIRE PRECAUTIONS

The Chairman will read the Fire Precautions, which set out the procedures to be followed in the event of fire or other emergency.

2. MINUTES

To confirm and sign the Minutes of the Meeting held on 30 September 2009 which were included in the October 2009 Minute book previously circulated.

3. APOLOGIES FOR ABSENCE

4. DECLARATIONS OF INTEREST

If Members have an interest in an item, please record the interest on the form circulated with this Agenda and hand it to the Legal Representative or Committee Administrator at the start of the meeting. A supply of the form will also be available from the Committee Administrator at meetings.

Members who have previously declared interests, which are recorded in the Minutes to be considered at this meeting, need not repeat the declaration when attending the meeting. Members need take no further action unless the item in which they have an interest becomes the subject of debate, in which event the Member must leave the room if the interest is personal and prejudicial

5. INTERNAL AUDIT (DF)

(Ref: Minutes of Standards and Audit Committee, February 2009, page 753, para 485)

1. Purpose of Report

1.1 **The purpose of this report is to:**

- i) **provide information on the 2010/11 Internal Audit plan;**
- ii) **update Members on the staffing provision of the Internal Audit section; and**
- iii) **apprise Members in respect of any internal control issues arising from the first part of this year's audit coverage.**

2. Background Information

2.1 Since the Standards and Audit Committee was constituted, established practice has been to report:

- the annual plan prior to the start of the financial year (normally in February);
- actual work carried out as compared to that plan, after the end of the financial year (formerly in September but more recently in June); and
- recommendations made and progress made in implementing them, together with any significant control issues.

2.2 This report presents the 2010/11 Internal Audit plan.

2.3 The Internal Audit Section comprises the Chief Internal Auditor and an Auditor, supplemented by contract auditors, currently provided by Haines Watts.

3. Report

3.1 The annual Internal Audit Plan for 2010/11 is reproduced at Appendix 'A' and is spilt as set out below:

Plan	Work	Number of Days
Part 1 - Systems audits	Assess controls in operational areas to manage identified risks and provide assurance. <i>e.g. Council Tax, Museum, Leisure Centre, Benefits.</i>	197
Part 2 - Computer audits	Non technical <i>e.g. document scanning procedures</i> Part technical <i>e.g. IT controls within individual systems</i> Technical <i>e.g. Operating system security, system configuration, prevention of access to 'hackers'.</i>	36
Part 3 – Corporate work	Anti Fraud & Corruption work, Data Matching, external audit assistance <i>e.g. Act on fraud notifications from external bodies, co-ordinate the , National Fraud Initiative within Runnymede, audit of subsidy claims to reduce external audit fees.</i>	38
Part 4 - unplanned & consultancy work	Investigations re possible fraud <i>e.g. Large income/cash shortage identified.</i> Advice on request <i>e.g. Assistance with designing controls for a new system.</i>	32
<b>Total</b>		<b>303</b>

- 3.2 Members are advised that these proposals may be subject to change in light of the results of the Service Reviews which the Council is currently undertaking in a number of key service areas.
- 3.3 The majority of the planned work for 2010/11 will be completed by in-house staff. It is anticipated that 73 systems days (part 1) and 16 computer audit days (part 2) will be obtained from the external provider.
- 3.4 In addition, it is expected that a further 8 days work will be requested from the contractor to undertake the IT audit of the Payroll system.
- 3.5 Payroll services have been provided to this Council by the same supplier since 1991. The implementation of an audit recommendation to re-tender this contract was delayed by the move to the new Civic Centre so the audit was scheduled for the current financial year (2009/10).
- 3.6 Re-tendering has been delayed again, as the current supplier offered to upgrade the system if the Council stayed with them for a further year. This offer was accepted in order to alleviate the workload in the Accountancy section. Hence the audit has been deferred.
- 3.7 Specialist skills are required for some computer audit work. These skills are relatively expensive (current charges for computer audit days are 73% higher than systems audit days). Officers have therefore agreed with the contractor that, where possible, elements of each computer audit will be carried out by non-technical systems auditors to keep costs down.
4. Staffing Provision of the Internal Audit Section
- 4.1 The Chief Internal Auditor has been in post for nine years. There have been seven Officers in the Auditor post over the same time period.
- 4.2 The most recent recruit started 15 months ago which has provided a period of stability for the section. Although significant time input was required in the first few months for 'on the job' training, the auditor is now conducting work unaided. This has allowed the section to catch up on tasks that had slipped due to the cycle of recruiting, training and then losing auditors.
- 4.3 The auditor is undertaking professional studies and has taken exams for the Certificate level of CIPFA (the Chartered Institute of Public Finance and Accountancy). At the time of writing this report, he is awaiting the results.
5. External Provision
- 5.1 Following a re-tender exercise, top up Internal Audit days are now provided by Haines Watts through a three year contract which expires in March 2012.

- 5.2 Officers are pleased with the work being produced by the new external provider and the way the contract staff work with the in-house team and auditees.
6. Partnership Working
- 6.1 There is still a desire on the part of some Surrey Internal Auditors to explore partnership working. However, there is no consensus on what form this should take between the two extremes of:
- a) comparing how each member of the Surrey Audit Group (SAG) carries out audits, and
  - b) working towards merging individual Internal Audit sections into a County-wide audit service.
- 6.2 SAG has already provided a forum for comparisons and the sharing of best practice for a number of years. As Runnymede is currently considering the Surrey First initiative, no work is being actively undertaken at Officer level to pursue joint working at this time.
7. Adequacy of Internal Control
- 7.1 The Chief Internal Auditor is not aware of any major issues that Members need to be aware of that have not already been reported elsewhere (e.g. in the Statement of Internal Control).
- 7.2 Exempt Appendix 'B' lists new recommendations and progress with those previously made. Some previous recommendations relate to older reports as the section has made a concerted effort to catch up with following up a number of recommendations with target dates that passed some time ago.
- 7.3 A system has now been put in place to create advance e-mails at the time each audit report is issued. These are automatically sent shortly after the agreed target dates. Early signs are that most auditees are responding to these which means Internal Audit is able to monitor progress in a more timely manner.
- 7.4 There are however still some auditees that do not respond, whether the e-mail relates to recent or older recommendations. Internal Audit is now tabling all contact with these auditees with a view to taking the information to the relevant Chief Officers.
8. Legal Implications
- 8.1 Internal Audit is conducted as part of the authority's duty to make proper arrangements for the administration of its financial affairs under the Local Government Act 1972 (section 151). It is specifically required and governed by the Accounts and Audit Regulations 2003 (as amended in 2006 and 2009).
- 8.2 Regulation 6 of the Accounts and Audit (Amendment) (England) Regulations 2006 provides that a relevant body shall:
- '.....maintain an adequate and effective system of internal audit of its accounting records and of its systems of internal control in accordance with the proper practices in relation to internal control.
- Any officer or member of a relevant body shall, if the body requires:
- a) make available such documents of the body which relate to its accounting and other records as appear to that body to be necessary for the purposes of the audit; *and*
  - b) supply the body with such information and explanation as that body considers necessary for that purpose.'

- 8.3 The Regulations state that the 'relevant body' is responsible for maintaining the Internal Audit system, rather than any one specific Officer. It is not possible to delegate this responsibility but in managerial terms it is exercised in Runnymede through the Director of Finance.

**OFFICERS' RECOMMENDATION that –**

**the Committee expresses satisfaction with the matters identified and the action taken to date.**

**(TO RESOLVE)**

Background Papers

None stated.

6. REVIEW OF THE EFFECTIVENESS OF THE SYSTEM OF INTERNAL AUDIT (DF)

1. Purpose of Report

- 1.1 **The purpose of this report is to review the effectiveness of the Council's internal audit in order to provide additional supporting evidence for the Statement of Internal Control which forms part of the Statement of Accounts.**

2. Background Information

- 2.1 Regulation 4 of the Accounts and Audit Regulations (2003) requires the Council to conduct a review at least once a year of the effectiveness of its system of internal control and publish a statement on internal control (SIC) each year with its financial statements.
- 2.2 A requirement in the Accounts and Audit (Amendment) Regulations 2006 is for the Council to review the effectiveness of its system of internal audit once a year and for the findings of the review to be considered by a committee or by the Council as a whole, as part of the consideration of the system of internal control referred to in Regulation 4.

3. Report

- 3.1 Officers believe that a review of the effectiveness of internal audit needs to consider the following issues:-
- do the managerial and reporting arrangements provide an appropriate environment for an effective internal audit to operate?
  - are the resources adequate?
  - does internal audit make an effective contribution to the Council's systems and controls?
  - does the organisation give sufficient weight to the work of internal audit? (does the organisation respond effectively to audit recommendations?)
  - is internal audit subject to regular operational reviews by an appropriate committee that will ensure the organisation responds with integrity to reports that are intended to minimise the opportunity for error and fraud?
  - how do the operational and committee arrangements compare against external standards and best practice?
- 3.2 Consideration of these issues is integral to the business of the Standards and Audit Committee. An exercise formally badged as a 'review of the effectiveness of internal audit' was first considered by Corporate Management Committee in June 2007 where the Statement of Internal Control was also being reported. The exercise was later reported to the Standards and Audit Committee, where it was agreed that subsequent reports for future reviews would be considered.
- 3.3 This review has been conducted by the Directors' Management Team. The Department of Communities and Local Government (DCLG) issued guidance on the amendment Regulations and this cites the *CIPFA Code of Practice for internal audit in local government in the United Kingdom* as proper practice in relation to internal audit. The approach adopted

by the team has drawn heavily on the code of practice, using a checklist reproduced from the code. In addition, another CIPFA publication *Audit Committees – Practical Guidance for Local Authorities* includes a self-assessment checklist for measuring the effectiveness of an audit committee. These checklists are reproduced at Appendices 'C' and 'D' where the findings of the team are detailed against each point. With regard to Appendix 'C', it should be noted that the numeric references have been taken directly from the Code. Some of those references are duplicated; some references are missing from the numeric sequence.

- 3.4 Directors believe that internal audit operates effectively at Runnymede and that there are no significant points (itemised in Appendices 'C' and 'D') where organisational practices depart from the Code. Directors have identified the following practices which do not comply strictly with the Code (indicated with the answer 'No' in the Appendices):-

i) *Appendix 'C', ref. 5.1.2: Protocols defining working relationships*

*Comment:* Although there is no written protocol defining the relationships listed in the checklist, Directors query the necessity for this. The Code refers only to managing relationships, expectations and responsibilities. Much of this is covered in the Terms of Reference for Internal Audit, professional codes of conduct and corporate codes (such as the Member/Officer Protocol).

ii) *Appendix 'C', ref. 10.4.2: Annual report of the Chief Internal Auditor*

*Comment:* Previous reports of the Chief Internal Auditor to the Standards and Audit Committee have not commented on compliance with the Code. This will be included in future reports.

iii) *Appendix 'D': Private meetings of the Standards and Audit Committee with the external auditor and the Chief Internal Auditor*

*Comment:* Directors do not consider this to be an issue. There have been no private meetings with the external auditor but this has never been requested either by the Committee or the Audit Commission. The Committee usually considers part of the Chief Internal Auditor's reports in the confidential part of the agenda and this could equally apply to any matters that the external auditor wished to raise.

4. Legal Implications

- 4.1 Regulation 6 requires the Council to maintain an adequate and effective system of internal audit of its accounting records and of its system of internal control in accordance with proper internal audit practices. It is the responsibility of the local authority to conduct the annual review of its internal audit. The external auditor should not be relied on to undertake this task, although the external auditor can be expected to consider the Council's review as part of the annual audit.

**OFFICERS' RECOMMENDATION that –**

**the review of the effectiveness of internal audit be noted and the findings be submitted to the next meeting of Standards and Audit Committee.**

**(TO RESOLVE)**

Background Papers

Department for Communities and Local Government, Circular 03/2006, Guidance on the Accounts and Audit Regulations 2003, 18 August 2006.

CIPFA, 'Code of Practice for internal audit in local government in the United Kingdom', 2006.

CIPFA, 'Audit Committees: Practical Guidance for Local Authorities', 2005

7. DATA MATCHING – UPDATE (DF)  
(Ref: Minutes of Standards and Audit Committee, September 2009, page 289, para 303)

1. **Purpose of Report**

1.1 **The purpose of this report is to update the Committee with the latest outcomes and costs of the 2008 Data Matching exercise.**

2. Background Information

2.1 The Audit Commission runs a data matching exercise as part of a National Anti Fraud Initiative (NFI). The Council participates in this exercise, which to date has been a biennial event.

2.2 When the NFI commenced in 1996, the objective was to combat Benefit fraud. Since then, the scope has been broadened to cover fraud in a wide range of public services. Data sets are now provided by a number of public sector organisations (normally every two years) and matched against each other to identify e.g.

- employees of public sector organisations not having UK visas,
- tenants exercising their Right to Buy who are in receipt of Benefit or have rent arrears,
- duplicate payments,
- fraudulent
  - benefit claims,
  - pension payments,
  - insurance claims,
  - parking permits.

2.3 It must be stressed that a data match does not necessarily mean that a fraud has been committed. At this stage, the output from the exercise has simply reported that there are two or more records in two systems where the details (e.g. a name, address or date of birth) are the same. Where there is a data match the onus is on the participating organisations to investigate the reasons for the match to establish whether or not there is any evidence of fraud or error.

3. Report

3.1 For the 2008 Data Matching exercise, Runnymede supplied the following information:

- Payroll
- Trade creditors
- Housing – rents
- Housing – sold Council houses
- Transport passes for the concessionary travel scheme
- Licences – Taxi drivers
- Personal licences to supply alcohol
- Council Tax
- Electoral Register

3.2 In addition, the Council's insurers supplied data relating to insurance claimants and the DWP (Department for Work and Pensions), provided Benefits data.

3.3 From this data the NFI reported 2,197 matches for Runnymede to review. The vast majority of the work has now been completed with the following results:

	Matches			Frauds		Errors	
	Reported	Investigated	In progress	No.	Value	No.	Value
Benefits	558	556	2	4	£22,070.02	5	£8,774.18
Payroll	70	70					
Housing Rents	8	7	1**				
Creditors	781	521*				1	£16.63
Concessionary Fares	143	143					
Council Tax	637	637				114	£57,817.71
<b>Total</b>	<b>2197</b>	<b>1934</b>	<b>3</b>	<b>4</b>	<b>£22,070.02</b>	<b>120</b>	<b>£66,608.52</b>

\*From the work carried out on the creditor matches, 260 items were considered too low risk to warrant investigation.

\*\* Information regarding this match is awaited from a third party. It is considered highly unlikely that this match will be found to be a fraud or error.

3.4 The £16.63 creditors error has already been resolved. This related to a VAT error on the part of a supplier. Recovery action is being taken for the Benefit overpayments and Council Tax underpayments identified, though it must be noted that this does not guarantee full payment will be received.

3.5 In the case of Benefit claimant errors and frauds, the Council retains all the money recovered and also receives 40% of the total overpayment amount in the form of additional subsidy. All five 'errors' tabled above are claimant errors. Of the four frauds identified:

- two of the claimants are being prosecuted which means the amount the Council can recover will be determined by the courts;
- one claimant has moved out of the area. Possible courses of action are currently being considered.
- Recovery action is being taken against one claimant who admitted working when interviewed.

3.6 Recovered Council Tax will initially benefit Runnymede by approximately 9% of the actual income received, with Surrey County Council and Surrey Police receiving the rest (77% and 14% respectively). Ultimately Central Government will be the beneficiary.

#### 4. Resource Implications

4.1 Resources required for the 2008 exercise to 4 January 2010 are as follows:

	Tasks	Resources required
Staff time	Downloading data and uploading to the NFI secure website	5 days
	Investigating matches	47 days (see note 1 below)
	Scanning	1.25 days
External resources	Additional costs e.g. paying software suppliers to download data	£650 for travel pass data
	Council Tax postage costs	£260 (see note 2 below)
Key contact (Chief Internal Auditor)	Co-ordinating and liaising with Officers and NFI	31 days

Note 1 – this table does not include the time spent by Benefit Fraud Officers investigating matches passed to them for further investigation as this is considered to be fraud work rather than NFI work.

*Note 2 – As reported to the previous meeting of this Committee, it is estimated that the routine Single Person Discount review that would normally have been carried out, would have resulted in costs of approximately £7,000.*

4.2 In addition to the resources shown in the above table, the Audit Commission charges a fee of £2,000 for the data matching exercise. This forms part of the fee that the Council pays for its external audit.

## 5 Legal Implications

5.1 Section 32 of the Serious Crime Act 2007 gives the Audit Commission the power to require a body to provide such data as they may reasonably require for the purpose of data matching. Failure to comply with their request without reasonable excuse is a criminal offence.

5.2 A Code of Practice has been approved by Parliament which assists Data Matching participants balance this with the requirements of the Data Protection Act.

5.3 Regard must be had to the Code of Data Matching Practice when participating in such data matching exercises. Processing personal data engages Article 8 of the EC on Human Rights, which deals with the right to respect for private and family life and the home. This means that any data processing must be in accordance with the law and proportionate.

### **(FOR INFORMATION)**

#### Background Papers

Further information can be obtained from the following websites:

[www.runnymede.gov.uk/DataMatching](http://www.runnymede.gov.uk/DataMatching)

[www.audit-commission.gov.uk/nfi](http://www.audit-commission.gov.uk/nfi)

[www.audit-commission.gov.uk/localgov/audit/nfi/Pages/code.aspx](http://www.audit-commission.gov.uk/localgov/audit/nfi/Pages/code.aspx)

## 8. ANNUAL REVIEW OF THE EFFECTIVENESS OF THE SYSTEM OF INTERNAL CONTROL 2009/10 (DF)

(Ref: Minutes of Standards and Audit Committee, February 2009, page 754, para 486 and June 2009, page 41, para 52)

### 1. Purpose of Report

1.1 **The purpose of this report is to invite the Committee to consider the effectiveness of the system of internal control in the authority and to consider the issues that might be reported in the Annual Governance Statement for the 2009/10 financial year.**

### 2. Background Information

2.1 The Standards and Audit Committee has responsibility to consider any matters relating to control procedures, risk exposure and corporate governance generally. The consideration of the arrangements for internal control in the authority and the Annual Governance Statement falls under this duty.

2.2 The need to review arrangements for internal control and the Annual Governance Statement (AGS) is given statutory backing by the Accounts and Audit Regulations 2003 (the "2003 Regulations"), as amended. In particular the Regulations say that the Council should:

- Ensure that the financial management and control systems are adequate and that there is effective risk management,
- Include a statement of internal control, prepared in accordance with proper practice, in its financial statements, and
- Conduct a review at least once a year of the effectiveness of its system of internal control.

- 2.3 The review should set out a strategy to mitigate any key risks to service delivery that are identified.
- 2.4 This review of the internal control framework of the Council will feed into the final version of the AGS for the 2009/10 financial year. The final version will need to be approved by Corporate Management Committee when it approves the Statement of Accounts for 2009/10 in June. Statutory guidance requires the AGS to be signed by the most senior Officer (Chief Executive) and the most senior Member of the Council (the Leader) at the same time as the Statement of Accounts is approved.
- 2.5 Corporate governance extends beyond financial probity to include all aspects of the conduct of an authority's business. It is not just a finance issue and covers the governance aspects of accountability, effectiveness, openness and integrity. However, governance issues relating to internal controls are particularly pertinent to the preparation and publication of the Statement of Accounts, hence the requirement to publish the AGS with the accounts. Demonstrating that the Council has effective internal control is an important part of the corporate governance framework. Most of the documents that set out the Council's internal control framework are published in the Constitution.
- 2.6 Comprehensive Area Assessment (CAA) is the new way of assessing local public services in England by the Audit Commission. The use of resources assessment forms part of the CAA and assesses how well organisations are managing and using their resources to deliver value for money and better and sustainable outcomes for local people. The assessment defines use of resources in a broader way than previously, embracing the use of natural, physical and human resources. It also places new emphasis on commissioning services for local people and achieving value for money.
- 2.7 The results of the 2009 organisational assessment were published on 9 December 2009. Runnymede Borough Council was placed in the category of "performing well" in the organisational assessment under CAA. The table below sets out the scores for managing performance and use of resources reported in the assessment:

<b>Managing performance</b>	<b>3 out of 4</b>
<b>Use of resources</b>	<b>3 out of 4</b>
Managing finances	3 out of 4
Governing the business	3 out of 4
Managing resources	2 out of 4

- 2.8 The score of 3 out of 4 for governing the business is described as "An organisation that exceeds minimum requirements, Performs Well". The internal control framework, including how the Council prepares the AGS, forms part of the criteria that are judged in this assessment.
3. Report
- Corporate governance – the 'SOLACE/CIPFA Delivering Good Governance in Local Government: Framework'
- 3.1 In June 2007, the Society of Local Authority Chief Executive Officers (SOLACE) and the Chartered Institute of Public Finance and Accountancy (CIPFA) published *Delivering Good Governance in Local Government: Framework*.
- 3.2 The updated SOLACE/CIPFA Framework took account of the changes affecting local authority governance since the original framework *Corporate Governance in Local Government: A Keystone for Community Governance* was published in 2001. Runnymede did not adopt the 2001 Code and has not yet decided whether to adopt the 2007 Framework.
- 3.3 Local authorities remain free to choose whether to adopt the new SOLACE/CIPFA Framework. The publication of an AGS is a statutory duty. However, it is not necessary for a local authority to adopt the Framework in order to prepare the AGS.
- 3.4 The Framework defines the principles that should underpin the governance of each local government body. It outlines six core principles of good governance focusing on the

systems and processes for the direction and control of the organisation and its activities through which it accounts to, engages with and leads the community. The degree to which the authority follows these principles should be declared in the AGS. The six core principles are:

1. Focusing on the purpose of the authority and on outcomes for the community and creating and implementing a vision for the local area
  2. Members and Officers working together to achieve a common purpose with clearly defined functions and roles
  3. Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour
  4. Taking informed and transparent decisions which are subject to effective scrutiny and managing risk
  5. Developing the capacity and capability of members and Officers to be effective
  6. Engaging with local people and other stakeholders to ensure robust accountability.
- 3.5 The SOLACE/CIPFA Framework requires authorities to undertake regular (at least annual) reviews of their governance arrangements. The preparation and publication of an AGS in accordance with the Framework is necessary to meet the statutory requirements of the Accounts and Audit Regulations.
4. Annual Governance Statement (AGS)
- 4.1 The AGS set outs the extent to which governance arrangements are complied with, how the effectiveness of governance arrangements are monitored, and any planned changes in the coming year.
- 4.2 The SOLACE/CIPFA Framework sets out in detail the items that need to be included in the AGS. The CIPFA Finance Advisory Network has published a guide (the FAN Guide) for practitioners on preparing an AGS. This guide has been extensively used in preparing this report.
- 4.3 The FAN Guide contains a useful flowchart that sets out some of the typical dynamics that an authority should consider and shows how they can be brought together and evidenced. This is set out in the diagram in Appendix 'E'. Not all the elements will apply to Runnymede and a proportionate approach has been taken to the exercise, but it serves as a useful guide to the overall process. For instance, the role of the "corporate group" referred to in the centre of the flowchart is carried out through a consultation process involving all Directors, other senior Officers, and the Chief Internal Auditor.
- 4.4 The FAN Guide identifies the need for a review body in this process to examine critically the AGS and supporting documentation. This is the role of this Committee.
- 4.5 The AGS is to relate to the system of internal financial control as it applied during the financial year – in this case the review is for the 2009/10 financial year. Any significant developments between now and the date that the Statement of Accounts are signed by the Director of Finance will be incorporated into the AGS. The AGS will then be presented to Corporate Management Committee in June 2010 as part of the approval process for the Statement of Accounts.
5. Reviewing the effectiveness of the system of internal control: The assurance gathering process
- 5.1 The assurance gathering process is the well-established and structured link between the strategic objectives and statutory requirements of the authority and how these objectives are to be delivered. It requires the identification of key controls that are deemed critical to the delivery of these objectives and expects a formal review and risk assessment for the management and delivery of these key controls.
- 5.2 The FAN Guide sets out an **assurance gathering process** framework that helps identify relevant and reliable evidence to support the AGS. This framework comprises the following stages:

1. Establish principal statutory obligations and organisational objectives and apply the six SOLACE/CIPFA Core Principles (see paragraph 5.8).
2. Identify principal risks to achievement of objectives
3. Identify and evaluate key controls to manage principal risks
4. Obtain assurances on the effectiveness of key controls
5. Evaluate and identify gaps in controls and assurances
6. Produce an action plan to address gaps and ensure continuous improvement in corporate governance
7. Produce the Annual Governance Statement
8. Report to Committee

It is obtaining **assurance** that is the most challenging part of the process.

- 5.3 The FAN Guide reflects the current and further challenges, pressures and expectations now placed on authorities. Perhaps the most notable examples of this are the assurance and evidence relating to joint working arrangements and partnerships that have become much more prevalent and high profile for local authorities. These arrangements are likely to become even more prevalent as Local Area Agreements develop further and local authorities move towards the new performance assessment of authorities in Comprehensive Area Assessment.
- 5.4 The sources of assurance include:
- Published documents (e.g. Constitution)
  - Directors and managers throughout the organisation assigned with the ownership of risks and delivery of services
  - The Monitoring Officer
  - The Responsible Financial Officer
  - Members
  - Chief Internal Auditor
  - External Audit and other review agencies and inspectorates
- 5.5 The input of Members, and specifically this Committee, forms an important part of the assurance gathering process.
- 5.6 The schedule in Appendix 'F' sets out the sources and examples of controls and procedures that are available to provide the evidence that is needed to support the AGS. The headings used in the Schedule follow those used in the FAN Guide.
- 5.7 The FAN Guide places a great deal of emphasis on the first stage of the assurance gathering process - establishing principal obligations and objectives and apply the six SOLACE/CIPFA Core Principles – as the other stages follow on from this. There are four steps to the establishing principal obligations and objectives stage:
1. There is a mechanism to identify the principal statutory obligations of the Council.
  2. There is a mechanism to establish that corporate objectives exist and that it works, i.e. that the Council has decided what it **wants** to do.
  3. Corporate governance arrangements are embedded in the authority – so that the Council runs properly and has a fair chance of doing what it wants to do
  4. Effective performance management (not just performance reporting) so the authority finds out what it is doing and can correct drift.
- 5.8 The FAN guide also sets out a framework for collecting evidence about the six steps in applying the six SOLACE/CIPFA Core Principles (set out in paragraph 3.4). Runnymede has not adopted the SOLACE/CIPFA Code and therefore does not have the required "local code of governance". However, there is a great deal of similarity between the Council's current governance practices and the requirements of the SOLACE/CIPFA Code. Therefore, the schedule at Appendix 'G' sets out relevant evidence that links Runnymede governance practices to the six SOLACE/CIPFA Core Principles.
- 5.9 Members are invited to review the schedules at Appendices 'F' and 'G' and to satisfy themselves that the evidence is consistent with their own experience. Members are also

invited to question the Officers at this meeting and request further evidence as is considered necessary in order to obtain satisfaction about the Council's overall control framework.

5.10 Previously, Members of this Committee had expressed concern that this review appeared to require a degree of technical knowledge that some Members did not possess. However, the Committee was assured that Members were not expected to be expert in technical areas or have extensive knowledge of the Authority's management. Indeed, the lay member is able to take an overview and provide a perspective that might be missed by experts.

5.11 This process will form part of the basis on which the AGS for 2009/10 will be prepared. As a guide only, a draft AGS for 2009/10 is set out in Appendix 'H'.

## 6. Significant governance issues

6.1 The AGS is to conclude with a section that identifies the actions taken (or proposed) to deal with significant governance issues.

6.2 Nationally, the feedback from external auditors is that highly rated (through CPA) authorities have tended to report more issues than poorly performing authorities. The issues raised by authorities tend to focus on areas that are very difficult to claim total control (e.g. risk management, business continuity, performance management, partnership working), or which have a local bias (e.g. responding to challenges raised in CPA reports).

6.3 The AGS for Runnymede in 2008/09 identified no significant internal control issues, but instead identified areas where improvement would be useful or where significant risk was apparent. The areas identified that required further action were:

1. Risk Management
2. Partnership working
3. Business continuity planning

6.4 The action plan for these issues is included in the draft AGS for 2009/10 (Appendix 'H'). In respect of risk management, the risk refresh exercise was completed and reported to this Committee in September 2009. However, further work is required to deliver improvements in business continuity planning and partnership working arrangements. Improvement has been made in recent years in the management of corporate risks, but risk management is not yet at a stage where it is fully embedded into the service planning process.

6.5 Members are asked to review the assurance gathering exercise (Appendices 'F' and 'G'), the draft AGS and Action Plan and other sources (e.g. auditor or management concern) and identify any further areas for improvement.

6.6 Other internal control issues may be identified up until the Statement of Accounts is produced in June.

## 7. Legal Implications

7.1 Regulation 4 of the Accounts and Audit Regulations 2003 requires a statement of internal control to be published with the Statement of Accounts. Regulation 4(2) requires the Council to carry out an annual review of the effectiveness of its system of internal control. Statutory guidance sets out the required contents of this Statement (the 'Annual Governance Statement') and the process for establishing and maintaining a system of internal control and the annual review process. The guidance requires the Statement to be signed by the Chief Executive and the most senior Member of the Council (the Leader).

7.2 Regulation 4 was updated by the Accounts and Audit (Amendment) (England) Regulations 2006 to require the review of the effectiveness of internal control to be considered by a committee or full Council meeting. The guidance on this change supports the use of an audit committee as an appropriate means through which to consider the findings of the review.

8. Conclusions

- 8.1 Corporate governance remains a developing area in both public and private sectors. The approach taken in this report is to identify and provide evidence of the systems that already exist in the Council and actions taken.
- 8.2 There are areas that can be usefully developed, for example, in the development of good governance arrangements in partnership working. However, care will need to be taken to ensure that procedures remain proportionate to the risk and scale of activities in an authority the size of Runnymede

**MEMBERS ARE REQUESTED to -**

- i) review the Schedule of evidence set out in Appendices 'F' and 'G' and to satisfy themselves that the evidence is consistent with their own experience;**
- ii) review progress on issues identified in the AGS for 2008/09 as set out in the Action Plan in Appendix 'H' and identify any further areas for improvement; and**
- iii) review the content of the draft AGS set out in Appendix 'H' for 2009/10 generally**

**(TO RESOLVE)**

Background Papers

1. "Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice: Guidance Notes for Practitioners", published by CIPFA (updated annually).
2. Accounts and Audit Regulations 2003 – Statutory Instrument and Guidance Circular; ODPM Circular 04/2003.
3. "The Annual Governance Statement - Meeting the requirements of the Accounts and Audit Regulations 2003; Rough guide for practitioners with effect from 2007-08", published by CIPFA Finance Advisory Network.
4. DCLG Circular 03/2006: Guidance on the Accounts and Audit Regulations 2003", published by DCLG on 18 August 2006.

9. ANNUAL AUDIT LETTER 2008/09 (DF)

(Ref: Minutes of Standards and Audit Committee, September 2009, page 290, para 305, Corporate Management Committee, September 2009, page 200, para 226 and January 2010)

1. KPMG (the Council's appointed external Auditor) issued a report on their examination of the Council's accounts for the 2008/09 financial year which was considered by Corporate Management Committee in September 2009. A further report from KPMG on the Council's Use of Resources was considered by Corporate Management Committee in January 2010.
2. The main conclusions and recommendations from these two reports have been summarised in the Annual Audit Letter which KPMG issued on 27 January 2010. This is reproduced at Appendix 'I'. The only comments that have not featured in the two earlier reports relate to future issues that the Council will need to address in 2010/11 (see page 2 and 3 of Appendix 'I').
3. The Annual Audit Letter will be published on the Council's web-site.

**(FOR INFORMATION)**

Background Papers

None.

10. LOCAL GOVERNMENT OMBUDSMAN INVESTIGATIONS (DAL)  
(Ref: Minutes of Standards and Audit Committee, September 2009, page 291, para 308)

The following matters have progressed with the Commissioner for Local Administration since the last meeting of this Committee.

<b>Matter</b>	<b>Date Notified</b>	<b>Outcome</b>
Alleged inadequate handling of planning breaches at Padd Farm, Hurst Lane, Egham	5 September 2007	No change since last meeting – the Ombudsman has declined to pursue either complaint at present but may review this case once the position on enforcement is clearer following appeal outcome and/or Court action
Alleged delay in sending a concessionary bus pass after the resident's 60 <sup>th</sup> birthday	21 August 2009	Not pursued as needed to go through RBC complaints process. Letter sent explaining and correcting facts
Objections to proposal to build social housing on site at New Haw, lack of right of appeal by neighbours, and compulsory purchase of adjoining verge	17 December 2009	Not pursued as needed to go through RBC complaints process. Response sent
Issue of parking penalty charge and enforcement	22 January 2010	Not pursued as statutory appeal available

**(FOR INFORMATION)**

Background Papers

Relevant papers on Director of Administration and Leisure's Ombudsman file series 61.21 (exempt)

11. LOCAL GOVERNMENT OMBUDSMAN ANNUAL REVIEW – RUNNYMEDE (DAL)  
(Ref: Minutes of Standards and Audit Committee, September 2008, page 184, para 182)

**1. Purpose of Report**

- 1.1 The purpose of this report is to advise the Committee of the broad content of the Local Government Ombudsman's Annual Review for Runnymede Borough Council for the year ending 31 March 2009.**

**2. Report**

- 2.1 Every year the Ombudsman publishes a report of his dealings with each local authority. The report for Runnymede was received at the end of June 2009 but missed the last meeting of this Committee.
- 2.2 Although the report contains statistics for complaints received etc, these are not directly comparable to the previous years because of a change in the workings of the Ombudsman's Office. At the start of the year under review the new Ombudsman Advice Team became the single point of contact for all enquires and new complaints and this resulted in a substantial increase in contacts.
- 2.3 Despite this, the total of 16 enquires and complaints received about Runnymede Borough Council in 2008/09 is only three more than in 2007/08 and is in line with the number for most previous years.

- 2.4 Four contacts concerned housing (a common pattern for District Councils) and the remainder were about a variety of other matters.
- 2.5 Eight complaints were passed to the Investigation Team. Three concerned planning or building control issues, two involved housing allocations, one was about local taxation, one concerned anti-social behaviour, and one was about a refusal to prosecute a private landlord.
- 2.6 A total of nine decisions and complaints against the Council were published during the year. In three cases no fault was found, and in one case the matter was outside the Ombudsman's jurisdiction. Five investigations were not continued at the Ombudsman's discretion (the usual reasons for this are that there is little or no obvious injustice; or too much time has elapsed to allow a fair investigation; or it is impossible to establish the facts, or the reasons. In one of the five cases, although the Ombudsman felt that there had been some delay, this had not changed the outcome and had not led to sufficient injustice to warrant further investigation. Two cases were not pursued because enforcement action was pending and as a result the Ombudsman could not assess whether any injustice had occurred. In the fourth case, minor errors in the handling of a planning application did not appear to have resulted in any injustice or changed the decision.
- 2.7 The final complaint was a dispute between a leaseholder and a private landlord where the Council had a discretionary power to prosecute and decided not to. In this case the landlord provided information late and in a form that did not comply with the law. The landlord was, however, a management company formed by the leaseholders and the Council felt that there had been reasonable attempts to comply, and that it would not be in the public interest to prosecute. The Ombudsman was content that this was a matter for the Council to decide, and it did not seem wholly unreasonable.
- 2.8 The average time for the Council to respond to enquiries made by the Ombudsman was 16.5 days, against the Ombudsman's standard request of 28 days.
- 2.9 The Ombudsman also draws attention to current and proposed developments in his service, including the proposed publication of statements of reasons from early 2010.

### 3. Conclusion

- 3.1 There is never cause for complacency but the level of complaints received about the Council, the manner in which they were dealt with, and the outcomes do not indicate a significant problem either in general or in terms of specific services.
- 3.2 As always, the relevant staff are made aware of Ombudsman complaints and outcomes and seek to learn any lessons for the future.

### **(FOR INFORMATION)**

#### Background Papers

Local Government Ombudsman Annual Review 2008/09 for Runnymede sent to Interim Chief Executive on 16 June 2009.

## 12. FIRST-TIER TRIBUNAL (LOCAL GOVERNMENT STANDARDS FOR ENGLAND) (DAL)

### 1. Purpose of Report

**1.1 The purpose of this report is to advise the Committee of a changed system to determine references and appeals about the conduct of Members of local authorities.**

### 2. Background Information

2.1 From 18 January 2010 the First-tier Tribunal (Local Government Standards for England) took over from the Adjudication Panel for England, which was established by the Local

Government Act 2000 to determine references and appeals about the conduct of Members of local authorities.

- 2.2 Members will recall that the Act set up an ethical governance framework designed to maintain high standards of behaviour for Members of local authorities and associated bodies, and that all relevant authorities were required to adopt a Code of Conduct; the minimum requirements being laid down in a statutory Model Code.
- 2.3 Complaints that the Code has not been followed can be made to the Standards Committee of the relevant local authority who will decide if the matter should be investigated, referred to Standards for England, or other appropriate action. One outcome of such an investigation can be a reference to the First-tier Tribunal (Local Government Standards for England) for consideration by a Tribunal.
- 2.4 The First-tier Tribunal will also hear appeals from decisions of Local Authority Standards Committees.
- 2.5 The Committee will be aware from previously reported cases, that failure to comply with the Code can lead to a Member being suspended or disqualified.
- 2.6 Appeals from the decisions of the First-tier Tribunal must be made to the Upper Tribunal, but only after permission has been sought from the Principal Judge of the First-tier Tribunal.

### 3. Report

3.1 The work of the former Adjudication Panel for England was transferred to the First-tier Tribunal as part of the work of the General Regulatory Chamber. Proceedings are governed by The Tribunal Procedure (First-tier Tribunal) (General Regulatory) Rules 2009.

3.2 The General Regulatory Chamber (GRC) was established on 1 September 2009 and sits within the [First-tier](#) Tribunal. The GRC brings together a wide range of previously separate tribunals that hear appeals on regulatory issues as set out below:

- Charity
- Claims Management Services
- Consumer Credit
- Estate Agents
- Gambling Appeals
- Information Rights
- Immigration Services
- Local Government Standards in England
- Transport (some functions only)

3.3 It is hoped that the establishment of the GRC will help to share and continue best practice.

#### **(FOR INFORMATION)**

##### Background Papers

None.

### 13. FIRST-TIER TRIBUNAL (LOCAL GOVERNMENT STANDARDS FOR ENGLAND) – RECENT CASES (DAL)

(Ref: Minutes of Standards and Audit Committee, September 2009, page 291, para 309)

Far more information is published now on the new First-tier Tribunal's website ([www.adjudicationpanel.tribunals.gov.uk](http://www.adjudicationpanel.tribunals.gov.uk) and [www.standardsfor england.gov.uk](http://www.standardsfor england.gov.uk)) and attached at Appendix 'J' illustrates how many cases have been received, which were appeals made against local determinations by Standards Committees and what the outcome was. Attached at Appendix 'K' is a list of disqualified and suspended Councillors from the last Municipal Year. The website (as before) also publishes cases that have been determined and now those that are in the pipeline.

1. Restormel Borough Council – alleged abuse of official position

The allegation was that a Member had failed to comply with paragraphs 1.4 and 1.5(a) of Restormel Borough Council's Code of Conduct by using his official position as a Member improperly to confer on, or secure for, himself an advantage and placed himself in a position which might reasonably lead a member of the public to believe that he was acting in such a manner by offering to advise a group of residents on a licensing application to which they objected and to present their case at the licensing panel for a fee of £400. It was alleged that the Councillor in question made the offer on two occasions.

In the absence of any response from the Councillor the Case Tribunal directed that three witnesses be asked to attend to give evidence in support of the Standards Committee investigation findings.

The Complainant was a well known supporter of a different political party, and it was claimed that the case had already received wide attention in the local press, thus prejudicing a fair hearing. Questions were also raised about the competence of the inexperienced Investigating Officer and the length of time it took to complete the investigation, which it was agreed was hampered by the Councillor failing to co-operate or engage with the process.

The Tribunal found that the Councillor in question had a conversation with two residents and offered his advice on a licensing application for an authority from which he was about to retire. He claimed that the residents, who were also friends of a relative, misunderstood his offer, which then got relayed without his knowledge to other residents interested in the application. The residents, in the end, decided at a public meeting, not to engage his services.

The Tribunal decided to take no further action, but urged the Councillor to be more prudent in his dealings with residents and to ensure that his actions could not be misconstrued in future.

2. South Ribble Borough Council

The Member had appealed against the Standards Committee's finding that he had failed to follow paragraph 4 of the Code of Conduct when comments he made, which were published in local newspapers, disclosed information of confidential nature concerning the Council. It was alleged that he breached the Code of Conduct in making the comments. The Member was suspended from office for three months and, although experienced (former Chair of Planning Committee and Mayor), he was instructed to undergo training, as agreed by the Council's Monitoring Officer.

The case concerned comments the Member made to the press about a large industrial site in his ward that had lain derelict for some years and had been the subject of discussions between the property owner and the Council.

The press had carried two stories on the subject and in response to an enquiry the Member told the newspaper that the problems with a particular building on the site had been rumbling on since 2002 when the authority was told it could have the land for £6m. He was quoted as saying "*We could do a compulsory purchase on the land but then we could be looking at £10m to get it, it is all about negotiation.*"

The Standards Committee considered that his comments, which revealed confidential information about what the Council could do in respect of the site and the sums involved, amounted to a breach of paragraph 4 of the Code of Conduct. Furthermore, he could have prejudiced any action that the Council did take.

However, the issue which fell to the Appeals Tribunal was to decide whether the undisputed quotation appearing in the newspapers disclosed confidential information. They had to take each part of the Member's statement to the press and decide if the Member had quoted from an exempt Committee item or other report or whether he was just making a general statement about a Council's statutory powers in planning matters.

The Appeals Tribunal found no evidence from the Council's written Committee reports of a particular sum mentioned, nor a stated intention to make a compulsory purchase of the land. Therefore, although the Member had been unwise to discuss the matter he had not actually breached the duty of confidentiality and his appeal was upheld.

3. Epsom and Ewell Borough Council (Standards for England case) - alleged failure to treat others with respect and bringing office or authority into disrepute

Councillor S told the local press, and stated in full Council, that the Mayor had been drunk in public while performing his mayoral duties. The complainant, also a Member of Epsom and Ewell Borough Council, alleged that Councillor S had thereby failed to treat the Mayor with respect. It was further alleged that Councillor S had, by telling the press that the Mayor had needed to be "carried out" of the council chamber while drunk, brought the council into disrepute.

All the witnesses confirmed to the Ethical Standards Officer that the Mayor's behaviour at the Council meeting in December 2008 had been uncharacteristic. He had addressed full Council with rambling, inappropriate and incoherent remarks and had been encouraged to step down shortly after the meeting started. He had managed to leave the podium and chamber without significant physical assistance.

The Mayor later issued a statement to the effect that his behaviour was attributable to 'flu' not intoxication. The complainant did not pursue the matter until a second occurrence of apparently the same type of behaviour at another Council function. This led him to issue a second complaint which he copied to the local press in response to a request by them for a statement about the Mayor's behaviour.

The Mayor was treated with antibiotics for a chest infection shortly after the second Council function and took a month off from his duties to recuperate. However, at a Council meeting in February 2009, Councillor S reiterated his view that the Mayor had been drunk in full Council in December 2008.

The ethical Standards Officer, who was unable to reach a conclusion as to the cause of the Mayor's behaviour, considered that the performance of mayoral duties was a matter of real public concern. He considered that the Code of Conduct should not limit Councillor S's freedom to express his opinion in public about the Mayor's behaviour so long as he did not make untrue allegations. He went on to find that in the circumstances of this case, where the Mayor had clearly not been carried out of the chamber, it had been wrong of Councillor S to suggest that he had. In making the "carried out" comment, he concluded that Councillor S had failed to treat the Mayor with respect and had breached the Code of Conduct.

However, the Ethical Standards Officer did not think that Councillor Ss "carried out" comment amounted to conduct which brought his office or authority into disrepute. He therefore found that no further action was required.

#### **(FOR INFORMATION)**

##### Background Papers

Published cases on the website of the First-Tier Tribunal's (Adjudication Panel for England) website at [www.adjudicationpanel.tribunals.gov.uk](http://www.adjudicationpanel.tribunals.gov.uk). and Standards for England website at [www.standardsforengland.gov.uk](http://www.standardsforengland.gov.uk).

14. PROTOCOL FOR DEALING WITH PRESS ENQUIRIES RELATING TO COMPLAINTS OF MEMBER CONDUCT (DAL)

1. Purpose of Report

- 1.1 **The purpose of this report is to consider the introduction of a protocol for dealing with news media in the event of a complaint that a Member has breached the Code of Conduct.**

2. Background Information

2.1 Some authorities are establishing protocols to guide the handling of press enquiries about complaints against Members, which can raise issues of sensitivity and fairness.

3. Report

3.1 A draft protocol is attached at Appendix 'L'.

3.2 The key points are:

- Designation of nominated Officers to handle the inquiry
- Definition of the level of information which may be given in response to the inquiry both initially and as the process moves forwards
- Avoidance of any comment which might prejudice the investigatory or decision process or its fairness

3.3 The draft protocol is commended to the Committee for adoption.

**OFFICERS' RECOMMENDATION that –**

**the draft protocol for dealing with press inquiries relating to complaints of Member conduct, set out at Appendix 'L', be adopted.**

**(TO RESOLVE)**

Background Papers

E-mails exchanged between Monitoring Officer, Communications Officer, and Borough of Epsom and Ewell in October 2009

15. ANNUAL ASSEMBLY OF STANDARDS COMMITTEES (DAL)

This annual conference organised in Birmingham by Standards for England during October, was attended by the Vice-Chairman who will outline any particular points of interest arising.

**(FOR INFORMATION)**

Background Papers

None.

16. ASSESSING THE IMPACT OF STANDARDS COMMITTEES (DAL)

The Committee may recall that the Council was approached last year by Dr Michael Macaulay in connection with research commissioned by Standards for England from the University of Hull and Teesside University. The aim was to identify "notable practice" – examples of Standards Committees which had adopted practices which were working well. Dr Macaulay had a meeting with the Chairman, the Monitoring Officer, and the Director of Finance as part of his research.

The Committee may be interested to note Standards for England's press release at Appendix 'M' which identifies Runnymede as an example of notable practice for joint Standards of Audit Committees. The full report is available on Standards for England's website at [www.standardsforengland.gov.uk/media/AssessingTheImpactOfStandardsCommittees2009.pdf](http://www.standardsforengland.gov.uk/media/AssessingTheImpactOfStandardsCommittees2009.pdf).

Runnymede is credited as an example of an authority which has made a potentially controversial concept work well.

**(FOR INFORMATION)**

Background Papers

None.

17. EXCLUSION OF PRESS AND PUBLIC

**OFFICERS' RECOMMENDATION that –**

**the press and public be excluded from the meeting during discussion of the following reports under Section 100A(4) of the Local Government Act 1972 on the grounds that the reports in question would be likely to involve disclosure of exempt information of the description specified in paragraphs 1, 3 and 7 of Part 1 of Schedule 12A of the Act.**

**(TO RESOLVE)**

**Matters involving Exempt or Confidential Information in respect of which reports have not been made available for public inspection.**

- |    |   |               |
|----|---|---------------|
| a) | <u>Exempt Items</u>                             | <b>Paras.</b> |
|    | Exempt Appendix 'B' to item 5: Internal Audit   | 1, 3 and 7    |
| b) | <u>Confidential Items</u>                       |               |
|    | (No items to be considered under this heading). |               |