

Appendix 1

Internal Audit Report
Regional Enterprise (Re): Operation Review
Phase 2: Operating Effectiveness
Investigating and resolving alleged breaches of planning control
January 2016

To: Interim Chief Executive, LBB
Commissioning Director of Growth and Development, LBB
Partnership Relationship Manager, LBB
Operations Director, Re
Planning Performance and Business Development Manager / Interim Head of
Development Management, Re

From: Head of Internal Audit

We would like to thank management and staff of Regional Enterprise for their time and co-operation during the course of the internal audit.

Cross Council Assurance Service

Executive Summary

Background

Regional Enterprise (Re) is a joint venture (JV) between Capita and LBB to deliver development and regulatory services within the Borough. The venture commenced in October 2013 and is in its third year of a ten year term, providing the following services:

- Development: Building Control, Planning Administration (Development Management), Strategic Planning and Regeneration, Highways Services and Land Charges
- Regulatory Services: Environmental Health, Trading Standards and Licensing and Cemetery and Crematorium

The contract between Capita and LBB documents the expected outputs from the joint venture but has been formulated not to detail the specific procedures which will be undertaken by Re to achieve the agreed deliverables.

Scope

This review is the second part of a two-phased testing approach. The first phase assessed whether there are appropriate policies and procedures in place to support key operational activity undertaken by Re. This second phase considered the operating effectiveness of a sample of key controls identified to support operational activity undertaken by Re in three areas: Planning and Building, Regulatory Services and Highways. Eight key controls were selected to test based on risk and informed by the Council's statutory responsibilities. The key controls selected for testing have been outlined in the summary of findings below and Appendix 2. This report provides detail on the testing of the following: *Investigating and resolving alleged breaches of planning control - Investigations are performed in a timely manner, evidence retained to demonstrate the performance of the investigation and enforcement action (if applicable) is approved by an appropriate person.* The other seven key controls tested are covered within a separate report issued on 19 January 2017.

Summary of findings

Operating effectiveness issues were identified with the key control as follows:

- **Investigating and resolving alleged breaches of planning control** – For 8/25 (32%) cases we found the investigations were not completed in a timely manner. For 1/25 (4%) case we found insufficient information had been kept on file to support the decisions made. **(High risk)**

Key:

- Control Design Issue (D) – There is no control in place or the design of the control in place is not sufficient to mitigate the potential risks in this area.
- Operating Effectiveness Issue (OE) – Control design is adequate, however the control is not operating as intended resulting in potential risks arising in this area.

2. Detailed Findings

Control Ref	Control Tested	Exceptions	Exception details
1	<p>Investigating and resolving alleged breaches of planning control</p> <p>Investigations are performed in a timely manner, evidence retained to demonstrate the performance of the investigation and enforcement action (if applicable) is approved by an appropriate person.</p>	<p>9</p> <p>36%</p>	<p>Operating effectiveness (High risk)</p> <p>In line with KPI0001, - <i>enforcement and breach of condition notices</i> - there is an expectation that where a breach of planning control has not been resolved or an appropriate application for consent has not been received, where it is considered expedient, enforcement or breach of condition notices shall be served within 90 working days of receipt of a complaint.</p> <p>We were provided with the total list of enforcement cases which have been opened by Re in the past two years. There were 3168 cases in total, including 619 where a recommended action had not been logged within Uniform, the case management system used by Re. Of those 619 cases, 307 (50%) of these were greater than 6 months old and 175 (28%) were greater than 1 year old.</p> <p>We selected 25 cases for our testing to verify that investigations were performed in a timely manner. We noted the following exceptions:</p> <ul style="list-style-type: none"> • For 5/25 cases (20%) there was no recommended action but on reviewing the files we found that: <ul style="list-style-type: none"> ○ In four of these cases ‘no formal action’ should have been logged within the case notes, the decision approved by management and the case closed; and ○ For one alleged breach of control the case notes stated that an investigation had commenced in July 2015 but we were not supplied with any evidence of further activity on the case since. • For 3/25 cases (12%) we considered that action was not taken in a timely manner: <ul style="list-style-type: none"> ○ For one case there was a six month gap between when the investigation began and the decision to take no further action. ○ For one case there was eight months between the case opening and a site visit. ○ For one case it appeared that no action was taken for a year and there was three months between refusal of

Control Ref	Control Tested	Exceptions	Exception details
			<p>planning permission and the delegated report being written to authorise enforcement action.</p> <p>We tested 25 cases to ensure that the notes within Uniform provided evidence to justify the recommended action. We found that:</p> <ul style="list-style-type: none"> For 1/25 (4%) cases we tested, insufficient evidence was held on file within the case notes to support the decisions made by the Enforcement Team. <p>Agreed actions:</p> <ul style="list-style-type: none"> Management will review the 619 enforcement cases which are currently without a recommended action and ensure appropriate action is being taken. Management will prioritise the 175 cases that have been open for over a year. Management will further investigate any cases where action is not taken in reasonable timescales to ensure that recurrent delays are prevented and that lessons are learnt from the review. Management will remind Enforcement Officers of the importance of ensuring all relevant information and evidence is retained on file in the event of a query being raised at a later date. <p>Responsible officer: Planning Enforcement Manager</p> <p>Implementation date: 30/04/2017</p>