



INFRASTRUCTURE AND GOVERNMENT / PUBLIC SECTOR AUDIT

Internal Audit Report 2005/06

West Wiltshire District Council

The delivery of functions under the Licensing Act

October 2006

**Overall Report
Rating:**

Good



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1. Executive summary

Conclusion

As internal auditors of West Wiltshire District Council (the Council) we are required to give an annual overview of the system of internal control. In arriving at this overview, we give a conclusion on the individual systems reviewed during the year. Our conclusion is either that the system is good, satisfactory, weak or unacceptable. These are the conclusions used by the Government Internal Audit Standards. However, in giving our conclusion, it should be acknowledged that our work is designed to enable us to form an opinion on the quality of the systems examined based upon the work undertaken during our current review. It should not be relied upon to disclose all weaknesses that may exist and therefore the conclusion is not a guarantee that all aspects of the systems reviewed are adequate and effective.

From the work performed on the Council's arrangements in its role as a licensing authority to implement the requirements of the Licensing Act 2003, there is an adequate and effective system of risk management, control and governance to address the risk that objectives are not fully achieved. As a result, we have graded this area as good.

We have made four recommendations, which will address the identified weaknesses. The implementation of our recommendations should enhance the control environment in relation to the system reviewed and provide an increased level of assurance to the Council and management from the date of implementation.

Context

As part of internal audit's review of the general control environment within the Council a review of the implementation of the systems the Council has implemented to fulfil its role as a licensing authority was undertaken. This was completed as part of the internal audit plan for 2005/06. The objectives of our audit were to review the arrangements, which seek to ensure that:

- the Council has developed and adopted an appropriate licensing policy;
- the Council has formed an appropriate licensing committee, which is provided with sufficient training and support to fulfil its functions under the Licensing Act;
- the Council has developed and implemented robust procedures for the consideration of license applications;
- the Council maintains an appropriate register of licenses granted;
- the Council has developed and implemented appropriate mechanisms to liaise with other stakeholders involved in the delivery of the licensing objectives;
- the Council has developed and implemented appropriate mechanisms to review the delivery of its functions under the licensing act and to address any issues identified.

Acknowledgement

We would like to take this opportunity to thank all members of staff whom we contacted over the course of this review for their time and assistance.



1. Executive summary - continued

This section of the report highlights the main findings of our review. Further detail, together with our recommendations, is included in the 'detailed findings and recommendations' section of the report which can be found on page 6.

Areas of good practice	Areas for further development
<p>Our review identified the following areas of good practice in respect of the Council's delivery of functions under the Licensing Act:</p> <ul style="list-style-type: none">✓ The Council has a Statement of Licensing Policy.✓ Establishment of a Licensing Committee.✓ Comprehensive and mandatory training for the Committee.✓ Robust procedures for the receipt and determination of applications .✓ Effective working relationships established with responsible authorities and other interested parties.	<p>Our work has also identified the following areas where controls could be further strengthened:</p> <ul style="list-style-type: none">▪ The Council should broaden the programme of training offered to Members to include consideration of reviews of existing licenses. (Medium priority)▪ The Council should develop a register of licenses. (Medium priority)▪ The Council should develop a robust mechanism for assessing the effectiveness of its licensing activities. (Medium priority)

1. Executive summary - continued

We have assessed each finding in our report and assigned to it a priority, as follows:

High ●	Medium ●	Low ●
Issues arising referring to important matters that are fundamental and material to the system of internal control. We believe that the matters observed might cause a system objective not to be met or leave a risk unmitigated and need to be addressed as a matter of urgency.	Issues arising that have an important effect on the controls but do not require immediate action. A system objective may still be met in full or in part or a risk adequately mitigated but the weakness represents a deficiency in the system.	Issues arising that would, if corrected, improve the internal control in general but are not vital to the overall system of internal control.

The table below details the number of recommendations made, the priority assigned and those accepted by management.

Recommendations	High Priority	Medium Priority	Low Priority	Total
Made	-	3	-	3
Accepted	-	3	-	3

2. Detailed findings and recommendations

	Observation	Risk	Recommendation	Management Response Officer Responsible/ Implementation Date
1	<p>The licensing policy</p> <p>The Council has in place a detailed Statement of Licensing Policy, which has been developed in consultation with trade bodies, responsible authorities (i.e. those who hold a responsibility that relates to the statutory function of the Licensing Act such as the Police), Members, the Council's legal advisors and other interested parties.</p> <p>The Council's Statement of Licensing Policy has been developed with regard to the requirements of the Licensing Act 2003 and to the guidance issued under section 182 of the act by the Department for Culture, Media and Sport.</p> <p>The aims of the licensing policy are:</p> <ul style="list-style-type: none"> ▪ to advise elected members of the Licensing Committee on the boundaries and powers of the licensing authority and to provide them with parameters within which to make their decisions; ▪ to inform the licence applicants of the parameters under which the licensing authority will make licence decisions, and therefore how a licensed premises is likely to be able to operate within an area; 	<p>Failure to comply with the requirements of the Licensing Act 2003.</p>	<p>No action required.</p>	

2. Detailed findings and recommendations

	Observation	Risk	Recommendation	Management Response Officer Responsible/ Implementation Date
1	<p>The licensing policy (continued)</p> <ul style="list-style-type: none"> ▪ to inform residents and businesses of the parameters under which the licensing authority will make licence decisions, and therefore how their needs will be addressed; and ▪ to inform a court of law how the licensing authority arrived at its decisions when these are challenged in a court, and to support these decisions. <p>The Statement of Licensing Policy sets out details of those activities that currently fall within the scope of the Licensing Act, the Council's general policy on the licensing of such activities, how the Council will consider individual license applications, the factors that the Council will take into account when considering license applications, how applications can be submitted, and the Council's specific policy with respect to each of the licensing objectives set out in the act.</p> <p>The Statement of Licensing Policy was adopted by the Council in November 2004 and approved by the Licensing Committee in June 2005 after it had been established.</p>			

2. Detailed findings and recommendations

	Observation	Risk	Recommendation	Management Response Officer Responsible/ Implementation Date
2	<p>The licensing committee</p> <p>In accordance with the Licensing Act 2003, the Council has established a Licensing Committee comprising fifteen members of the Council. In addition to considering general licensing matters, the Committee – through sub-committee panels of three members each – considers individual license applications in hearings where objections to such licenses have been received from responsible authorities or interested parties.</p> <p>The Council has developed a comprehensive ongoing training programme for members of the Committee, including trainer-led sessions, role play exercises, procedure documents and visits to licensing hearings at other local authorities. Members have found this training to be both relevant to their activities and highly informative. All members of the Committee are required to undertake appropriate training before serving on licensing panels.</p> <p>In addition to this ongoing training, members are provided with specific support prior to and during individual license hearings. In advance of each hearing, members of the panel receive a detailed information pack setting out the details of the application, the objections giving rise to</p>	<p>Officers and Members may not be familiar with the procedure for undertaking a review of a premises license. This would increase the risk of procedural errors, which could cast doubt on the validity of such a review.</p>	<p>The Council should broaden the programme of training made available to members to include consideration of the review of premise licenses.</p> <p>For example, the Council could operate one or more 'dummy' reviews, from receipt of an application for a review to the determination of the application. Such an exercise could involve a range of stakeholders, such as officers, members and representatives of responsible authorities, and would serve to familiarise all parties with the processes and considerations involved.</p> <p>● Medium</p>	<p>Members of the licensing sub committees likely to take part in review hearings will receive further training on licensing review hearings which will include an element of role play of a mock review. Before taking part in a review hearing it is intended that members will have attended either a training session or a hearing within the previous six months. A training plan will be produced for councillors to include two sessions per year.</p> <p>Clive Harland December 2006</p>

2. Detailed findings and recommendations

	Observation	Risk	Recommendation	Management Response Officer Responsible/ Implementation Date
2	<p>The licensing committee (continued)</p> <p>the hearing, and other relevant information, such as a map and aerial photograph of the premises to which the application relates and the surrounding area. Furthermore officers from the Council's licensing and legal services sections attend all panel hearings, in order to brief members in advance on the history of the application and any key areas of contention and to provide advice on the courses of action available to the panel when hearing objections and considering the application.</p> <p>The Licensing Committee has focused to date on the consideration of license applications. In the coming months, however, it is likely that the Committee will also be required to review existing premises licenses. Such a review may be requested by a responsible authority or an interested party, and would require the Council to determine such an application in accordance with the terms set out in the Licensing Act.</p>			

2. Detailed findings and recommendations

	Observation	Risk	Recommendation	Management Response Officer Responsible/ Implementation Date
2	<p>The licensing committee (continued)</p> <p>Having reviewed the license in question, the Council would have the option of:</p> <ul style="list-style-type: none"> ▪ modifying the conditions of the licence; ▪ excluding a licensable activity from the scope of the licence; ▪ removing the designated premises supervisor; ▪ suspending the licence for a period not exceeding three months; and ▪ revoking the licence. <p>Any such review of a premises license already granted has the potential to generate a high local profile, and to have significant consequences for the premises to which the license relates.</p> <p>The Council is conscious of its responsibilities in respect of the review of applications, and is aware of the steps that must be taken in undertaking such a review. It is, however, equally important that members of the Licensing Committee are familiar with their responsibilities under such circumstances.</p>			

2. Detailed findings and recommendations

	Observation	Risk	Recommendation	Management Response Officer Responsible/ Implementation Date
3	<p>Consideration of license applications</p> <p>The Council has developed robust procedures for receiving and considering licensing applications. Detailed guidance on the licensing process and application requirements are issued to all applicants, together with the appropriate application form.</p> <p>The Council requires license applications to be copied to all relevant responsible authorities. In order to ensure that this has been done, the Council issues to all responsible authorities a weekly list of applications received, which the authorities can compare to their own records.</p> <p>The Council checks each application received, to ensure that it has been completed appropriately and that the correct fee has been included. The Council has devised a checklist to ensure that all relevant aspects of the application are checked, which is retained on the application file.</p> <p>The Council has furthermore developed robust mechanisms for receiving objections to license applications from responsible authorities and interested parties, and for holding hearings to consider applications in respect of which objections have been received.</p>	<p>Applications may not be considered in accordance with the legislation or in a timely manner.</p>	<p>No action required.</p>	

2. Detailed findings and recommendations

	Observation	Risk	Recommendation	Management Response Officer Responsible/ Implementation Date
3	<p>Consideration of license applications (continued)</p> <p>The results of all applications and hearings are communicated to the applicant in writing.</p> <p>We have undertaken a detailed review of a sample of license applications, and have confirmed that the Council's procedures had been followed in each of the cases reviewed.</p>			

2. Detailed findings and recommendations

	Observation	Risk	Recommendation	Management Response Officer Responsible/ Implementation Date
4	<p>The register of licenses</p> <p>The Licensing Act requires the Council to maintain a register containing a record of each license issued and each temporary event notice received, together with a range of other information in respect of each license, as specified in the act. The Council must provide facilities for making this register available for inspection by any person during office hours without payment and must supply copies of the information contained in the register (for a reasonable fee) if requested.</p> <p>The Council is in the process of developing a register of licenses. The Council currently records license details using the CAPS Uniform system, which has limited functionality in dealing with the complex nature of most premises licenses. Most information relating to licenses granted is held on paper files in the licensing section.</p> <p>Although the current combination of the Uniform system and paper files permits the Council to keep track of applications received and licenses granted, it is unlikely to provide the efficient and timely means of responding to requests for information that a fully automated system would permit.</p>	<p>The Council may not be able to respond to requests for information from the register of licenses in an efficient and timely manner.</p>	<p>The Council should develop a register of licenses, containing such information as required under the Licensing Act. Furthermore, the Council should ensure that this register is in such a form that the information within it can be made available efficiently and in a timely manner.</p> <p>● Medium</p>	<p>A register of licenses will be produced to cover applications, licences, TENS, and reviews. Initially only basic information will be published. Additional information will be added at the second stage.</p> <p>Clive Harland and Jo Quartley</p> <p>March 2007 for detailed register</p>

2. Detailed findings and recommendations

	Observation	Risk	Recommendation	Management Response Officer Responsible/ Implementation Date
5	<p>Liaison with other stakeholders</p> <p>The Council has sought to develop effective working relationships with all relevant stakeholders. The Council has worked with potential applicants throughout the introduction of the new licensing regime, and has held seminars and 'surgeries' for those considering the submission of a license application.</p> <p>The Council works with responsible authorities and interested parties when considering individual applications, and aims to facilitate dialogue between license applicants and any parties that submit objections to an application, in order to try to resolve any issues informally.</p> <p>The Council meets regularly with representatives of the police and the fire brigade, and has developed a good understanding of the needs of these bodies. The licensing section also works closely with other responsible authorities that are based within the Council, such as the planning section. The Council has, however, found it more difficult to engage certain other responsible authorities.</p>	<p>The processing of applications may be delayed.</p>	<p>No action required.</p>	

2. Detailed findings and recommendations

	Observation	Risk	Recommendation	Management Response Officer Responsible/ Implementation Date
5	<p>Liaison with other stakeholders (continued)</p> <p>Although this has not impacted on the effectiveness of the Council's licensing activities, the Council may find it beneficial to investigate opportunities to develop further its engagement with all responsible authorities, in order to ensure that it makes maximum progress in achieving the licensing objectives.</p> <p>We make a suggestion as to how the Council could achieve this in the next section of our report.</p>			

2. Detailed findings and recommendations

	Observation	Risk	Recommendation	Management Response Officer Responsible/ Implementation Date
6	<p>Reviewing the delivery of functions</p> <p>The Council monitors its licensing activities on an ongoing basis, and makes appropriate adjustments to its procedures in response to feedback from applicants, members, responsible authorities and interested parties.</p> <p>The Council is required to determine its Statement of Licensing Policy for a three year period, following which the Council must consult with responsible authorities, licensee representatives and representatives of local businesses and residents to develop and revise the policy as appropriate before adopting it for a further three years.</p> <p>During each three year period, the Licensing Act requires that the Council keeps its policy under review and makes such revisions to it as it considers appropriate.</p> <p>The Council does not currently have in place a formal mechanism for assessing the effectiveness of the Statement of Licensing Policy in achieving the four licensing objectives.</p>	<p>The Council may not be able to determine the effectiveness of its licensing activities in promoting the four licensing objectives.</p>	<p>The Council should seek to develop a robust mechanism for assessing the effectiveness of its licensing activities in promoting the four licensing objectives.</p> <p>We set out below some suggestions as to how the Council could implement this recommendation.</p> <ul style="list-style-type: none"> ▪ The Council could meet formally on an annual basis with representatives of all responsible authorities to assess the extent to which the Council's Statement of Licensing Policy and licensing activities have been effective in promoting the four licensing objectives, and to identify ways in which the policy and activities could be made more effective. 	<p>Assessments of the effectiveness of licensing activities in promoting the four licensing objectives will be undertaken by:</p> <ul style="list-style-type: none"> - including an assessment of the objectives and providing potential solutions in the regular meetings with the police - inviting responsible authorities to suggest performance indicators that they could collect which could assess the affect of their activities on the licensing objectives <p>Clive Harland and Maggie Jones</p> <p>March 2007</p>

2. Detailed findings and recommendations

	Observation	Risk	Recommendation	Management Response Officer Responsible/ Implementation Date
6	<p>Reviewing the delivery of functions (continued)</p> <p>It could, therefore, prove difficult for the Council to undertake an objective review of the success of the Council's licensing activities beyond straightforward input measures such as the number of licenses processed and the timeliness of the various activities undertaken.</p>		<ul style="list-style-type: none"> ▪ The Council could conduct a survey of responsible authorities, license holders and local residents to determine the extent to which they feel that the licensing objectives have been met, and to identify ways in which the Council's licensing activities could further promote these objectives. ▪ The Council could develop a suite of performance indicators relating to the licensing objectives (and possibly including some subsidiary indicators, relating to issues such as resource input and administrative burden), which could be monitored on a periodic basis and used to assess the Council's performance over time in promoting the licensing objectives. <p>● Medium</p>	