



# Angus Council

2014/15 Audit

Managing Confidential  
Agenda Papers

June 2015

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Audit Scotland is a statutory body which provides audit services to the Accounts Commission and the Auditor General. ([www.audit-scotland.gov.uk](http://www.audit-scotland.gov.uk))

The Accounts Commission has appointed Stephen Boyle as the external auditor of Angus Council for the period 2011/12 to 2015/16.

This report has been prepared for the use of Angus Council and no responsibility to any member or officer in their individual capacity or any third party is accepted.

This report will be published on our website after it has been considered by the council. The information in this report may be used for the Accounts Commission's annual overview report on local authority audits published on its website and presented to the Local Government and Regeneration Committee of the Scottish Parliament.

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# Introduction

1. In April 2015, the Chief Executive raised concerns with external audit around articles which had appeared in the local Angus press containing confidential council information. Consequently, it was agreed that we would carry out a review of the council's procedures for managing the distribution of its agenda papers.
2. On 24 and 26 March 2015, articles appeared in the local Angus press containing details from two separate confidential exempt reports, generally known as 'green papers' which were part of the agenda papers for the full council meeting on 26 March 2015. As the articles appeared in advance of the council meeting, it would appear that confidential information was inappropriately shared with the press.

## Scope

3. The aim of this review was to examine the council's procedures for distributing agenda papers and to make recommendations to tighten the arrangements where appropriate. The following steps were carried out:
  - reviewed the arrangements operated by the council to advise and remind members and officers of their responsibilities in respect of data protection and information handling
  - reviewed the council's policies and procedures for managing the distribution of its agenda papers with a particular emphasis on handling confidential matters

- evaluated the audit trail for receipt and distribution of 'green papers' by committee services.

4. We also carried out a compare and contrast exercise with five other local authorities across Scotland to identify areas of best practice to strengthen Angus Council's arrangements.

## Key messages

5. Council proceedings are generally open but on occasion, documents and discussions need to be treated in confidence. Legislation provides details when it might be appropriate for councils to consider a report in private. When papers are taken in private they will be exempt business and in Angus Council, the reports are printed on green paper ('green papers').
6. Confidentiality requirements are set out in the Councillors' Code of Conduct (the Code). There is scope for Angus' elected members to receive regular refresher training on the requirements of the Code and to carry out an annual self-assessment confirming their compliance with the Code.
7. Public bodies are required to manage data securely and in accordance with a range of data protection and information security regulations. Staff are required to complete online training in this area annually. This practice should be extended to include elected members. In addition, the council's policies and procedures should include arrangements for management to undertake checks to determine if elected members and staff are managing and handling data appropriately.

8. Overall, Angus' processes for distribution of papers are in line with the five other councils we considered. The council strictly controls the number of paper copies of agenda papers. However, when green papers are involved, they should be immediately placed in sealed envelopes for distribution to elected members.
9. Electronic copies of agenda papers are routinely made available on a secure section of the intranet which can only be accessed by elected members and approved officers. Where 'green papers' include sensitive information, then access could be restricted further to include only those staff with a genuine need.
10. Appendix I includes an action plan setting out our recommendations to maintain a profile on confidentiality requirements and to strengthen arrangements around managing sensitive information.
11. Appendix II provides a summary of the results from the compare and contrast exercise with five other local authorities. A short questionnaire was prepared and completed by external audit colleagues in the respective councils. Where good practices have been identified that are not already in place in Angus, recommendations have been proposed in this report and are identified by an asterisk (\*) in the action plan.
12. We have included in this report only those matters that have come to our attention as a result of our normal audit procedures; consequently, our comments should not be regarded as a comprehensive record of all deficiencies that may exist or improvements that could be made.
13. The cooperation and assistance afforded to the audit team during the course of the audit is gratefully acknowledged.

# Findings

## Councillors' Code of Conduct

14. In March 2015, Angus Council considered two exempt reports which covered the sale of a council building and a report concerning legal advice which had been obtained by the council with regard to a planning matter.
15. The Local Government (Scotland) Act 1973 Schedule 7A gives the council 15 descriptions of exempt information which can be cited to prevent papers from being made public. The sale of a council building report was exempted using the following provisions:
  - (6) Information relating to the financial or business affairs of any particular person (other than the authority).
  - (8) The amount of any expenditure proposed to be incurred by the authority under any particular contract for the acquisition of property or the supply of goods or services.
  - (9) Any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract for the acquisition or disposal of property or the supply of goods or services.
16. The second report was exempted under the following provisions:
  - (12) Any instructions to counsel and any opinion of counsel (whether or not in connection with any proceedings) and any advice received, information obtained or action to be taken in connection with—
    - (a) any legal proceedings by or against the authority, or
    - (b) the determination of any matter affecting the authority, (whether, in either case, proceedings have been commenced or are in contemplation).
17. The Ethical Standards in Public Life etc (Scotland) Act 2000 introduced the Councillors' Code of Conduct (the Code). The council's Standing Orders require elected members in Angus Council to comply with the Code which includes the following confidentiality requirements:
  - *"Legislation gives you certain rights to obtain information not otherwise available to the public and you are entitled to exercise these rights where the information is necessary to carry out council duties. Such information is, however, for your individual use as a councillor and must not be disclosed or in any way used for personal or party political advantage or in such a way as to discredit the council. This will also apply in instances where you hold the personal view that such information should be publicly available".*

18. Elected members received briefings on the requirements of the Code after the 2012 local government election, and were reminded of their responsibilities at the first meeting of the council in May 2012. Through Audit Scotland's annual overview reports, we regularly take an opportunity to remind councils of the importance of training and support for elected members in general terms. We recommend that it would be good practice to provide elected members with refresher training on their roles and responsibilities under the Code.

#### Recommendation 1

19. Consideration should also be given to an annual self-assessment and written declaration by elected members that the Code has been read and their roles and responsibilities are understood.

#### Recommendation 2

20. Information security is a significant responsibility for all councils. There are data protection requirements and new responsibilities have emerged through records management regulations. With an increase in mobile computing and flexible working, there is a greater role on bodies to ensure that elected members and officers manage data accordingly. The council has recently defined the roles of a number of key officers in this area e.g. chief information governance officer, so it is important that elected members are informed of the council's policies and procedures and receive assurance of the council's performance in these areas and that it can demonstrate compliance with the different regulations.

21. Angus staff are required to complete a short 'Data Protection and Handling Information Correctly' on-line course every two years. This requirement should be extended to elected members.

#### Recommendation 3

### Preparation and distribution of agenda papers

22. Reports are received by democratic services by e-mail. Documents are printed twice, firstly for the pre-meeting and secondly for the actual council meeting.

23. An order is sent electronically to the print unit in Angus House which shows how many copies are required. In respect of the March council meeting, we have confirmed that the correct number were ordered and printed. We found that hard copies are well controlled. It is not the council's practice to print additional (spare) copies of papers and therefore all copies printed can be linked directly with recipients.

24. The print order is returned to democratic services where papers are held before being placed into members' individual blue bags which are transferred to members services in central Forfar by a security company contracted by Angus Council. Additional mail may be added to the bags by members' services before bags are closed and delivered to councillors' homes.

25. In order to tighten up access, we would suggest that where agenda papers include 'green papers', they are immediately put in sealed envelopes before being placed in the blue bags. This will minimise the opportunity that sensitive papers could be copied at some point between printing and delivery.

### **Recommendation 4**

26. Electronic versions of the reports are made available on the Document Centre, which is a controlled area on the council's intranet site. This is available to all councillors and approximately 50 council officers.

27. There is scope to review the number of officers who have access to the Document Centre. Where papers contain sensitive information, consideration could be given to further restricting access to those papers to those officers with a genuine need.

### **Recommendation 5**

28. The council's information security policies set out how council data should be managed and stored. These procedures should include arrangements to enable information governance officers to routinely audit how elected members and staff are managing and distributing data including confidential data. For example, this would enable spot checks to be carried out on email traffic.

### **Recommendation 6**



# Appendix I – Action Plan

No. Page/para	Issue/risk/Recommendation	Management action/response	Responsible officer	Target date
1*	<p>Members were informed of their responsibilities to comply with the Councillors' Code of Conduct as part of the induction process after the 2012 election. There has been no refresher training since.</p> <p>In order to maintain alert to the requirements of the Code, there should be annual refresher training for elected members and in particular on the confidentiality requirements.</p>	<p>The need for refresher training is acknowledged and accepted. Consideration will be given to incorporating this requirement in on-going member training with the possibility of integrating it into a relevant e-learning package.</p>	<p>Head of Legal and Democratic Services/Monitoring Officer</p>	<p>30 September 2015</p>
2	<p>While the council's standing orders require councillors to comply with the Councillors' Code of Conduct, there is no regular confirmation process in place to demonstrate members' acceptance of these matters.</p> <p>Elected members should be required to undertake an annual self-assessment and written declaration that they have understood their responsibilities under the Code.</p>	<p>Accepted – Improvement Service member development resources will be investigated in relation to this recommendation. Annual confirmation of the obligation to meet legal and Code requirements will be considered.</p>	<p>Head of Legal and Democratic Services/Monitoring Officer and Organisational Development Manager</p>	<p>31 Dec 2015 and annually thereafter</p>

No. Page/para	Issue/risk/Recommendation	Management action/response	Responsible officer	Target date
3*	<p>Public bodies have significant responsibilities with regard to information security and data management. While staff are required to carry out an online training module, there is no such requirement for elected members.</p> <p>Online training with regard to data protection and information handling should be extended to elected members as soon as possible.</p>	This recommendation is accepted.	Head of Legal and Democratic Services/Monitoring Officer and Organisational Development Manager	31 December 2015
4*	<p>Agenda papers are placed in councillors' blue bags for transfer from Angus House to Members' Services.</p> <p>In order to tighten security, agenda papers with 'green papers' should be immediately put in sealed envelopes prior to placing in blue bags.</p>	This recommendation is accepted for immediate implementation from the June 2015 council meeting	Democratic Services Manager	With immediate effect
5	<p>All 'green papers' are placed in the Document Centre which is a secure area on the council's intranet. This can only be accessed by elected members and approved officers.</p> <p>There is scope to review the number of officers with access to the Document Centre generally but with regard to 'green papers' including sensitive data, then access could be further restricted to include only those staff with a genuine need.</p>	The implementation of selective access to the document centre may be problematic. If this cannot be delivered alternative solutions will be identified for example via pass word control of electronic copies of green papers.	Democratic Services Manager and Service Manager IT	31 December 2015

No. Page/para	Issue/risk/Recommendation	Management action/response	Responsible officer	Target date
6	<p>There are currently no arrangements in place to routinely undertake checks on data management within the council including the handling of confidential data.</p> <p>Information governance arrangements should provide for regular management checks to ensure that elected members and officers are managing and distributing data appropriately e.g. electronic handling of sensitive data.</p>	<p>It is accepted that a checking regime is required to provide assurance on the operation of relevant protocols for the maintenance of confidentiality by both officers and members.</p>	<p>Head of Legal and Democratic Services and Service Manager – Governance and Consultancy</p>	<p>31 December 2015 and annually thereafter</p>

\* Good practice identified from compare and contrast review.

# Appendix II – Comparison of practices

Detail	Angus	Council A	Council B	Council C	Council D	Council E
<b>Receipt of exempt papers by Committee Services</b>	By email	By email	By email	By email	By email	By email
<b>Recipients of Pre-meeting papers</b>	Administration elected members plus restricted list of officers - CEO, Directors, s95 officer, monitoring officer, democratic services manager and members services.	Convener and vice-convener, leader of the council, convener of finance committee, local ward members if appropriate, CEO, s95 officer, monitoring officer, service director.	Convener and vice-convener plus senior officers.	Response not completed in questionnaire.	Exempt papers are copied and given by hand to the Provost, leader of the council and CEO at agenda setting committee.	Response not completed in questionnaire.
<b>Recipients of Agenda papers – hard copy</b>	Elected members plus 6 specified officers.	Elected members plus specified officers.	In accordance with a distribution list which is regularly updated.	Elected members, CEO, Directors and Heads of Service.	Elected members plus specified officers (controlled distribution list).	Elected members plus specified officers (controlled distribution list).

Detail	Angus	Council A	Council B	Council C	Council D	Council E
<b>Distribution process</b>	Included in blue bags, couriered to Members' Services (different building) and onto elected members' homes.	Included in elected members' mailbags and placed in members' pigeonholes (same building).	Placed in sealed envelopes which are marked to indicate that agendas are enclosed. Placed in members' dockets for collection by members. Copies to officers are placed in sealed envelopes and hand delivered.	Delivered to home addresses or passed to members' secretaries.	Response not completed in questionnaire.	Placed in sealed envelopes and collected by members' secretaries.
<b>Availability of spare copies</b>	None	5 extra sets. Distribution list retained for short period of time.	None	None	None	None

Detail	Angus	Council A	Council B	Council C	Council D	Council E
<b>Electronic distribution of agenda papers</b>	<p>Papers added to the 'Document Centre', a secure section on the intranet which has controlled access</p> <p>Accessed by elected members, 15 staff in committee services and 53 other staff.</p>	<p>Email sent to a distribution list of members and officers</p> <p>Placed on a secure section of the council's intranet which has controlled access</p> <p>Shared drive for elected members.</p>	Not applicable	Controlled access to committee management system	Not applicable	Not applicable

Detail	Angus	Council A	Council B	Council C	Council D	Council E
<b>Reminder of confidentiality requirements</b>	<p>'Not for publication' printed on the top of exempt papers</p> <p>Standing Orders require compliance with the Code</p> <p>Code covered at induction training.</p>	<p>Not for publication' printed on the top of exempt papers</p> <p>Standing Orders require compliance with the Code</p> <p>Code covered at induction training.</p>	<p>'Not for publication' printed on the top of exempt papers</p> <p>Standing Orders require compliance with the Code</p> <p>Code covered at induction training.</p>	<p>Information Governance Learning and Development Strategy policies and procedures including guidance to officers and elected members on roles and responsibilities in relation to information security</p> <p>Think twice campaign (to minimise security breaches)</p> <p>Elected members training and development programme covers the Code</p> <p>Members/officers protocol refers to the Code's confidentiality requirements.</p>	<p>Annual training for elected members on the Code</p> <p>Data label attached to identify that paper is confidential</p> <p>Exempt papers have a covering sheet with reference to legal grounds.</p>	<p>Information security forms part of the council's code of governance. An information security board oversees the operation of the council's information risk policy</p> <p>Information security online training for staff on induction with annual refresher. Completion monitored by information security board.</p> <p>Information security, data protection and freedom of information forms part of elected member induction training. In addition, there is annual refresher training.</p>