



Draft Internal Audit Report

Hertsmere Borough Council – Tree Preservation Orders

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Copied to:

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Overall Assurance: Substantial

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1 EXECUTIVE SUMMARY

Introduction

- 1.1 A review of Tree Preservation Orders (TPO) has been requested by the Director of Resources at Hertsmere Borough Council (HBC). This will serve to provide independent assurance to the Council that the making and administration of TPO's is compliant with the law.
- 1.2 The law on TPOs is in Part VIII of the Town and Country Planning Act 1990 and in the Town and Country Planning (Trees) Regulations 1999, which came into force on 2 August 1999. The latter were subsequently amended by the Town and Country Planning (Trees)(Amendment no. 2)(England) Regulations 2008. The latest Town and Country Planning (Tree Preservation)(England) Regulations 2012 came into force in April 2012.
- 1.3 A TPO is an order made by a local planning authority (LPA) in respect of trees or woodlands. The principal effect of a TPO is to prohibit the cutting down, uprooting, topping, lopping, wilful damage or wilful destruction of trees without the LPA's consent. LPAs may make a TPO if it appears to them to be expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area.
- 1.4 The Register of Tree Preservation Orders maintained by HBC indicates that 30 TPO's were made in 2010, two in 2011 and three in 2012 to date.

Overall Audit Opinion

- 1.5 Based on the work performed during this audit, we can provide overall **substantial assurance** that there is a largely sound system of control, but there are some minor weaknesses, which may put a limited number of the system objectives at risk.
- 1.6 The audit opinion was formed from management assurances given in response to our enquiries, plus examination of appropriate evidence relating to officers and Members expenses.
- 1.7 Please see definitions for the overall assurance levels at Appendix B, as well as the Assurance by Risk Area below.

Summary of Recommendations

- 1.8 We have made six recommendations, three classified as Medium and three as Merits Attention to strengthen the internal controls.

1.9 Please see the Management Action Plan at Appendix A for further detail.

Annual Governance Statement

1.10 This report provides a good level of assurance to support the Annual Governance Statement.

2 ASSURANCE BY RISK AREA

2.1 Our specific objectives in undertaking this work, as per the Terms of Reference, were to provide the Council with assurance on the adequacy and effectiveness of internal controls, processes and records in place to mitigate risks in the following areas:

Risk Area	None	Limited	Moderate	Substantial	Full
Register of TPO's (all physical and electronic) – completeness, timeliness, accuracy and validity of the maintenance and administration of the register in compliance with legal requirements.					
Making and confirmation of TPO's in compliance with legal requirements and good practice as published by the Department of Communities and Local Government.					
Overall					

2.2 See definitions for the above assurance levels at Appendix B.

2.3 In addition to the risk areas examined (see above table), Internal Audit conducted a review of the nature of the TPO Register maintained under the Council's statutory duties as the Local Preservation authority (LPA) and requirement to make the register available to the public to view.

2.4 The exercise identified that the TPO Register does not reside in one document, but rather comprises of a number of component parts. These are all available to view by the public on request.

2.5 The component parts of the TPO Register have been listed below and are as follows:

- 1) The TPO Register (Green Folder) containing all entries of TPO's and key milestone and dates,
- 2) The TPO files that are held in lockable cabinets in the Planning Section and are organised by TPO number,
- 3) Leaver arch files the 'Register of Tree Preservation Orders Applications', contain copies of all refusal and consent forms issued,
- 4) Leaver arch files containing the Public Register (Section 211 notices), concern applications to carryout works in respect to works on trees in conservation areas or trees that are already subject to a TPO.

2.6 In addition to the above the Planning System database holds all details of TPOs. This electronic data does reflect the register, but due to the format is not available to view by the public.

No.	Finding / Associated Risk	Priority	Recommendation	Management Response	Target Date
1.	<p data-bbox="181 272 741 312">Register of Tree Preservation Orders</p> <p data-bbox="181 368 786 911">Review of the TPO Register (Green Folder) identified a number of entries that had been changed using correction fluid. These had been made as recently as June 2007 and several other instances were identified in November 2006, June 2004 and during the period of the 1980's. Although, it is recognised by Internal Audit that the other components of the register such as the TPO files contain the original copy of the TPO order and confirmation letter support dates.</p> <p data-bbox="181 959 786 1230"><u>Risk</u> Alterations made on a component of the register using correction fluid that is available to the public to view, exposes the potential for allegations of data manipulation and concealment.</p> <p data-bbox="181 1278 786 1406">Impacts include time and cost of responding to enquires regarding alterations and reduced confidence in the</p>	Merits Attention	The Officer Responsible for making hand written entries on the Register should cross through errors made when entering a correction details, rather than apply correction fluid to entries.	Responsible Officer:	

No.	Finding / Associated Risk	Priority	Recommendation	Management Response	Target Date
	data held on this component of the register.				
2.	<p>Register of Tree Preservation Orders</p> <p>Examination of the hard copy 'Register of Tree Preservation Orders' found an incorrect entry supporting the date that the TPO notice was served. Interrogations of other record sources confirmed that that should have been 11/8/2005 and not 11/8/2004. This was identified as human error and is considered to be a historical isolated instance.</p> <p><u>Risk</u> Reliance cannot be placed on the information presented on the register.</p> <p>Impacts incorrect information could be given to the public in relation to the TPO concerned.</p>	Merits Attention	The Officer Responsible for making hand written entries on the Register should be reminded of the importance of entering details on the register correctly.	Responsible Officer:	

No.	Finding / Associated Risk	Priority	Recommendation	Management Response	Target Date
3.	<p>Register of Tree Preservation Orders</p> <p>Review of data held on the Planning System identified two instances where data was missing on the electronic database. One instance concerned a TPO that did not show an address and a second a TPO that did not have an Order date. Internal Audit investigation found that fields can be edited and potentially deleted in error. This was provided as an explanation for the missing entries, although in both instances records could be found using that TPO reference numbers which correspond to the hard copy register and physical files.</p> <p><u>Risk</u> Data held electronically in respect to TPOs is deleted in error.</p> <p>Impacts include increased time spent</p>	Medium	Consideration should be given to locking fields on the Planning System database or the incorporation of a user prompt that asks for confirmation that the action of deletion is desired.	Responsible Officer:	

No.	Finding / Associated Risk	Priority	Recommendation	Management Response	Target Date
	referencing other component of the register.				
4.	<p>Register of Tree Preservation Orders</p> <p>Two of the four TPO Register entries tested had Order Confirmation Dates entered on the TPO Register (Green Folder) are inconsistent and reflect either the date that the decision to confirm the order was entered on the Planning System or the date of decision as it appears on the letter of Confirmation.</p> <p><u>Risk</u></p> <p>Inconsistent data on the hard copy register results in confusion over the deadline to submit appeals to the high court following confirmation.</p> <p>Impacts include failure to provide correct information concerning appeal rights, resulting in penalties and damage to the Councils reputation.</p>	Medium	A consistent approach should be adopted with regards to the entry of Order Confirmation dates on the TPO Register (Green Folder). The date entered should be the same date as entered on the Letter of Confirmation.	Responsible Officer:	

No.	Finding / Associated Risk	Priority	Recommendation	Management Response	Target Date
5.	<p>Making and Confirmation of TPO's</p> <p>a) A review of four Tree Preservation Order files identified one instance (TPO/02/2012) where a copy of 1st Schedule had not been placed on file. Discussion with the [REDACTED] did not confirm that this was sent in the first instance. It was mentioned that a duplicate can be produced from the Planning System. The one created from the Planning System was incomplete and did not provide full details of the tree subject to a TPO.</p> <p>b) The same file does not contain a checklist to indicate the date and method of delivery of the TPO.</p> <p>c) The Checklist does not currently contain a section to support the</p>	Medium	<p>a) Officers preparing documents and serving TPOs should be reminded to check all document components that form the TPO Order are complete and have been copied for the file.</p> <p>b) The TPO checklist should be completed in all cases and should be redesigned to include the initials of the officer that has checked the TPO.</p> <p>c) A new section should also be added to indicate that all component parts of the TPO Order have been sent</p>	Responsible Officer:	

No.	Finding / Associated Risk	Priority	Recommendation	Management Response	Target Date
	<p>separate component documents that form the TPO Order.</p> <p><u>Risk</u> Tree Preservation Orders are not valid due to incorrect process being followed and tree that should be subject to a Preservation Order are felled or have works carried out on them without consent.</p> <p>Impacts include the Council can be subject to penalties for non-compliance with the regulatory framework and losses appeals to defend a TPO.</p> <p>The removal of trees impacts on amenity value and impacts on the local environment and its enjoyment by the public.</p>		and copied for the file.		
6.	<p>Making and Confirmation of TPO's</p> <p>Internal Audit has identified that records in relation to conversations in respect to TPOs are not entered on the system or</p>	<p>Merits Attention</p>	A suitable method of documenting or recording conversations concerning TPOs	Responsible Officer:	

No.	Finding / Associated Risk	Priority	Recommendation	Management Response	Target Date
	<p>recorded using any other method. Instead, the advice is given when a call is received from a customer to 'put it in writing'.</p> <p><u>Risk</u> Adequate records do not exist to support telephone conversation between members of the public and the Council. Without a record of conversations in relation to TPOs enquiries no source of reference exists if needed at a latter date, to support advice or information given to the public by the Council, e.g. if a conversation is referred to by an appellant of a TPO .</p> <p>Impact include that on the Council's reputation and staff moral if allegations are made that incorrect information of advice was given to a member of the public involved in a dispute with the Council over a TPO.</p>		between officers and customers should be explored and put in practice.		

Levels of assurance	
Full Assurance	There is a sound system of control designed to achieve the system objectives and manage the risks to achieving those objectives. No weaknesses have been identified.
Substantial Assurance	Whilst there is a largely sound system of control, there are some minor weaknesses, which may put a limited number of the system objectives at risk.
Moderate Assurance	Whilst there is basically a sound system of control, there are some areas of weakness, which may put some of the system objectives at risk.
Limited Assurance	There are significant weaknesses in key control areas, which put the system objectives at risk.
No Assurance	Control is weak, leaving the system open to material error or abuse.

Priority of recommendations	
High	There is a fundamental weakness, which presents material risk to the objectives and requires urgent attention by management.
Medium	There is a significant weakness, whose impact or frequency presents a risk which needs to be addressed by management.
Merits Attention	There is no significant weakness, but the finding merits attention by management.