

Swindon Internal Audit Services

Chief Executive's

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Corporate Manslaughter Act

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Appendices:

A: Standard Audit Opinions

B: Sentencing Guidelines Council – “Corporate Manslaughter & Health and Safety Offences Causing Death – Definitive Guideline”

Report distribution:

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1 Executive Summary

- 1.1 The Head of Health, Safety and Wellbeing, reporting directly to the Director of Human Resources and Change, manages responsibility for Health and Safety on a day-to-day basis. At the time of the audit fieldwork the Head of Health, Safety and Wellbeing was on maternity leave and the Team Leader Health and Safety Advisor was acting up in to this post. The Head of Health, Safety and Wellbeing returned to work at the report clearance stage of this audit.
- 1.2 Corporate Manslaughter was created with the introduction of the Corporate Manslaughter and Corporate Homicide Act 2007 (referred to as the Act hereon) and can only be committed by organisations. There are no new duties or obligations under the Act, nor is the new offence part of health and safety law. It is, however, specifically linked to existing health and safety requirements. Corporate Manslaughter involves both a gross breach of duty of care and senior management failings resulting in systemic failures throughout the organisation. In contrast, Health and Safety offences may be committed by organisations and individuals and are committed whenever the defendant cannot show that it was not reasonably practicable to avoid a risk of injury or lack of safety.
- 1.3 The consequences to an organisation following a successful Corporate Manslaughter prosecution and being found corporately culpable are severe and can include:
 - Prosecution for manslaughter resulting in imprisonment of the 'Directing Mind' i.e. Senior Managers.
 - An unlimited fine.
 - Remedial Orders to remedy any breach with associated costs.
 - Publicity orders requiring the organisation to publicise the fact it has been convicted.
- 1.4 A well modelled and practical Health and Safety Strategy for Swindon Borough Council was approved in 2003. The strategy included a detailed project plan for its implementation. The Team Leader: Health and Safety provided this document to the Auditor, at the start of the audit, as being the most up to date strategy and this is the version currently published on the Council's Intranet for staff to follow. However, at audit report clearance stage, the Auditor was provided with a review of the Council's Health and Safety Strategy by the Head of Health, Safety and Wellbeing that was conducted in 2005. This strategy review was conducted by the then Directors of Human Resources and Public Health in consultation with the Health and Safety Executive, Councillors, trade unions, directors and other key stakeholders, and was endorsed by Corporate Board. However, there is no record of the strategy review being formally adopted, or approved by Corporate Board. The 2003 strategy and 2005 strategy review are out of date and only partially implemented. As a result, the Council cannot fully demonstrate comprehensive and effective Health and Safety arrangements and the mitigation of Corporate Manslaughter risk.

- 1.5 The corporate framework for group directorates and service directorates to identify, report and manage health and safety risks, or escalate key risks/issues of concern to the Joint Safety Committee and Operations Board has not been fully operational. Directorates demonstrate their commitment to Health and Safety to varying degrees and the existence and extent of approaches are not consistently documented. However, it is acknowledged from testing that Environment, Regeneration and Community and Children's Services maintain Health and Safety risk registers. Also, Housing Services have achieved Occupational Health and Safety Systems (OHSAS) accreditation. It is therefore not possible to determine whether all health, safety and corporate manslaughter risks have been identified across the whole Council and whether mitigating actions have been prioritised accordingly. The Council has yet to evaluate and agree its risk appetite for health and safety and allocate and prioritise resources accordingly.
- 1.6 A review of minutes from Corporate Board meetings demonstrated that health and safety matters did not feature on the agenda in the last year to February 2010 and only once at Operations Board during this period (this item was later deferred). The Joint Safety Committee, comprising of Councillors and Trade Union Representatives receive quarterly reports on Health and Safety performance across the Council. However, there is no clear management trail to demonstrate the escalation of key health and safety issues/risks from the Joint Safety Committee to Operations Board, or onward, where necessary to Corporate Board for evaluation and action planning. Meetings of the Health, Safety and Wellbeing Management Board have been sporadic. Consequently, their role has not been fulfilled in providing scrutiny and challenge to ensure that there is effective policy, recommendations and decisions concerning Health and Safety practice, standards and performance.
- 1.7 Health and Safety system controls necessary to mitigate the risk of Corporate Manslaughter offences have been assessed as being of concern. Significant improvements are required urgently to ensure that the Council can demonstrate it has taken its health and safety responsibilities seriously and can provide a clear management trail with evidence to support this.
- 1.8 The following recommendations require urgent implementation to address key issues identified in Health and Safety controls:
- The Operations Board, Corporate Board and the Chief Executive must ensure that immediate action is taken to improve health and safety controls and mitigate health and safety risks associated with Corporate Manslaughter. Governance arrangements and the roles and responsibilities for Health and Safety must also be reviewed to ensure that effective communication and escalation processes are in place. Terms of reference for the groups involved in the health and safety structure should also be reviewed to provide an effective scrutiny function at each escalation level. Representation at meetings should be enforced, with deputies appointed should representatives not be able to attend.
 - The Corporate Health and Safety Strategy and Policy must be updated to include the key controls identified in the Corporate Manslaughter Act, the revised Council health and safety structure and the role and responsibilities of significant partners. An agreed project plan should be put in place to underpin delivery of an up to date strategy and be adequately resourced to

achieve delivery. Implementation of the strategy must be monitored and managed with regular reports to Operations Board for action where necessary. Reports should focus on the level of health and safety risk using a RAG status and narrative where appropriate. Health and Safety risk is recorded on the Corporate Risk Register, but monitoring of related action plans is not considered effective to mitigate the risk of Corporate Manslaughter.

- All departments are responsible for and must complete risk registers within which health and safety risks must be recorded, co-ordinated by the Head of Performance and Risk. This information will identify the compliance work, training and actions to mitigate these risks. All action points and responsibility for implementing these should be clearly documented.

1.9 During the audit, Swindon Commercial Services became a limited company and therefore responsible for their own health and safety risk management. This decoupling of Swindon Commercial Services will significantly reduce the Councils' health and safety risk profile due to the nature of their service related risks.

2 Introduction

- 2.1 The legislation that allowed an employer to be prosecuted following the death of a person has existed in some form for a number of years now. However, prior to April 2008 when the Corporate Manslaughter Act came into effect, responsibility had to be centred on what was known as the directing mind, or the person who was responsible for directing the actions of the company. With the increasing complexity of management structures in organisations, these prosecutions became more difficult which was why the Corporate Manslaughter Act was introduced.
- 2.2 Under the new act, there are no new duties or responsibilities for employers. Their primary responsibility remains to protect their employees through compliance with existing Health and Safety legislation. However, with many of the hurdles previously preventing prosecutions now removed, organisations can now be held to account for the way their senior managers organise the activities of their organisations. The Sentencing Guidelines Council produced a definitive guide on the results of a prosecution in February 2010 that explores the consequences in more detail. These are set out in Appendix B.
- 2.3 The sanctions associated with a successful Corporate Manslaughter prosecution are significant for both small and large organisations and with the introduction of the Act; these sanctions can also apply to government institutions ensuring that no organisation is exempt from the legislation. They include prosecution and possible imprisonment of the senior managers and directors of the organisation, unlimited fines and publicity orders requiring the offending organisation to report on its failings publicly.
- 2.4 This audit looks to provide assurance that the Council has effective systems and controls in place at both a corporate and service level, including those services delivered by partners, to comply with any Health and Safety legislation to mitigate the risk of a corporate manslaughter prosecution being brought against the Council.
- 2.5 Responsibility for Health and Safety is managed on a day-to-day basis by the Head of Health, Safety and Wellbeing, who reports directly to the Director of Human Resources and Change. At the time of the audit fieldwork the Head of Health, Safety and Wellbeing was on maternity leave, returning to work at the report clearance stage of this audit.

3 Approach

- 3.1 Managers determine the extent of internal control in their systems and are responsible for providing an environment that ensures that resources are properly applied, value for money is secured, fraud and other losses prevented, and the Council's Financial Regulations are complied with.

- 3.2 Internal Audit, as a service to the Directorate and the Council as a whole, contributes to internal control by examining and evaluating its adequacy and effectiveness. The auditor's responsibility is to form an independent opinion, based on the audit work undertaken, on the reliability of the systems of internal control, risk management and governance reviewed and report this to the Director Human Resources and Change and to other relevant Managers.
- 3.3 In accordance with best practice, a risk-based approach was adopted that identified the key risks to the business objectives and those mitigating actions/controls that should be in place. The auditor then assessed the effectiveness of the mitigating controls through examination of relevant documents, procedures and detailed testing.
- 3.4 The appropriate managers and senior staff were consulted during the course of the review, and examination and testing of relevant documentation and procedures took place within departments.

4 Risk Areas Examined

- 4.1 The key risks to the achievement of the business objectives were discussed and agreed with the Team Leader – Health, Safety and Wellbeing before the commencement of the audit. The table below summarises the Risk Areas examined during the review and provides an assessment of the adequacy of the mitigating controls in place for each area of risk examined:

Risk Area Examined	Audit Conclusion re. mitigating controls
<ul style="list-style-type: none"> Corporate culpability for Health and Safety resulting in a Corporate Manslaughter Act prosecution – Strategies, policies and procedures are not clearly linked and supported with effective governance arrangements. In the event of a prosecution, the Council cannot therefore demonstrate a corporate approach to dealing with their Health and Safety responsibilities. 	Significant Improvements Required
<ul style="list-style-type: none"> Risk identification and escalation is not in place leading to a fatality occurring – The risk management process is not embedded across the organisation, leading to risks going unidentified. Mitigating action is not taken leading to a fatality. 	Significant Improvements Required
<ul style="list-style-type: none"> Health and Safety risks not managed to demonstrate that senior managers take Health and Safety responsibilities seriously – Roles and responsibilities of senior managers do not address Health and Safety issues resulting in employees being exposed to risks that could otherwise be avoided / mitigated. Council's responsibility to provide a duty of care cannot be demonstrated following an incident. 	Significant Improvements Required

5 Overall Opinion

- 5.1 **Materiality and impact: High.** The impact and materiality in the event of a corporate manslaughter case being brought successfully against the authority are significant and include unlimited fines, costs associated with remedial work to avoid such incidents recurring and publicity orders requiring the Authority to advertise the case brought against it.
- 5.2 **Opinion on system controls: Significant Improvements Required** (see Appendix A) i.e. the auditor completing the review concluded that existing procedures needed to be improved to ensure that they are fully reliable. A number of significant recommendations have been made to improve missing or failing controls.
- 5.3 **Overall assessment of risk:** the combination of the high impact of the system, along with the opinion on the system controls gives an overall risk assessment to the Council as being **of concern**:

		MATERIALITY AND IMPACT		
SYSTEM CONTROL		High	Medium	Low
1	High standard	Moderate	Minimal	Minimal
2	Satisfactory	Moderate	Moderate	Minimal
3	Significant improvements required	Of Concern	Moderate	Moderate
4	Fundamental weaknesses identified	Significant	Of Concern	Moderate

- 5.4 The following key recommendations should be implemented in order to achieve the improvements required:
- Operations Board, Corporate Board and the Chief Executive must ensure that urgent action is taken to ensure that there is an effective framework and escalation process to improve the operation and consistency of health and safety management controls within the organisation. This is to ensure sharing of Health and Safety best practice and uniformity of implementation.
 - Governance arrangements for groups within the reporting structure with Health and Safety roles and responsibilities must be reviewed to ensure effective communication and escalation processes.
 - The Corporate Health and Safety Strategy and Policy must be updated and include the key controls identified in the Corporate Manslaughter Act. This should also reflect organisation changes in the Council and involvement of

significant partners. An agreed project plan with RAG indicators should be put in place to underpin delivery of the strategy with regular progress reports to Operations Board and Corporate Board for action where necessary.

- A Health and Safety risk, relating to Corporate Manslaughter is recorded on the Corporate Risk Register, but monitoring of the supporting departmental and service related action plans is not considered effective for mitigation.
- The 2003 Health and Safety Strategy requires all service areas and departments to include health and safety risks on their risk registers. This information should be forwarded to the Health, Safety and Wellbeing Team on a regular basis for prioritisation and work planning. This will enable the Health and Safety risks faced by the Council to be quantified and will inform both the compliance work, training and actions required in the Health and Safety Strategy project plan.
- Health and Safety risks identified through risk registers should be co-ordinated to form a matrix of health and safety risks around which planning for mitigating actions can take place and responsibilities for actions can be allocated. Using the RAG (Red, Amber, Green) status to highlight the risks will enable officers and members at the different levels of the revised communication / escalation structure to monitor progress and ensure action is taken where required.

5.5 Management's responses to the Internal Audit recommendations are included in section 8 of the report.

5.6 All of the matters arising are detailed in the action plan, together with suitable recommendations, together with an indication as to whether the matters arising are of a high, medium or low priority. The action plan provides a checklist of the findings of the review, potential consequences, and identifies officers responsible for implementing the recommendations and appropriate time-scales.

6 Secure Procedures

6.1 It was noted that the following secure procedures are now an integral part of the Corporate Manslaughter system:

- Significant progress has been made in the last two years in introducing and implementing an annual action plan for delivery of health and wellbeing i.e. relating to risks assessed by HSE as attributable to potential Corporate Manslaughter cases.
- Whilst resources are limited, training is delivered according to a programme agreed at the beginning of the year that is made available to staff and managers. The team supplement this programme with tailored training courses based on demand.
- Both specialised and highly qualified staff make up the Health, Safety and Wellbeing Team.
- The Health, Safety and Wellbeing Team monitor compliance through the completion of a programme of audits conducted each year including those delivered by the Council's strategic partner Capita and inspections carried

out by the Fire Officer. Compliance results are reported quarterly to the Joint Safety Committee.

- There have been no HSE enforcement notices issued in the last 5 years. There is a general trend of a reduction in reportable accidents across the Council, these being the more serious incidents involving more than 3 days absence from work, fractures, dislocations etc.
- The Council's Insurance Manager has arranged insurance cover for the legal costs and expenses relating to a Corporate Manslaughter Act prosecution up to a limit of £5m.

7 Acknowledgement

7.1 Internal Audit would like to acknowledge and thank the following Officers who contributed to the review:

Name	Job title
Jack Markiewicz	Director Human Resources and Change
Amanda Woodhead	Head of Health, Safety and Wellbeing
Phil Harman	Team Leader – Health, Safety and Wellbeing
Richard Kemp	Corporate Health, Safety and Wellbeing Advisor
Steve Hopkins	Principal Health, Safety and Environment Officer
Alex Bedford	Head of Performance and Risk
Carl McDonald	Health, Safety and Environment Compliance Officer
Sandra Keates	Group Leader Building Control
Rachel Ind	Highways Manager
Clive Feakes	Chief Executive's Staff Officer
Peter Greer	Insurance Manager

Section 8: Action Plan

The purpose of this action plan is to provide a summary of the matters arising during the audit of Corporate Manslaughter, together with the recommendations to mitigate risks, the manager's response to the recommendations, along with the officer responsible and timescale for implementation. In order for you to identify the most significant matters arising, which affect the reliance that can be placed on the controls reviewed, the recommendations have been prioritised.

Ref.	Finding	Recommendations Priority (High/Medium/Low)	Responsible Officer and Timescale	Management Response
1	Corporate culpability for Health and Safety resulting in a Corporate Manslaughter Act prosecution			
1.1	<p>The Auditor was provided with a copy of the Corporate Health and Safety Strategy published in 2003 that was supported by a comprehensive project plan for its implementation. This version is currently published on the intranet. Following audit fieldwork, a review of the health and safety strategy was provided for 2005, however this has not been formally incorporated into a strategy document or approved. The strategy does not include a comprehensive project plan to support its delivery.</p> <p>Due to the significant organisational changes that have taken place at the Council during the past 7 years, the Strategy no longer reflects the current structure and working relationships of the Council. There is no reference in the Strategy to the Council's partnership arrangements with the PCT, Capita or the LAA and the risks posed by the later introduction of the Corporate Manslaughter Act in 2008. Reference is also made to employees who no longer work for the Council.</p>	<p>The Health and Safety Strategy and project implementation plan must be reviewed and updated at least annually to ensure it is relevant and accurate. This document should be updated on the Council's intranet site. The strategy should ensure that mitigating actions are monitored and escalated when not implemented to reduce any health and safety risks that could affect delivery of the corporate objectives.</p> <p>Actions to limit the impact of a Corporate Manslaughter case should also be included and these should be prioritised and linked to future action plans for the Health, Safety and Wellbeing Team. Operations Board should independently review the updated Strategy prior to it being passed to Corporate Board for formal approval as part of the wider Human Resources and Change Strategy.</p> <p>Priority: High</p>	<p>Director of HR and Change</p> <p>June 2010</p>	<p>Accepted. Strategy document development underway and will form part of the HR and Change strategy which will be endorsed by Corporate Board.</p> <p>Operations Board HSW review session scheduled for July 2010. This is the quarterly update to Ops Board.</p> <p>Chief Executive's Staff Officer has scheduled a slot to present the Roles and Responsibilities document in early June as this is the first available slot. The agenda is already full for May.</p>

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Ref.	Finding	Recommendations Priority (High/Medium/Low)	Responsible Officer and Timescale	Management Response
1	Corporate culpability for Health and Safety resulting in a Corporate Manslaughter Act prosecution			
1.2	<p>The Strategy refers to the introduction of an Annual Corporate Health and Safety Plan that was intended to co-ordinate the approach to delivering Health and Safety on a corporate basis. It was also to be used to identify top risks and enable resources to be focussed more effectively. Although a plan was produced for 2008/09, a revised version for 2009/10 was not produced due to staff shortages. However, a health and wellbeing annual action plan was provided with evidence that demonstrated the actions taken and progress made in delivering these objectives.</p> <p>This plan should provide the basis for Health and Safety compliance audits carried out by the Health, Safety and Wellbeing Team enabling the monitoring the implementation of mitigating actions to address potential Corporate Manslaughter and other key health and safety risks.</p>	<p>The Annual Corporate Health and Safety Plan should be implemented for 2010/11 as detailed in the Corporate Health and Safety Strategy. This would provide a service-planning framework that would help to ensure continual improvement by embedding protocols around policy, planning, implementation and operation.</p> <p>The plan should include what checking / monitoring will be undertaken. Also, where corrective action is required, the plan should detail how this will be implemented, monitored and escalated where necessary.</p> <p>Priority: High</p>	<p>Director of HR and Change</p> <p>June 2010</p>	<p>Annual Health and Safety workplan will be finalised following Corporate Board steer in April 2010 and subject to formal review</p> <p>The annual HSW plan will detail the organisational approach to managing HSW risks, rather than being a specific workplan for the HSW team.</p>

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Ref.	Finding	Recommendations Priority (High/Medium/Low)	Responsible Officer and Timescale	Management Response
1	Corporate culpability for Health and Safety resulting in a Corporate Manslaughter Act prosecution			
1.3	<p>There is a Corporate Health, Safety and Wellbeing Policy that outlines the Council's broad objectives as a statement of intent.</p> <p>The Policy includes details of the responsibilities of all staff at all levels through to the Chief Executive. Responsibilities for Cabinet and Members are also covered. However, this policy has not been reviewed since October 2006.</p> <p>Whilst responsibilities are clear, there are no details included on the consequences of an actual Corporate Manslaughter prosecution, to emphasize the importance of acting on Health and Safety responsibilities.</p> <p>In addition, the guidance does not clarify the need to be able to demonstrate effective communication between staff and managers at all levels. There is no link between this policy and the communication / escalation structure to report potential Health and Safety risks.</p>	<p>The Corporate Health, Safety and Wellbeing Policy must be reviewed at least annually or earlier if necessary and amended to include the following:</p> <ul style="list-style-type: none"> • Details of the possible consequences should the organisation be found to be failing it's employees in terms of Health and Safety. The Sentencing Guidelines Council has produced a definitive guide on the consequences of a Corporate Manslaughter prosecution included in Appendix B for information. • Responsibilities at the various staff and management levels of the organisation should be linked to the communication / escalation structure. <p>Compliance with this Policy will ensure that in the event of a Corporate Manslaughter investigation, a management trail can be provided to show that reasonable steps have been taken to address Health and Safety issues.</p> <p>Priority: High</p>	<p>Director of HR and Change</p> <p>July 2010</p> <p>Chief Executive and Group Directors,</p>	<p>Accepted. Benchmarking relating to this has commenced. Target date for completion of this review which will need to include consultation with key stakeholders and trade unions, including endorsement by Operations Board will be July 2010.</p> <p>The document will be signed by the Chief Executive, Group Directors and key partners.</p>

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Ref.	Finding	Recommendations Priority (High/Medium/Low)	Responsible Officer and Timescale	Management Response
1	Corporate culpability for Health and Safety resulting in a Corporate Manslaughter Act prosecution			
1.4	<p>The Health, Safety and Wellbeing Board have responsibility for conducting business on behalf of Operations and Corporate Board. This is to guide cross cutting Council Health, Safety and Wellbeing strategy and direction setting.</p> <p>Meetings of the Health, Safety and Wellbeing Management Board have been sporadic. Consequently, their role has not been fulfilled in providing scrutiny and challenge to ensure that there is effective policy, recommendations and decisions concerning Health and Safety practice, standards and performance.</p> <p>Following review of the communication and escalation structure the following issues were identified: -</p> <ol style="list-style-type: none"> 1. Terms of reference are not being followed, are out of date and do not reflecting partnership working and current legislation. 2. There was little evidence in meeting minutes of actions being escalated between Joint Safety Committee and the Health, Safety and Wellbeing Board. 3. In the 12 months to February 2010 Health, Safety and Well-being was only included on the agenda once, but this item was deferred. 4. Health, Safety and Wellbeing appears on the corporate risk register however the process of escalating risks upwards from service areas is not evident, there is no <i>golden thread</i> to show connectivity of escalation. 	<p>In accordance with strategy, representation at Health, Safety and Wellbeing Board meetings should be required or a deputy nominated to attend. Where meetings do not take place, this should be escalated to the next tier on the escalation/communication structure for action where necessary.</p> <p>The terms of reference for Health, Safety and Wellbeing groups should be reviewed. This is to ensure that there is an effective escalation and communication structure and governance arrangements across the Council and significant partners. This should include reporting, escalation, scrutiny and challenge to demonstrate effective arrangements and performance.</p> <p>Action points from meetings should be clearly identified in the minutes so that where escalation has been required; this can be followed in the minutes of the group at the next level of the escalation structure.</p> <p>Priority: High</p>	<p>Director of HR and Change</p> <p>July 2010</p> <p>Operations Board and Corporate Board quarterly via QBAR</p>	<p>Partially accepted. The Health, Safety and Wellbeing Board will be replaced by quarterly HSW reporting to Operations Board and Corporate Joint Safety Committee. This would allow for reporting, escalation, scrutiny and challenge within integrated and embedded SBC structures. Next HSW update to Operations Board will be May 2010</p> <p>QBAR review of Health, Safety and Wellbeing risk will continue (next scheduled review May 2010) as part of Corporate Risk Register review.</p> <p>The next scheduled HSW update to Operations Board is July 2010 and timescales have been amended to reflect this.</p>

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Ref.	Finding	Recommendations Priority (High/Medium/Low)	Responsible Officer and Timescale	Management Response
1	Corporate culpability for Health and Safety resulting in a Corporate Manslaughter Act prosecution			
1.5	<p>The performance of health, safety and wellbeing in line with practices identified by the HSE in similar organisations is to some extent inward looking with a significant focus on reducing the number of incidents occurring. This is balanced using the results of health and safety audits conducted by the Council and Capita as well as inspection by the Fire Officer and the HSE, the objective of which is to improve on the audit scores. However, this work can provide limited assurance that processes are in place and working effectively for some of the potentially high risks the Council is exposed to when these risks have not been fully assessed due to a lack of risk registers.</p> <p>Whilst indications based on such statistics are that the Council has made some improvement in reducing the number of reportable accidents, the reporting on negative measure of success may discourage the reporting of accidents as it damages performance targets.</p> <p>It is also important to note that Swindon Commercial Services that had the highest risk in terms of reportable accidents has now decoupled, having a significant positive impact on Council's reported statistics.</p>	<p>The focus on Health, Safety and Wellbeing performance should be widened to include further proactive and forward-looking measures. Examples include:</p> <ul style="list-style-type: none"> measuring the health and safety culture of the organisation using e.g. Health and Safety climate survey or Managing Pressure (currently included in the Wellbeing work plan for 2010/11) recommended by the HSE. Requesting feedback on health and safety issues from staff / managers on a proactive basis. Close monitoring for implementation of mitigating actions identified through the Health and Safety risk assessments completed by managers. <p>Priority: Medium</p>	<p>Director of HR and Change</p> <p>Oct 2010</p>	<p>Partially accepted – plans in place for rollout of proactive 'Managing Pressure' survey and workshops to whole organisation within 2010/11.</p> <p>Feedback forms relating to HSW training delivery continue to be collated by SLS and periodically reviewed by HSW Team Leader.</p> <p>HSW audits will continue to focus on compliance against statutory H&S standards with performance ratings and scores will be reported quarterly to Joint Safety Committee and Operations Board.</p> <p>NB Current H&S training and auditing programmes will be reviewed to enable the high level governance workload priorities within this audit response to be addressed.</p>

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Ref.	Finding	Recommendations Priority (High/Medium/Low)	Responsible Officer and Timescale	Management Response
2	Risk identification and escalation is not in place leading to a fatality occurring			
2.1	<p>The 2003 Health, Safety and Wellbeing strategy require that departments record associated risks in their risk registers. From testing, this approach is not consistently applied. There is a lack of visibility of what arrangements have been accepted by the Health, Safety and Wellbeing Team as a process to record and treat risks.</p> <p>The Head of Health, Safety and Wellbeing has advised that health and safety risks are reviewed in other departments without the use of risk registers at venues attended by health and safety advisors. However, there is no documented process for collating and analysing this information to identify any general trends within the Health, Safety and Wellbeing Team.</p> <p>Departmental Health, Safety and Wellbeing arrangements evidenced in place by the auditor were:</p> <ul style="list-style-type: none"> • Environment, Regeneration and Community manage their health, safety and wellbeing safety risk using a risk register. • At audit clearance, Children's Services provided a copy of Departmental risk register that included health and safety risks. • Housing Services have an accredited Occupational Health and Safety Management Systems Accreditation (OHSAS). 	<p>Review the corporate process and framework for reporting and treatment of risks for Health, Safety and Wellbeing. There should be formal acceptance and agreement of this revised process and incorporated as part of the strategy review.</p> <p>The review should ensure a consistent and standard approach to the identification, treatment, reporting and monitoring of associated risks across the Council and strategic partners. Health and Safety risks identified on risk registers should be reviewed to include:</p> <ul style="list-style-type: none"> • timescales for implementation of mitigating actions • progress on implementation of action plans and their effectiveness in mitigating risks identified. <p>Priority: High</p>	<p>Director of HR and Change in liaison with the Head of Performance and Risk</p> <p>Group Directors and Directors</p> <p>May 2010</p>	<p>Accepted.</p> <p>Corporate Board have agreed (7 April 2010) to undertake Health and Safety risk registers for each Service Area which will be owned and championed by Group Directors and Directors. HSW team will give input to this process and utilise outcomes to inform their annual workplan.</p> <p>Health, Safety and Wellbeing risks will be reviewed quarterly at Operations Board and Corporate Board via QBAR from May 2010.</p> <p>Aim that Service Area HSW risk registers will be in place for August review at QBAR.</p>

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Ref.	Finding	Recommendations Priority (High/Medium/Low)	Responsible Officer and Timescale	Management Response
Cont 2.1	<p>In the absence of a corporate view of Health, Safety and Wellbeing risks the Health, Safety and Wellbeing team prioritise their work based on need:-</p> <ul style="list-style-type: none">• identified through records on reportable accidents,• recent major events in health and safety both locally and nationally,• changes in legislation and advice from the HSE.			

Internal Audit Report – Corporate Manslaughter

Ref.	Finding	Recommendations Priority (High/Medium/Low)	Responsible Officer and Timescale	Management Response
3	Health and Safety risks not managed to demonstrate that senior managers take Health and Safety responsibilities seriously			
3.1	<p>The Health, Safety and Wellbeing Team produce a training programme at the beginning of each year that covers a range of issues including general Health and Safety practices as part of employee induction.</p> <p>The team also offer bespoke training on subjects not included in the main programme. As part of this process, the Head of Health, Safety and Wellbeing made Corporate Manslaughter training available to Members, Directors and Senior Officers in 2008.</p> <p>The training programme tackled subjects that were identified as high-risk areas in the 2008/09 action plan based on the result of health and safety audits and records of health and safety incidents. However, in the absence of an embedded risk management process, it is not clear whether the training programme addresses all the high-level risks service areas are exposed to.</p>	<p>The Health, Safety and Wellbeing Team should be provided/request copies of Directorate and Service area risk registers to identify the key risks that could be mitigated through the implementation of a comprehensive training programme. This can then pick up any need for training identified by managers through the 1:1 process.</p> <p>This process will enable training resources to be targeted at high-risk areas and ensure the limited training resources available are used to the greatest advantage. Decisions should also be informed using information on the number and type of accidents reported previously and information on claims from the Council's insurance manager.</p> <p>The process will also provide a clear management trail to demonstrate that the Council has been proactively taking action to address areas of concern.</p> <p>Priority: Medium</p>	<p>Director of HR and Change</p> <p>Sept 2010</p>	<p>Accepted. Copies of service area risk registers will be reviewed by the HSW team and inform the annual training programme with a mid term review in Sept 2010</p> <p>HSW updates including training statistics will be published quarterly and discussed at Joint Safety Committees.</p>

Internal Audit Report – Corporate Manslaughter

Ref.	Finding	Recommendations Priority (High/Medium/Low)	Responsible Officer and Timescale	Management Response
3	Health and Safety risks not managed to demonstrate that senior managers take Health and Safety responsibilities seriously			
3.2	<p>The Health, Safety and Wellbeing Team have been affected by a reduction in staff numbers due to the transfer of some staff to Capita as well as maternity leave. This has resulted in reduced capacity within the team to meet increasingly complex and rapidly changing organisational demands.</p> <p>There is a risk that this may be seen as what the Sentencing Guidelines Committee refer to as “cost-cutting at the expense of safety”, a factor likely to aggravate the offence of corporate manslaughter.</p>	<p>Training should be targeted at the high risk areas identified through the risk registers as discussed in Action Plan point 3.1 to maximise the use of the available resources.</p> <p>The number and cause of insurance claims as well as the accidents reported to the Joint Safety Committee should also inform the training programme.</p> <p>Where training has been provided to targeted areas, this should be recorded in appropriate meeting minutes to demonstrate actions taken to mitigate risks of Health and Safety breaches.</p> <p>Following this process, should resources be insufficient to allow training for all the major risks identified, this should be escalated through the communication structure to Corporate Board to determine what further action/resources are required.</p> <p>Priority: Medium</p>	<p>Director of HR and Change</p> <p>End Sept 2010</p>	<p>Comments as in 3.1.</p> <p>H&S training courses will remain essential as they are required by law (e.g. induction training). In 2009/10 Swindon Learning Solutions recorded that 110 HSW courses were run which constitutes a large workload for the team.</p> <p>We are exploring e-learning opportunities for some modules. We will also explore delivering H&S training in different ways. The organisation currently demands a high level of bespoke HSW training, especially in schools.</p> <p>The review date for this item correlates with the mid point of our current HSW training plan.</p>

Internal Audit Report – Corporate Manslaughter

Ref.	Finding	Recommendations Priority (High/Medium/Low)	Responsible Officer and Timescale	Management Response
3	Health and Safety risks not managed to demonstrate that senior managers take Health and Safety responsibilities seriously			
3.3	It was noted in both the SCS and Council Health and Safety Training programmes that there was limited recent training delivered in terms of Corporate Manslaughter for Senior Managers, Board Members and Councillors.	<p>A review should be undertaken to determine those Members, Directors and Senior Managers that have not received any training or guidance on the responsibilities and consequences arising from the introduction of the Corporate Manslaughter Act.</p> <p>Training should be provided to all those identified through this review, with appropriate records maintained to evidence that the training was provided.</p> <p>Priority: Medium</p>	<p>Director of HR and Change</p> <p>Group Directors, Director</p> <p>September 2010</p>	Training for all Group Directors, Directors and Elected members is planned for September 2010 subject to their availability.

Standard Audit Opinions

1. The audit opinion is based on two different criteria the first is the materiality of the system and it's impact on the Council if there was a system failure. This has been spilt into High, Medium or Low.
2. The second criteria, is the standard of control found within the system audited. This has been categorised into 4 different levels i.e. high; satisfactory; significant improvements required and, fundamental weakness. Each of these categories has a standard opinion (see below).

Standard Audit Opinions on System Control

Audit Opinion 1. *High Standard*

The auditor completing the review concluded the significant system controls are in place and operating effectively and only minor recommendations have been made.

Audit Opinion 2. *Satisfactory Standard*

The auditor completing the review concluded that most of the significant controls are in place and operating satisfactorily although some non-compliance was identified and therefore there is scope for improvement.

Audit Opinion 3. *Significant Improvements Required*

The auditor completing the review concluded that existing procedures needed to be improved to ensure that they are fully reliable. A number of significant recommendations have been made to improve missing or failing controls.

Audit Opinion 4. *Fundamental Weaknesses Identified*

The auditor completing the review concluded that the matters arising from the review are sufficiently significant to place doubt on the reliability of the procedures reviewed. Implementation of the recommendations made is a priority to ensure that reliance can be placed on the system.

3. The combination of these two factors gives an overall risk assessment to the Council of one of four scores i.e. significant, of concern, moderate or minimal (see section 4 of the main report).