



Internal Audit Report 2019/20

HR Management

January 2020

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Distribution List

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This report has been prepared only for Aylesbury Vale District Council in accordance with the agreed terms of reference. The findings should not be relied upon by any other organisation.

1. Executive summary

Report classification*	Total number of findings					
	Critical	High	Medium	Low	Advisory	
Low Risk (5 points)	Control design	-	-	1	1	-
	Operating effectiveness	-	-	-	1	-
	Total	-	-	1	2	-

*We only report by exception, which means that we only raise a finding / recommendation when we identify a potential weakness in the design or operating effectiveness of control that could put the objectives of the service at risk. The definition of finding ratings is set out in Appendix 1.

Summary of findings

This report is classified as low risk; we identified one medium and 2 low risk findings.

AVDC's HR Management team are responsible for ensuring basic and enhanced DBS checks are completed and supporting evidence is maintained for employees who require DBS confirmation, in line with their role profile. HR also conduct right to work checks and retain supporting evidence within the HR management system. We noted that, whilst role profiles include the requirements for DBS, there is no central register of all roles that require DBS checks.

As at November 2019, there were 95 contractors/agency staff under a contractual arrangement with the Council. HR are required to check the IR35 status regularly for each contractor/consultant (for staff on agency contracts this is covered by the employment agency). We noted that improvements are required to centrally record, monitor and review the IR35 status of consultants.

In addition, we noted that staff data on the central training record reports were incomplete and HR did not systematically review the compliance of mandatory safeguarding and data protection training. As a result action was not taken to address any outstanding training.

Our findings are summarised as follows:

- There is not a central list of all roles that require DBS checks against which compliance can be monitored. Our sample testing of 15 staff members identified one case where the role required an enhanced DBS check but it had not been done (Finding 1 - Medium)
- There is no tool to centrally monitor IR35 status and record key information such as, date of IR35 check, result, date for review. In our sample of 10, we noted that status checks had been performed and evidence retained (Finding 2 – Low)
- In relation to monitoring the completion of mandatory Safeguarding training, of the sample of 15 staff members tested, we noted 2 instances where staff were not included on the monitoring report. We also noted that training was shown as “in-progress” or “not started”, but there was no evidence that this had been followed up. (Finding 3 – Low)
- In relation to monitoring completion of Data Protection training, HR confirmed that there has been a lack of resource to perform active monitoring of Data Protection training completion and no

reports have been run since February 2019, when 100% of staff completed the mandatory elearning. It is however part of the mandatory induction process, signed off by line managers.

Good Practice Noted

A number of areas of good practice were noted during our review as set out below, these have been reflected in the overall “medium” risk classification of this report:

- HR Management maintain a comprehensive on-boarding form for all new joiners and retain supporting evidence within the HR management system
- The Council maintained clear DBS policy guidance. We reviewed a sample of 15 staff members and their corresponding role profiles and noted that each role profile clearly stated whether a DBS check was required and the type of check required
- All role profiles clearly determined whether Level 1,2,3,4 safeguarding training is required to be completed as part of an employee’s role
- Our sample testing of 15 staff members noted that supporting evidence for the right to work in the UK was clearly evidenced for all cases reviewed
- Evidence is retained of IR35 assessments and outcomes.

2. Background and Scope

Background

Aylesbury Vale District Council (AVDC) is due to become a unitary authority in 2020 along with the four other Councils in Buckinghamshire. Prior to 1 April 2020, all of the Council's employee data will transfer from their current system, iTrent, to Buckinghamshire County Council's existing employee management system, SAP. This review is being undertaken to provide the Council with assurance over whether they are meeting their legal obligations for transferring accurate employee data.

Disclosure and Barring Service (DBS) checks are undertaken for Council employees based upon their role profile, with enhanced DBS checks required for those staff members working in certain roles, including those with additional safeguarding responsibilities. Whilst it is no longer a legal requirement, AVDC made the decision to review DBS checks every three years.

An employee's right to work in the UK must be reviewed for all Council employees, with supporting evidence retained. A Council-wide review was undertaken over a year ago to ensure the Council have retained proof that all their employees are eligible for working in the UK.

All employees must undertake a set of mandatory training courses when joining the Council, including Safeguarding and Data Protection. Training takes place online on the Learning Pool portal, with data for all staff being held to enable monitoring reports to be produced. The Safeguarding module was updated last year following an Internal Audit review, with all staff being required to complete the new module when it was introduced. All staff and Members were required to complete the Data Protection e-learning by 31 January 2019 to ensure awareness of the new GDPR legislation.

AVDC also has an obligation to assess the IR35 status of their contractors and retain sufficient supporting evidence of their review and decision. As of September 2019, the Council has a relatively small number of contractors who fall within IR35. The majority of contractors are hired through Adecco, an employment agency, who are responsible for carrying out this check on the contractors supplied to the Council.

The purpose of the audit was to provide assurance that the employee data held on specific areas is accurate and complete.

Scope

The scope covered the key risks set out in the Terms of Reference (see Appendix 2). Our testing included:

- Review of the contents of the on boarding checklist maintained by HR ensuring it was aligned to good practice.
- Review of a sample of 15 AVDC employee checklists, ensuring these were completed and adequate evidence was obtained prior to the employee starting at AVDC
- Review of the DBS policy and a sample of 15 role profiles to ensure there is clear guidance on the roles which require DBS checks
- Review of a sample of 15 AVDC employees to ensure that, if required, they received the relevant DBS checks in accordance with their role profile and that these were undertaken in the last three years

- Review of a sample of 15 AVDC employees to ensure they had the right to work in the UK and supporting evidence was retained
- Discussion with the HR team regarding how they work with other departments to ensure each employee's IR35 status remains up to date. In addition, we assessed whether the HR team undertake regular reviews to ensure employees that did not fall under IR35 status are regularly checked

Review of compliance data for both mandatory safeguarding and data protection training. This does not represent a comprehensive list of tests conducted.

3. Detailed findings and action plan

1. Lack of central list of all roles that require DBS checks – Control design

Finding

There are descriptive role profiles in place for each post held within the Council. The requirement for a DBS must be justified for on the basis of the role performed. The requirement for a basic, enhanced or no DBS check is specified within the role profile. The HR Business Partner confirmed that they do not maintain a central list of all roles that require DBS checks against which compliance can be monitored. As a result, from a random sample of 15 staff members, we identified only three roles that required a DBS check (Enhanced or Basic).

The DBS confirmation and expiry date and whether the DBS was renewed after three years was sought as supporting evidence for the following three roles:

- Community Development casual worker (Basic DBS check required)
- DASH Team Leader (Enhanced DBS check required)
- Community Safety and Emergency Planning Officer (Enhanced DBS check required)

We did not locate evidence of a DBS enhanced check for the Community Safety and Emergency Planning Officer. At the time this officer was recruited into the role, the enhanced DBS requirement was not in place. Shortly after being recruited, the requirement was added to the role, but no check was performed. This exception illustrates how the lack of a central list of DBS requirements can result in non compliance, and individuals whose role requires a DBS, due to the nature of work, not having had appropriate checks performed.

Risks / Implications

Non compliance with requirements for DBS checks. Inadequate safeguards in place for staff working with children or vulnerable adults.

Finding rating Action Plan

Medium



- a) A central list of all roles that require a DBS check should be maintained and monitored on a monthly basis to ensure DBS checks are renewed as required
- b) The central list should be updated regularly to reflect any changes to DBS requirements
- c) An enhanced DBS check should be completed for the Community Safety and Emergency Planning Officer and logged on the HR management system
- d) Quarterly spot checks should be completed to ensure those individuals who require DBS checks are done so in line with their role profiles.

Rachel Sansome, HR Business Partner
28 February 2020

2. IR35 status checks – Control design

Finding

The Council is required to complete IR35 checks via the HMRC website on all consultants under a direct contractual arrangement at the Council. The outcome of the decision using the HMRC on-line tool is retained as supporting evidence within the HR management system.

As at November 2019 there were 95 contractors/agency staff employed by AVDC. We reviewed a sample of 10, focusing on consultants under individual contracts (rather than agency) and noted that IR35 status checks had been performed for all contractors within our sample and the HMRC confirmation was retained on file. However, dates are not recorded on the checks, so it was not possible to determine whether these were completed in a timely manner after appointment and were sufficiently up-to-date to reflect the contractor's current position.

HR and Finance maintain a tracker (in the form of a spreadsheet) containing details of agency staff and contractors. The tracker contains details such as:

- Contractor names
- Agency provider
- Agency/ Contractor costs
- Source Of Funding
- Reason for Agency/ Contractor.

It does not however record any information about IR35 status. There is therefore no tool in place to monitor and track the IR35 status for contractors.

Risks / Implications

Failure to log IR35 status results and the date of the check increases the risk of incomplete contractor information and non-compliance with the IR35 regulation.

Finding rating

Action Plan

Low



A tool should be used to log key information in relation to the IR35 status for each contractor information should be recorded:

- Date IR35 assessment initially undertaken
- Result of the IR35 assessment
- Date re-check of IR35 status is due
- Date and outcome of re-check

Rachel Sansome, HR Business Partner

28 February 2020

3. Monitoring compliance against mandatory training – Operating effectiveness

Finding

All staff are required to complete Safeguarding and Data Protection training. For Recycling and Waste Crew this is delivered via a workshop; everyone else completes eLearning.

Mandatory Safeguarding Training

We reviewed a sample of 15 staff members who were required to complete their safeguarding training against completion records extracted as at November 2019. We identified that two of these staff members were not included on the Mandatory Safeguarding Training records listing meaning we could not confirm whether these staff members completed their training and one staff member’s training remained in progress.

We also analysed the data within the mandatory safeguarding training report as at November 2019 and noted there were 414 active staff members required to complete mandatory safeguarding training. 388 staff (94%) had completed the training but for 26 staff training remained ‘in progress’ (6%). There is a known issue with the elearning module whereby unless the staff member clicks “print certificate” at the end of the session, it will remain “in progress”, even if the training has been finished. Of the 26, three staff members have been enrolled on the course since 2017, 15 since 2018 and eight since 2019.

HR confirmed that a safeguarding monthly compliance report is run and reported to the Safeguarding Board, but more active monitoring and chasing by HR has not taken place due to the lack of an L&D Officer/Manager. It is noted however that REACH forms (performance review) do include the completion of Safeguarding, which provides an additional layer of management review.

Mandatory Data Protection Training

Following the introduction of GDPR, the Council required all staff members, including agency and contractors, to complete their mandatory Data Protection Essentials (2018) training by 31st January 2019. Compliance monitoring reports are 1 February 2019 show 100% of AVDC staff completed their Data Protection E-Learning on time.

Since then, HR confirmed that there has been a lack of resource to perform active monitoring of Data Protection training completion and no reports have been run. It is however part of the mandatory induction process, signed off by line managers.

Whilst it is acknowledged this is a control weakness, there is currently no capacity within the HR team to implement any further actions. It is our understanding that, on transfer to Buckinghamshire Council on 1 April 2020, all staff will be required to complete a package of mandatory training, which will include Data Protection. This will be recorded and reported on the new Council’s HR system. AVDC’s HR team are engaged with unitary workstreams to ensure mandatory training needs are met. An action in respect of this has been raised for review and consideration by the new Buckinghamshire Council.

Risks / Implications

Non completion of safeguarding or data protection training in a timely manner may leave staff unable to handle sensitive situations in line with legislation.

Finding rating Action Plan

Low

a) HR should contact all staff, and their line

Rachel Sansome, HR Business Partner



managers, identified as non-compliant against their safeguarding training to request this is completed immediately

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- b) Mandatory safeguarding compliance reports should be reviewed on a monthly basis and non-compliance should be followed up accordingly
- c) *ACTION FOR BC TO REVIEW:*
On transfer to the new Buckinghamshire Council, all staff are required to complete mandatory Data Protection training. This will ensure the new authority is able to demonstrate its accountability for compliance with GDPR.
No further action will be taken by AVDC.

Appendix 1. Finding ratings and basis of classification

Report classifications

The overall report classification is determined by allocating points to each of the individual findings included in the report.

Findings rating	Points
Critical	40 points per finding
High	10 points per finding
Medium	3 points per finding
Low	1 point per finding

Overall report classification		Points
●	Critical risk	40 points and over
●	High risk	16– 39 points
●	Medium risk	7– 15 points
●	Low risk	6 points or less

Individual finding ratings

Finding rating	Assessment rationale
Critical	<p>A finding that could have a:</p> <ul style="list-style-type: none"> • Critical impact on operational performance; or • Critical monetary or financial statement impact [quantify if possible = materiality]; or • Critical breach in laws and regulations that could result in material fines or consequences; or • Critical impact on the reputation or brand of the organisation which could threaten its future viability.
High	<p>A finding that could have a:</p> <ul style="list-style-type: none"> • Significant impact on operational performance; or • Significant monetary or financial statement impact [quantify if possible]; or • Significant breach in laws and regulations resulting in significant fines and consequences; or • Significant impact on the reputation or brand of the organisation.
Medium	<p>A finding that could have a:</p> <ul style="list-style-type: none"> • Moderate impact on operational performance; or • Moderate monetary or financial statement impact [quantify if possible]; or • Moderate breach in laws and regulations resulting in fines and consequences; or • Moderate impact on the reputation or brand of the organisation.
Low	<p>A finding that could have a:</p> <ul style="list-style-type: none"> • Minor impact on the organisation’s operational performance; or • Minor monetary or financial statement impact [quantify if possible]; or • Minor breach in laws and regulations with limited consequences; or • Minor impact on the reputation of the organisation.
Advisory	<p>A finding that does not have a risk impact but has been raised to highlight areas of inefficiencies or good practice.</p>

Appendix 2. Terms of reference

The key risks agreed in the Terms of Reference are set out below. Each finding in the report is linked to a key risk from the Terms of Reference.

Sub-process	Risks	Objectives
HR checklist	Insufficient checks are undertaken and evidenced for new joiners	<ul style="list-style-type: none"> Comprehensive reviews are undertaken for all new joiners, in line with best practice Evidence is retained that all supporting documentation has been provided.
DBS clearances	<p>Safeguards may not be in place for staff working with children or vulnerable adults due to a DBS check not being undertaken or clearance not being received</p> <p>Staff who have previously received DBS clearance have since committed an offence which has not been identified through clearance renewals</p>	<ul style="list-style-type: none"> There is clear guidance on the roles which require both basic and enhanced DBS clearance All those staff who require DBS clearance have received this at the appropriate level (either basic or enhanced) All DBS checks have been undertaken in the previous three years.
Right to work	The Council has employed individuals who do not have the right to work in the UK	<ul style="list-style-type: none"> The Council has confirmed all employees have the right to work in the UK and have retained supporting evidence of this
IR35	The council has failed to undertake an IR35 assessment for hired consultants, meaning tax is not being correctly applied	<ul style="list-style-type: none"> The Council has a list of all consultants, clearly outlining their IR35 status The Council undertakes regular reviews of consultants who previously did not fall within IR35 to re-evaluate their position Evidence is retained of IR35 assessments and outcomes, with decisions clearly justified
Mandatory training	Staff have not completed their mandatory training sessions, meaning they may not be sufficiently equipped to handle situations appropriately	<ul style="list-style-type: none"> All staff have completed their mandatory Safeguarding and Data Protection training modules The required staff working within Safeguarding have completed the additional Safeguarding training