**Government
of South Australia**

Report

of the

Auditor-General

Tabled in the House of Assembly and ordered to be published, 28 February 2017

Second Session, Fifty-Third Parliament

Examination of governance arrangements in local government: February 2017

27 February 2017

The Hon R P Wortley MLC   The Hon M J Atkinson MP
President   Speaker
Legislative Council   House of Assembly
Parliament House   Parliament House
Adelaide SA 5000   Adelaide SA 5000

Dear President and Speaker

Report of the Auditor-General: Examination of governance in local government: February 2017

Pursuant to section 32(3) of the *Public Finance and Audit Act 1987*, I present to each of you a copy of my Report on the 'Examination of governance in local government: February 2017'.

Content of the Report

In accordance with section 32(1)(a) of the *Public Finance and Audit Act 1987* the Auditor-General may examine examine the accounts of a publicly funded body and the efficiency and economy of its activities I have completed an examination of governance in local government and this report communicates the findings from that examiniation.

Acknowledgements

The audit team for this report was Andrew Corrigan and the Local Government audit team.

I would like to record my appreciation for the cooperation and assistance provided by the staff of City of Marion and The Barossa councils during the course of the examiniation.

Yours sincerely

Andrew Richardson
Auditor-General

Examination of the governance arrangements in local government: February 2017

1   Executive summary

1.1   Background

South Australia has 68 councils that govern and manage their local areas in accordance with the *Local Government Act 1999* (LG Act). Collectively these councils employ over 10 000 people, and manage a budget of over $2 billion and infrastructure of about $22 billion.[1]

A council is responsible for managing its local area, which involves the future planning and development of the local area, creating a safe and healthy environment and providing a range of services, facilities and programs to its community.

A council acts as a representative, informed and responsible decision maker in the interests of its community. As such, a council is primarily accountable to its community for the use of public money and its performance in providing services and carrying out various activities. In doing so, a council seeks to ensure that its resources are used fairly, effectively and efficiently.

Governance is about the council's processes for making and implementing decisions and managing its resources to achieve its objectives and functions. Good governance ensures the best possible processes are in place to achieve better outcomes. These processes should consider the efficient and economic use of resources.

We examined three publicly funded bodies: two councils (City of Marion (Marion Council) and The Barossa Council) and a regional subsidiary (Adelaide Hills Waste Management Authority (AHWMA)). The purpose was to determine whether their activities are being managed efficiently and economically through a sound governance and accountability framework. Key principles of good governance that this examination focused on include administrative arrangements, management and oversight, transparency and accountability, and conduct.

At the time of this Report our examination of the AHWMA was being completed. The results of this examination will be separately reported.

Further details of our audit scope are provided in section 2, with detailed examination results for the two councils provided in sections 3 and 4.

1.2   Audit conclusions

Overall, the two councils examined have implemented adequate governance and accountability frameworks to efficiently and economically manage their activities.

Both councils examined have implemented initiatives to review and evaluate administrative arrangements and processes to manage their activities, including the efficient delivery of services to achieve better outcomes.

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[1]   'Solutions for SA State Budget Submission 2016-2017', April 2016, Local Government Association of South Australia.

Both councils examined also recently reviewed their governance and organisational structures resulting in a reduction of senior staff and restructure of council committees. Notably, The Barossa Council significantly reduced its council committees by 16. This emphasised the importance of councils evaluating the performance of committees regularly to ensure they are achieving their objectives and intended purpose. The roles and responsibilities of committees are clearly defined and operate under approved terms of reference.

The two councils examined have management and oversight over their activities where:

- delegated authorities were in place for efficient decision-making. However, we noted that sub-delegations for Marion Council had not been made in accordance with the LG Act

- short and long-term financial and operational plans had been endorsed. The governing body received regular performance reports against these approved plans. Further, the Chief Executive Officer's (CEO's) performance evaluation was aligned with achieving the council's strategic objectives

- a risk management policy and framework was being developed or was recently implemented

- audit committees existed, and were responsible for advising on the efficient and effective use of resources, monitoring of risks and oversight of the internal audit function.

We did note areas where governance and accountability should be strengthened. Those findings primarily concerned the regularity and timeliness of performing some governance tasks. Each of these matters supports the overall system of governance but with varying degrees of importance. Individual councils are also likely to risk rate activities differently, according to their circumstances. As an example, this was the case for legal compliance frameworks. Our examination highlighted the importance of all councils ensuring the primary aspects of their governance arrangements are current, relevant and achieving their intended purpose. Individual matters for each council are reported with our audit recommendations.

1.3   Recommendations

We made a series of recommendations to the two councils reviewed to address the findings identified.

Details of our recommendations are provided in:

- sections 3.4 to 3.7 for Marion Council
- sections 4.4 to 4.7 for The Barossa Council.

2   Background

2.1   Importance of governance in local government

The LG Act is the primary legislation for the governance and operation of councils. Councils also have legislative obligations under other Acts and may be subject to specific advice and direction in making council decisions.[2]

A key role of a council is to act as a representative, informed and responsible decision maker in the interests of its community.[3] As such, a council is primarily accountable to its community for the use of public money and its performance in providing services and carrying out various activities. In doing so, a council seeks to ensure that its resources are used fairly, effectively and efficiently.

Governance is about the council's processes for making and implementing decisions and managing its resources to achieve its objectives and functions. Good governance ensures the best possible processes are in place to achieve better outcomes for the council and its community. Best possible processes would consider the efficient and economic use of resources and effectiveness in achieving better outcomes. Good governance also increases the community's confidence in its council to make fair and equitable decisions. While a council may deliver effective outcomes it may not have achieved them efficiently. Deficiencies in the decision-making process and actions taken to deliver outcomes may highlight inefficiencies.

The Australian National Audit Office's Public Sector Governance Better Practice Guide succinctly states the scope and aims of good governance practice:

> *Public sector governance encompasses leadership, direction, control and accountability, and assists an entity to achieve its outcomes in such a way as to enhance confidence in the entity, its decisions and its actions. Good public sector governance is about getting the right things done in the best possible way, and delivering this standard of performance on a sustainable basis.[4]*

Key principles of good governance include the following:

- Administration arrangements – implement an organisational structure to manage key activities and functions of the council efficiently. Such arrangements should be supported by clearly defined roles, responsibilities and accountabilities.

- Management and oversight – maintain effective delegations to enable efficient decision-making, consistent with council policies; reporting requirements to monitor delegated decisions and hold delegates to account; monitoring performance in achieving strategic directions, goals and financial outcomes; and effective risk management strategy that is integrated in all council activities and processes.

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[2]   For example, in the areas of planning and development, public health and safety and environment.
[3]   Section 6(a) of the LG Act.
[4]   'Public Sector Governance: Strengthening performance through good governance', Australian National Audit Office, June 2014, p 7.

- Transparency and accountability – implement effective systems to support council's accountability to its community for its decisions and activities. Such systems include performance management and independent reviews.

- Conduct – decisions made are consistent with legislation and within the powers of the council; councillors and employees comply with principles of good conduct.

Regular review and evaluation of the effectiveness of governance and service/activities also assists to make best use of resources, achieve continuous improvement in performance and achieve better outcomes more efficiently.

Another key principle of governance is good culture, which is outside the scope of this examination. Nevertheless it is an important principle to consider, as expressed by the Audit Office of New South Wales:

> *It is important to recognise that implementing a set of processes and procedures will not deliver good governance unless they are accompanied by a good governance culture. The attitude, values, beliefs and behaviours of leaders must support good governance.*[5]

2.2   Audit objective and scope

We have examined governance in local government. The examination was conducted under section 32(1)(a) of the *Public Finance and Audit Act 1987*, which authorises the Auditor-General to examine the accounts of a publicly funded body and the efficiency and economy of its activities.

There are over 90 publicly funded bodies in South Australia's local government sector. For this examination we randomly selected three:

- Marion Council
- The Barossa Council
- AHWMA.[6]

The objective of our examination was to determine whether these publicly funded bodies' activities are being managed efficiently and economically through a sound governance and accountability framework. Governing an organisation efficiently and economically will lead to better outcomes for the resources employed and acquired at the appropriate time and at the lowest cost.

The audit criteria for this examination covered the aspects of governance shown in figure 2.1.

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[5]   'Governance Lighthouse – a strategic early warning signal', Audit Office of New South Wales, February 2015, p 1.

[6]   At the time of this Report our examination of AHWMA was still in progress.   The outcome of this examination will be communicated in a separate Report.

Figure 2.1: Audit criteria

Administrative arrangements	Management and oversight	Transparency and accountability	Conduct
• organisational structure • roles and responsibilities • policies and procedures	• delegations • strategic, operational and financial planning • performance reporting • risk management	• performance management • audit committee • internal audit	• conflicts of interest • complaint handling • fraud corruption and control • legal compliance

These criteria were developed with reference to the LG Act, relevant Australian/New Zealand standards and better practice guidance on governance.

The examination included a detailed review of documentation and discussions with relevant personnel of the publicly funded bodies. The examination covered the period from July 2014 to June 2016. We reported our findings in September 2016 and the councils responded in October 2016.

Details of the actions taken or proposed by the two councils are provided in sections 3 and 4.

3 City of Marion

3.1 Executive summary

3.1.1 Audit conclusion

Overall, Marion Council's governance and accountability framework is adequate for managing its activities efficiently and economically. Marion Council reviews and evaluates its administrative arrangements and processes to manage its activities more efficiently and achieve better outcomes. A key initiative is establishing the Performance and Improvements Team to deliver a service review program that focuses on achieving efficiency and effectiveness.

There is scope for improvement in some areas, such as monitoring the performance of regional subsidiaries through better reporting, implementing legal compliance and fraud risk management frameworks and reviewing the complaint management system.

3.1.2 Key findings and recommendations

Administrative arrangements (section 3.4)

Marion Council's governance and organisational structures have recently been reviewed resulting in four new committees and a reduction of four senior managers. The roles and responsibilities of the committees are clearly defined and operate under approved terms of reference. Marion Council has established the Performance and Improvements Team to deliver a service review program. This program aims to review council activities with a focus on achieving efficiency and effectiveness through improved service quality, streamlining processes and determining which services provide better community services.

Marion Council monitors the operation and performance of its committees through regular reporting. We found that its regional subsidiaries have not fulfilled their reporting obligations by providing regular reports to Marion Council to monitor their performance in delivering services efficiently and economically. We recommended that Marion Council receive regular reports.

Marion Council has endorsed policies for key activities, except for the appointment and administration of authorised persons. We recommended that Marion Council endorse a policy and establish a related procedure.

Management and oversight (section 3.5)

Marion Council and its CEO had endorsed an instrument of delegations, which is regularly reviewed. While sub-delegations are necessary for efficient decision-making, we found the sub-delegations had not been made in accordance with the LG Act. We recommended that the instrument of delegations provide a complete record of all delegations, including the CEO's sub-delegations.

Marion Council has a strategic management framework and endorsed short and long-term strategic financial and operational plans. It receives regular performance reports against these approved plans.

Marion Council endorsed a revised risk management policy and framework in January 2016. A comprehensive review of its operational and strategic risk registers was undertaken, resulting in a corporate risk register.

Transparency and accountability (section 3.6)

Marion Council's CEO's performance evaluation is aligned with achieving its strategic objectives and is also outlined in the CEO's employment contract. The General Managers' performance criteria and most recent performance review report could not be provided. We recommended that the performance criteria be included in the employment contract and aligned with the achievement of Marion Council's strategic objectives.

Marion Council has a finance and audit committee that advises on the efficient and effective use of resources. This committee oversees the scope of work and performance of internal audit. While the internal audit plan was based on consideration of a number of factors, we found that the internal audit projects identified did not clearly indicate which strategic risks were being addressed. We recommended that there be a clear link between the planned internal audit projects and Marion Council's high strategic risks.

Conduct (section 3.7)

Marion Council has endorsed policies and/or protocols for managing conflicts of interest, complaint handling, and fraud corruption and control. We found areas could be improved by implementing legal compliance and fraud risk management frameworks. Further, a review of the complaint management system should be undertaken to identify opportunities to improve the effectiveness and efficiency of the system, service delivery to the community and integration with other organisational processes.

3.1.3   Marion Council's response

Marion Council supported most of the recommendations we made and acknowledged the positive governance findings in our Report. Marion Council advised that certain actions are being taken to address the recommendations and provided specific completion time frames ranging from October 2016 to December 2017.

3.2   Marion Council overview

Marion Council is responsible for managing its local area of 55 km^2, planning for the future and creating a safe and healthy environment. It does this by providing a range of services, facilities and programs that are either statutory or discretionary. These services include, for example:[7]

- local roads, footpaths and drainage
- waste collection and recycling management
- library and information services
- recreation, sporting and cultural activities.

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[7]   City of Marion, home page, viewed 6 September 2016, <https://www.marion.sa.gov.au>.

Marion Council must seek to ensure that its resources are used fairly, effectively and efficiently in delivering services to its community and carrying out various activities. Good governance ensures the best possible structures and processes are in place to manage resources and lead to better outcomes and service delivery.

3.2.1 Marion Council snapshot – year ending 30 June 2016[8]

17,799 tonnes
general waste removed

42,289
rateable properties

461km
of roads managed

11,360 tonnes
green waste collected

1,795
approved grant development applications

786km
of footpaths managed

7,799 tonnes
recyclables collected

$182.1 million
approved grant development applications

$8.4 million
renewal and upgrading roads, footpaths and kerbs

$6.1 million
waste management costs

857,252
library items loaned

$1.1 billion
Infrastructure, property, plant & equipment

In 2015-16, Marion Council reported an operating surplus of $9.9 million. Figure 3.1 shows the council's sources of income and expenditure incurred to deliver services to the community.

Figure 3.1: Sources of income and expenditure incurred in 2015-16[9]

Operating income - $82.6m

Grants and subsidies $6.5m 8%
Other $2.5m 3%
Statutory and user charges $3.6m 4%
Rates $70m 85%

Operating expenses - $72.7m

Materials, contracts and other expenses $26.6m 36%
Depreciation $13.6m 19%
Finance $0.7m 1%
Employee costs $31.8m 44%

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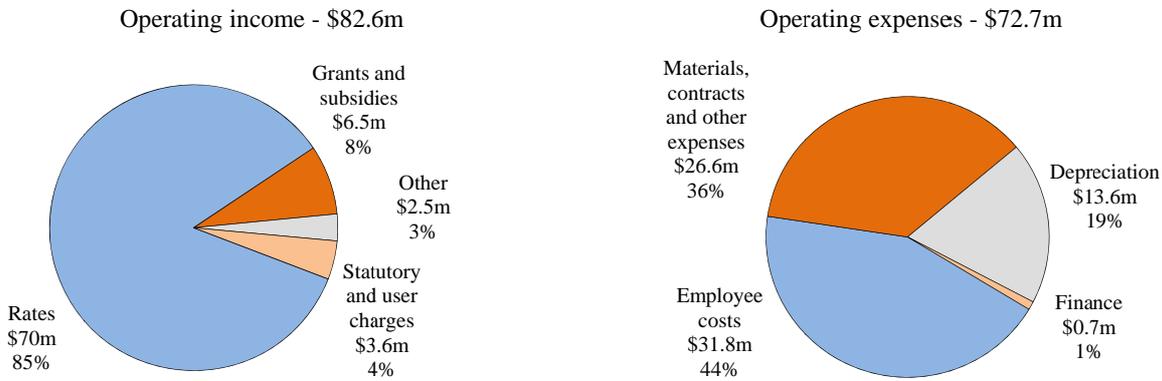
8 Data supplied by the Marion Council. We have not audited this data.
9 Data sourced from the Marion Council's audited financial statements for the year ending 30 June 2016.

The operating surplus contributes to funding the renewal and maintenance of $1.1 billion of physical assets managed by Marion Council. As at 30 June 2016, the asset sustainability reserve totalled $10 million. Its primary purpose is to fund infrastructure failure and assist in funding long-term asset management objectives.

3.3 Marion Council's governance structure

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                    ┌──────────────────────────────────────┐
                    │            Committees                 │
                    │   Development assessment panel        │
                    │        Finance and audit              │
            ┌───────│         Infrastructure                │
            │       │        People and culture             │
            │       │         Strategic issues              │
            │       │          Urban planning               │
            │       └──────────────────────────────────────┘
            │
            │       ┌──────────────────────────────────────┐
┌─────────┐ │       │         Regional subsidiaries         │
│         │ ├───────│  Southern Region Waste Resource Authority │
│ Council │─┤       │  Council Solutions Regional Authority │
│         │ │       └──────────────────────────────────────┘
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            └───────│      Chief Executive Officer          │
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                    │           Administration              │
                    │         City Development              │
                    │            Operations                 │
                    │         Corporate Services            │
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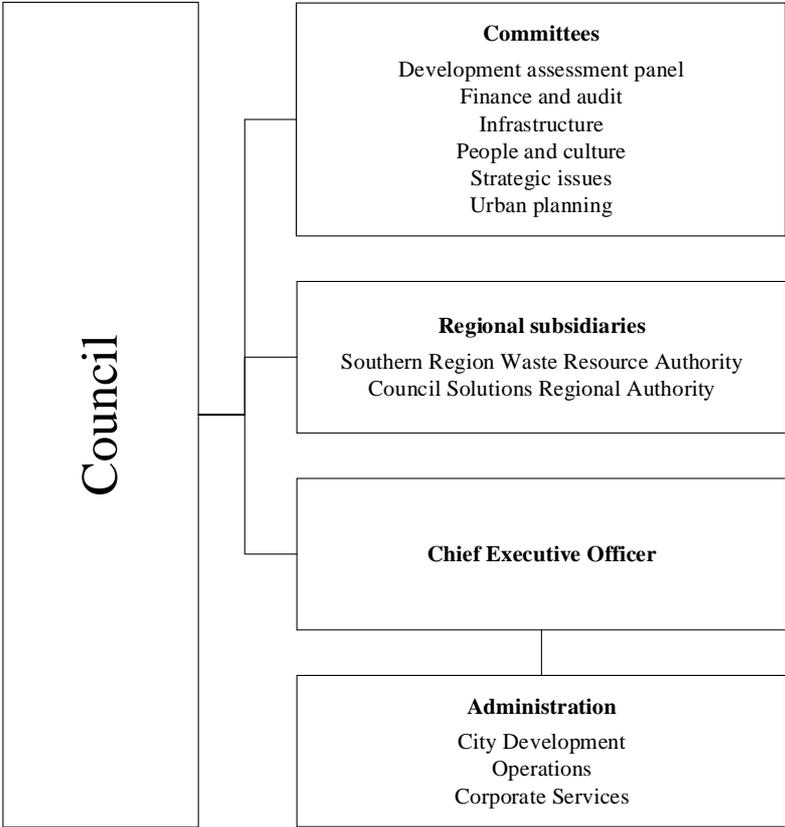
Marion Council

Marion Council is incorporated under the LG Act. It is governed by an elected mayor and 12 elected councillors (two councillors representing each ward). The November 2014 local government elections resulted in eight new appointments to the council, including a new mayor.

Sections 58 and 59 of the LG Act provide for the specific roles of mayors and council members. Specifically, as a person elected to the council, a council member is to represent the interests of residents and ratepayers, provide community leadership and guidance, and facilitate communication between the community and the council. As a member of the council's governing body, an elected member is to:

- participate in the deliberations and civic activities of the council

- keep the council's objectives and policies under review to ensure that they are appropriate and effective

- keep the council's resource allocation, expenditure and activities, and the efficiency and effectiveness of its service delivery, under review

- ensure, as far as is practicable, that they observe the principles under section 8 of the LG Act in performing their roles and functions.

The Chief Executive Officer and Administration

Marion Council appointed a new CEO in August 2015. The CEO is responsible for the daily management of Marion Council's operations and affairs, to achieve its objectives and perform the functions in section 99(1) of the LG Act.

In consultation with Marion Council, the CEO determines the organisational structure of the Administration and appoints and manages staff. The Administration's role is to implement council's decisions, and to advise and support the council and CEO.

Marion Council's committees

To help it perform its functions, Marion Council has established the following committees to provide advice to the council on various matters:

- Development assessment panel[10] – considers a range of development applications to ensure that new development proposals are consistent with Marion Council's development plan.

- Finance and audit – advises Marion Council on the efficient and effective use of resources; evaluating and improving the effectiveness of risk management, control and governance processes.

- Infrastructure – advises on the strategic management of Marion Council's assets and infrastructure.

- People and culture – reviews, monitors and advises on organisation performance and culture strategies, including the CEO's performance review.

- Strategic issues – advises Marion Council on matters of strategic importance, such as the level and extent of services to achieve long-term objectives.

- Urban planning – advises on orderly and efficient urban planning and development.

Regional subsidiaries

Under section 43 of the LG Act, Marion Council has established, with other specific councils, the following regional subsidiaries:

- Council Solutions Regional Authority[11] which provides its constituent councils the benefits of a collaborative and strategic approach to procurement and contract negotiation and management services

- Southern Region Waste Resource Authority[12] which provides and operates waste management services.

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[10] Established under section 56A of the *Development Act 1993*.
[11] Constituent councils are the Cities of Adelaide, Charles Sturt, Marion, Onkaparinga, Salisbury and Tea Tree Gully.
[12] Constituent councils are the Cities of Marion, Onkaparinga and Holdfast Bay.

Authorised persons

Under section 260 of the LG Act, a council may appoint an authorised person to help perform council functions. Marion Council has appointed 52 authorised persons.

An authorised person must be issued an identity card, which provides any conditions or limitations of the authorisation. Authorised persons have powers to enter and inspect specific premises and make inquiries to ensure compliance with specific provisions of the LG Act or another Act the council administers. In some cases the powers extend to enforcing penalties for non-compliance with legislation. As such, authorised persons play an important role in administering legislation. Deficiencies in appointing and managing authorised persons may have adverse operational and legal consequences.

3.4 Administrative arrangements

3.4.1 Background

To conclude on whether Marion Council is governing its activities efficiently and economically, we examined whether the:

- governance structure is reviewed regularly to ensure it remains appropriate for managing its key activities and the best use of resources

- council monitors the operation and performance of its committees and subsidiaries

- roles and responsibilities of committees, subsidiaries and key personnel are clearly defined. This includes appointed members collectively having the necessary skills and experience for the purposes of the committee

- council has endorsed policies that establish how key activities are to be conducted

- appointment and management of authorised persons is in line with legislation and policy.

3.4.2 Positive council administrative practices for good governance

Our examination found that:

- the CEO recently reviewed the organisational structure which resulted in a reduction of four senior managers

- Marion Council recently reviewed the committee structure and established four new committees. All committees operate under approved terms of reference that clearly provide its role and responsibilities. Except for the finance and audit committee, all committees comprise the Mayor, three councillors and an independent expert member

- the finance and audit committee comprises three independent members and two councillors. Following good governance principles, an independent member has been appointed as chair of the committee. In consultation with Marion Council members and management, the committee's performance is assessed biannually. As a result, the committee members have identified performance improvements that have been documented in an action plan

- Marion Council has established the Performance and Improvements Team to deliver, manage and monitor a service review program. The program aims to review Marion Council's services, programs and processes with a focus on achieving efficiency and effectiveness through improved service quality, streamlining processes and determining which services provide better community outcomes. At the time of our examination, the finance and audit committee was being consulted on the proposed service review framework and 2016-18 program.

We also identified areas that should be improved to achieve better governance. These are outlined in sections 3.4.3 to 3.4.7.

3.4.3 Not all information needed to monitor regional subsidiaries was received

Recommendation

Marion Council should receive regular reports to monitor the regional subsidiaries' performance in delivering services efficiently and economically. These reports should be tabled at council meetings.

Finding

Marion Council has two regional subsidiaries to provide services to its community and to carry out activities on its behalf. Marion Council remains accountable to its community for these services/activities and the liabilities incurred or assumed by the regional subsidiary are guaranteed by the constituent councils. Marion Council is also accountable to its community for monitoring the performance of the regional subsidiaries in achieving its strategic direction and outcomes.

Each regional subsidiary operates under a charter that outlines its reporting obligations to Marion Council. These reporting obligations provide Marion Council with the necessary information to oversee the regional subsidiary's performance and make appropriate, timely and informed decisions, such as whether it remains an efficient and effective mechanism to deliver the service or undertake the activity on behalf of Marion Council.

Our examination found that the regional subsidiaries have not fulfilled the reporting obligations outlined in their charters. Marion Council did not receive:

- the proposed 2015-16 budget, which must be referred to Marion Council at the same time it is submitted to the regional subsidiary's Board of Management (Board). This gives Marion Council the opportunity to review and comment on the budget before the Board endorses it

- the 2015-16 budgets endorsed by the Boards

- quarterly reports summarising the financial position and performance of the regional subsidiary against the annual budget

- a report on the work and operations of the regional subsidiary detailing achievement of the aims and objectives of its business plan and incorporating the audited financial statements

- a balance sheet and full financial report to Marion Council at the end of each financial year. This gives Marion Council the opportunity to review and comment on the financial statements before they are finalised. We note that both regional subsidiaries provided audited financial statements for the year ending 30 June 2015 to Marion Council in October 2015.

We were advised that summary reports of matters discussed at meetings of the regional subsidiaries' Boards are provided to the elected members via the Extranet.[13] However, these reports are not tabled at the council meetings.

Marion Council's response

Marion Council responded that action is being taken and will be completed by December 2016.

3.4.4   Not all committees' performance is regularly evaluated

Recommendation

Consistent with the practices adopted by the finance and audit committee, Marion Council should regularly evaluate the performance of all committees. The purpose is to ensure they are achieving their intended purpose and to encourage continuous improvement in performance. The evaluation requirement should be documented in the terms of reference for each committee.

Finding

As previously mentioned, Marion Council recently reviewed its committee structure and established four new committees. The finance and audit committee's policy and terms of reference require its performance to be reviewed biannually to ensure continuous improvement.

There is no such requirement for the other committees. It is not clear how the performance of these committees is/will be evaluated to encourage continuous improvement leading to better outcomes.

Marion Council's response

All committees' terms of reference were scheduled to be reviewed at the council meeting of 25 October 2016. This includes the recommendation to evaluate the committees' performance biannually.

Performance reviews of all committees (excluding the finance and audit committee) will be completed by October 2017.

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[13]   Extranet – an intranet that can be partially accessed by authorised external users, enabling the Council to exchange information over the internet securely.

3.4.5   Some policies and procedures need to be reviewed

Recommendation

Marion Council, through its Administration, should regularly review policies and procedures to ensure they remain relevant and accurate.

Finding

Policies and procedures are important for maintaining good governance and leading efficient practices because they:

- guide staff to make decisions and overcome problems efficiently

- support consistent decision-making across the council to mitigate bias risk and promote confidence in the process. This potentially reduces/avoids complaints

- provide a clear understanding of staff roles and responsibilities and clear accountability of Marion Council and its staff

- provide instruction on the expected action in undertaking council activity without constant management involvement. Good procedures allow management to better control events in advance and reduce the risk of costly mistakes.

Clear, current and accurate policies and procedures may provide many benefits. Regularly evaluating policies and procedures enables Marion Council to:

- confirm that policies remain relevant, achieve intended impacts and are consistent with its strategic direction and target outcomes (as policies are a link between Marion Council's vision and daily operations)

- identify areas to improve, change and use resources more efficiently.

We reviewed a sample of policies and found that policy evaluation could be improved. Some policies did not identify the responsible officer, review and authorisation dates, were not updated to reflect legislative changes and were not being promptly reviewed. Examples included the:

- whistleblower policy
- prudential management policy
- elected members – professional development policy
- procurement policy
- community consultation policy
- audit committee meeting procedure
- complaints and grievance policy
- business continuity management policy.

Marion Council's response

A policy framework is being developed to help structure Marion Council's policies and will be completed by December 2016. This will also include a standard format for all policies and a review schedule.

At the time of finalising this Report, in February 2017, the CEO advised that the project has commenced and a draft framework will be presented to the finance and audit committee in February 2017.

3.4.6 There is no documented policy and procedures for authorised persons

Recommendations

Marion Council should endorse a policy for appointing and administering authorised persons. It should establish procedures to support the policy.

Finding

Marion Council does not have a documented policy or procedures for appointing and administering authorised persons under the LG Act and other Acts. The policy and procedures could include, for example:[14]

- the necessary steps for proper appointment under relevant Acts

- powers, roles and responsibilities of authorised persons

- management and review of authorised person appointments

- management of identity cards (including form and content, issuing, returns and destroying identity cards)

- key matters for maintaining the register of authorised persons.

Authorised persons play an important role in administering legislation. Deficiencies in appointing and managing authorised persons may have adverse operational and legal consequences. A policy and procedure will reduce this risk and minimise the waste of resources in addressing the consequences.

Marion Council's response

A policy is not required as this is defined by the LG Act. A procedure for appointing and administering authorised persons will be established by February 2017.

In assessing Marion Council's response, we note that councils require authorised persons under various Acts, not just the LG Act (eg the *Dog and Cat Management Act 1995* and *Expiation of Offences Act 1996*). As such, it is our view that a policy is still required to capture all Acts that Marion Council must comply with in appointing authorised persons.

3.4.7 The authorised person register is not regularly reviewed

Recommendations

The Administration should regularly review the authorised person register to ensure it is current and accurate.

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[14] The Local Government Association of South Australia provides best practice procedures and templates for appointing authorised persons.

A formal regular review may consist of obtaining sign-off from the relevant division to confirm the authorised person's appointment details are valid, current and in line with their roles and responsibilities. This will ensure that officers are not improperly exercising powers under legislation and exposing Marion Council to adverse operational and legal consequences.

Finding

The Unit Manager, Council Support maintains an authorised person register. Our examination found that the register contains inaccurate information and is not regularly reviewed.

For example:

- four people on the register (out of the 10 we tested) were no longer employees

- two authorised persons were issued with new identity cards due to changes in details but the register was not updated to reflect these changes (ie name change, appointment and issue of new identity card dates)

- the instruments of appointment for two authorised persons were not maintained on file

- the authority details provided on the identity card of one authorised person did not agree to the authorised instrument of appointment.

We also found that the identity card of one authorised person needed updating as they are required to have a separate identity card for appointment as a Dog and Cat Management Authorised Officer. Action was promptly taken by Administration to address this matter.

Inaccuracies in the register lead to it being unreliable and ineffective for its intended purpose, the management of appointments and identity cards.

Marion Council's response

This will be addressed and implemented within the relevant procedure and included in Governance and Record's work area plan by February 2017.

3.5   Management and oversight

3.5.1   Background

To conclude on whether Marion Council has mechanisms to efficiently monitor and manage the performance of its key activities we examined whether Marion Council:

- and its CEO had endorsed an instrument of delegations that is regularly reviewed
- has a strategic management framework and endorsed strategic plans
- receives regular reports on actual performance against approved plans
- has a risk management framework and an endorsed risk management plan.

3.5.2 Positive council management and oversight practices for good governance

Our examination found that Marion Council:

- has a strategic management framework and endorsed short and long-term strategic financial and operational plans. The plans describe the services and projects that the council intends to undertake and the financial decisions that underpin them

- received regular reporting against approved plans, including quarterly budget reviews, quarterly performance reports against the measures adopted in the annual plan and budget, monthly finance reports showing major projects, actual versus budget with commentary and variation notes, and debtors report for sundry debtors and rates debtors

- endorsed a revised risk management policy and framework in January 2016. The Administration undertook a comprehensive review of the operational and strategic risk registers resulting in a corporate risk register.

We also identified areas that should be improved to achieve better governance. These are outlined in sections 3.5.3 and 3.5.4.

3.5.3 Sub-delegations not appropriately approved

Recommendations

Marion Council's instrument of delegations should be a complete record of all delegations.

The CEO's sub-delegation reflected in the instrument of delegations should be at the level needed for efficient decision-making over the expenditure of funds. The instrument of delegations should prescribe all conditions and limitations, for example specific amount limits assigned to positions.

The purchase order system should be reviewed and updated for the current and approved instrument of delegations.

Finding

Effective governance includes delegating powers and functions to facilitate efficient decision-making on behalf of the council. Marion Council's delegations of authority promote efficiency by allowing operational decisions to be made by the CEO and Administration. It is important that these delegations are made in accordance with the LG Act as the council remains accountable for the decision an authorised delegate makes.

Section 44 of the LG Act provides for the council to delegate a power or function vested or conferred under this or another Act. Similarly, section 101 of the LG Act provides for the CEO to delegate a power or function vested or conferred in or on the CEO under the LG Act.

A delegation may be made, for example, to the CEO, a council employee, an authorised person or a committee. Unless directed otherwise, the council authorises the sub-delegation of the delegated power or function made to a delegate.

We found that the instrument of delegations:

- was endorsed by Marion Council in November 2015

- provides the powers and functions delegated to the CEO

- provides the powers and functions that the CEO has sub-delegated to various positions in Administration.

Marion Council delegated the expenditure of funds, within the approved budget, to the CEO. The CEO has sub-delegated this authority to the three General Managers. There are consequently four officers who have authority to expend funds on behalf of Marion Council.

We found that the General Managers have further sub-delegated their authority to other employees. While this level of delegation is necessary for efficient decision-making, it does not comply with the LG Act. That is, the General Managers, as sub-delegates, do not have the authority to further sub-delegate the authority that the CEO has delegated. Under section 44(4)(b), the General Managers can only sub-delegate where the council has directly delegated the power or function to them.

We also found that the General Managers' sub-delegations to employees are through email correspondence. Under section 44(6) the council must maintain a separate record of all delegations. All delegations must be recorded in the council's instrument of delegations.

We were advised that the email correspondence is provided to update the purchase order system for changes in delegations to enable the efficient approval and processing of expenditure. Our examination of the delegations reflected in the purchase order system found:

- many of the delegations are based on notifications prior to November 2015. The CEO has revoked all previous sub-delegations under the current instrument of delegations. The purchase order system should be consistent with the current and approved instrument of delegations

- amount limits are provided whereas the instrument of delegations does not provide limits. For example, the CEO's system limit is $4 million and the General Managers' is $1 million

- the purchase order system is based on an officer's name, so every change would require approval from the CEO as per delegations

- instances where it was not being updated for changes, such as staff on extended leave or a staff member no longer acting in a position (acting position ended on 12 October 2015 but the system was updated on 7 December 2015 in response to our inquiry).

Delegations need to be made in accordance with the LG Act to reduce the risk of unauthorised transactions that may affect the efficiency and economy of activities. The instrument of delegations should be a complete and accurate record of the authority approved by Marion Council and sub-delegates for efficient decision-making.

Marion Council's response

In line with the annual review process, the delegations are being reviewed and were scheduled to be reported to Marion Council in November 2016. The findings are being addressed as part of this review.

At the time of finalising this Report, in February 2017, the CEO advised that the delegations will be provided to the Marion Council at its April 2017 meeting. The delay is due to resource issues and coordinating the timing with the draft agenda process.

3.5.4   There are no human resource delegations

Recommendation

The instrument of delegations should clearly provide for human resource delegations consistent with applicable policies.

Finding

Under section 103 of the LG Act the CEO is responsible for managing council employees (including appointing, managing, suspending and dismissing employees). We found that the CEO has not delegated any of these powers through the instrument of delegations. In practice, however, managers approve staff leave arrangements (including extended leave).

While it is inefficient for a CEO to approve all leave arrangements, delegations need to be based on effective policies so that appropriate decisions can be made. The delegations need to be reflected in the instrument of delegations.

Marion Council's response

The human resource delegations are being addressed as part of the annual review process discussed in section 3.5.3.

3.6   Transparency and accountability

3.6.1   Background

Marion Council exists to govern on behalf of its community so it must efficiently account for its activities and performance and have appropriate systems that support this accountability. Such key systems include performance management and independent reviews.

To conclude on whether Marion Council has efficient systems to support its accountability to its community for its decisions and activities, we examined the:

- CEO's and senior management's performance evaluation process and whether it is aligned with achieving the council's strategic objectives

- structures that provide independent review of processes and decision-making (ie audit committee, internal audit and external audit).

3.6.2   Positive council transparency and accountability practices for good governance

We found that Marion Council has:

- aligned the CEO's performance evaluation process with achieving the council's strategic objectives as outlined in the employment contract

- a finance and audit committee that advises the council on the efficient and effective use of council resources. It assists Marion Council to accomplish its objectives by evaluating and improving the effectiveness of financial management, risk management, internal controls and governance processes

- an internal audit function, performed by an independent accounting firm.

We also identified areas that should be improved to achieve better governance. These are outlined in sections 3.6.3 and 3.6.4.

3.6.3 No established criteria and evaluation of general managers' performance

Recommendations

The CEO should ensure the General Managers' performance criteria is clearly documented and aligned with achieving the council's strategic objectives. The performance criteria should be part of the employment contract.

As required by the employment contract, the CEO should ensure that the General Managers' performance is reviewed annually against the established performance criteria and that documentation of these reviews is retained on file.

Finding

The CEO is ultimately accountable to the council for the financial performance of the organisation. This involves achieving the goals and objectives set by the council in a timely and efficient manner.

It is expected that the CEO's and General Managers' performance criteria is aligned with achieving the council's strategic objectives. This will help to achieve council's objectives as there will be a consistency of direction that will lead to efficiencies.

The CEO's and General Managers' employment contracts refer to performance criteria for their performance assessments. Performance reviews are carried out annually and evidenced by a written report.

The CEO's performance criteria are aligned with achieving the council's strategic objectives. The current CEO commenced in August 2015 and an annual performance evaluation was not due at the time of our examination.

We found that the General Managers' performance criteria did not form part of the employment contract and could not be provided when we requested it. Further, the most recent General Managers' performance review report could not be provided.

We were advised that for 2016-17 the General Managers have prepared a Leadership (Performance) Development Plan. The objectives in these plans are linked to the council's strategic objectives and specific key performance indicators. The General Managers' performance will be evaluated against the objectives semi-annually.

Marion Council's response

The finding has been addressed by the General Managers' new performance review process, implemented at the beginning of 2016-17.

3.6.4 Links between the internal audit projects and strategic risks are unclear

Recommendation

The internal audit plan should provide a clear link between the planned projects and Marion Council's high strategic risks.

Findings

The internal audit function provides an independent review of Marion Council's operations and activities. It aims to add value and ensure the efficiency, effectiveness and economy of significant programs and activities.

The internal audit function is performed by an independent accounting firm. The finance and audit committee oversees the scope of work and performance of internal audit. The finance and audit committee endorsed the current internal audit plan in December 2015 for the 2015-16 and 2016-17 financial years (this period covers the internal auditor's current contract term at a cost of approximately $100 000 p.a.).

An internal audit plan should address relevant elements of the council's risk profile. Marion Council's internal audit plan considered a number of factors including the strategic plan and objectives as aligned with the strategic risks, process improvements and compliance, and consultation with Marion Council's executive team and key governance stakeholders.

Our examination of the internal audit plan found that the internal audit projects identified do not clearly indicate which strategic risks are being addressed. For example, payroll operations, cash handling and purchase cards are internal audit projects planned for review. These areas were not assessed as high risk in Marion Council's risk registers.

To ensure Marion Council is obtaining the optimum value of the resources allocated to its internal audit function, the internal audit plan should focus on areas assessed as high risk. Each project on the plan should be linked to a strategic risk. If some strategic risk areas do not require internal audits, reasons should be documented on the plan.

Marion Council's response

A new plan will be developed for 2017-18 and 2018-19. The finance and audit committee will consider this plan in May 2017. The link between projects and risks will be included in the new plan.

3.7 Conduct

3.7.1 Background

To conclude on whether Marion Council is managing its activities efficiently we examined whether it has endorsed policies and protocols to support the following key areas of conduct:

- conflict of interest
- legal compliance
- complaint handling
- fraud corruption and control.

3.7.2 Positive council conduct practices for good governance

Our examination found that Marion Council:

- maintains a current register of interests and the ordinary/primary returns are received in the time frames set out in the LG Act

- conducts regular staff fraud training to maintain awareness of related policies and legislative requirements for responding to known and suspected fraud

- recently endorsed a fraud corruption and control policy and started to develop a fraud risk management framework.

We also identified areas that should be improved to achieve better governance. These are outlined in sections 3.7.3 to 3.7.5.

3.7.3 There is no legal compliance framework

Recommendation

As identified in the strategic risk register, the Administration should implement a legal compliance framework to help monitor compliance with the legal and regulatory obligations relevant to Marion Council's operations.

Finding

Taking into consideration Marion Council's size, the diverse nature of its operations and its extensive legal and regulatory obligations, we sought to identify if it had a legal compliance framework.

A legal compliance framework helps ensure that activities are conducted in accordance with legal and internal policy requirements. Without one there is an increased risk of non-compliance with legislation and related consequences for the efficiency and economy of council activities. These include litigation and subsequent financial loss and rate-payer dissatisfaction, potentially leading to an increase in complaints.

Our examination found that Marion Council has assessed the failure to recognise and comply with or properly manage statutory obligations as a high risk. Further, it considers the implementation of a legal compliance framework as a risk mitigating strategy.

We were advised that the allocation of regulatory responsibilities occurs through Marion Council's Schedule of Delegations. While the responsibility for certain legislation has been assigned to individual officers, we found Marion Council has not developed and implemented a formal, structured and robust legal compliance framework to address the identified risk.

We consider an effective legal compliance framework to include:

- a central corporate role that supports identifying relevant legislation, documenting the requirements of key provisions and assigning responsibility to designated officers. This also includes keeping abreast of legislative changes, alerting the responsible officers and providing necessary assistance/training on the key changes

- formal processes for confirming that key provisions of legislation are assigned to officers and confirmation that this remains current

- documented policies and procedures that record action required for specific provisions of legislation, including managing and reporting instances of non-compliance

- reference to other relevant activities, such as complaint handling and risk management.

Marion Council's response

A centralised legal compliance framework is currently being developed based on existing work priorities. The draft framework is scheduled to be considered by the finance and audit committee in August 2017.

3.7.4 There is not enough data to evaluate the efficiency of the complaint management system

Recommendation

The Administration should undertake a review of the complaint management system to identify opportunities to improve:

- the effectiveness and efficiency of the system
- service delivery to the community
- integration with other organisational processes.

Finding

In accordance with section 270 of the LG Act, Marion Council has a complaints and grievance policy which is currently under review. This policy provides that Marion Council is committed to governance excellence through an efficient, fair and accessible mechanism to resolve service complaints or grievances.

The Administration manages a large number of customer events which include complaints and requests for services (total customer events of 34 715 and 47 221 in 2014-15 and 2015-16, respectively). Of these only five and 10 in 2014-15 and 2015-16, respectively, resulted in a formal internal review of council actions.

Complaint details received are recorded in various registers maintained by the areas that are responsible for managing specific complaints. A separate register is maintained for complaints resulting in a section 270 review.

Complaints are a valuable source of information about how and where mistakes have occurred and can highlight weaknesses in processes/systems. The main deficiency in complaint handling systems is where entities fail to integrate the essential components of an effective complaint management system with service improvement practices, leading to lost opportunities for improvement and continued client satisfaction.[15]

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[15] 'Complaint Management Framework', Ombudsman SA, March 2016.

Resources are employed to manage complaints, including recording any actions taken. Whether these resources are significant is unknown as Marion Council does not capture the cost of complaint management across the various areas.

There is a lack of analysis or evaluation of complaints and outcomes to improve on Marion Council's services and functions. Such analysis would contribute to the efficiencies of a complaint management system. For example, maintaining relevant and sufficient data in the registers could provide valuable information to inform Marion Council's risk assessment and management process. A consequence of many risks is an increase in complaints from ratepayers/community stakeholders. Marion Council's risk management framework provides the integration with feedback processes, including complaints, which provides information about sources of risks and risks having been realised. Marion Council's risk management implementation plan provides for the integration activities.

Further, there is no evidence that management has reviewed the complaint management system to ensure it is adequate, effective and efficient and practices are consistent across the areas.

Without this information it is difficult for Marion Council to determine whether its complaint management system is operating efficiently and in turn supporting its activities.

Marion Council's response

Marion Council acknowledged that improvement in this area is required. This will be progressed throughout 2017 and completed by December 2017.

3.7.5   There is no fraud risk management framework

Recommendation

Marion Council should continue to implement a fraud risk management framework for the efficient management of fraud and corruption risk. This includes developing a fraud and corruption control plan, a fraud and corruption register and if feasible a designated fraud control officer.

In developing a framework, Marion Council should consider our comments below and the guidance in Australian Standard AS 8001-2008 'Fraud and Corruption Control' (AS 8001).

Finding

Fraud prevention strategies provide the most cost-effective method of controlling fraud in an organisation. Fraud can be perpetrated by employees, customers, contractors and external service providers, acting alone or in collusion. Research indicates that around 75% of fraud is perpetrated by employees and 47% of major frauds occur due to deficient internal controls.[16]

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[16]   'A Survey of Fraud, Bribery and Corruption in Australia and New Zealand 2012', KPMG Forensic, February 2013.

Effective fraud prevention requires a number of elements, including an ethical organisational culture, a strong awareness of fraud among employees, suppliers and clients, and an effective fraud risk management framework. Without a fraud risk management framework there is an increased risk that Marion Council does not effectively manage, respond and report on suspected fraud or detected corruption incidents. This may result in significant financial loss and increased reputational risk.

Our examination focused on the following key elements of an effective fraud risk management framework:

- a sound fraud and corruption control policy

- a comprehensive fraud and corruption control plan

- sound fraud risk assessment and management processes

- appropriate allocation of resources to controlling fraud and corruption risk, including implementation and management of fraud prevention strategies

- internal audit activity in controlling fraud and corruption, including review of the effectiveness of the fraud control framework

- fraud-related controls for activities with a high fraud risk exposure

- regular fraud awareness training to maintain awareness of policies and legislative requirements in responding to known and suspected fraud. We found that regular staff fraud training is being provided to staff.

Marion Council recently endorsed a fraud and corruption control policy

In 2013-14 the external auditors recommended that Marion Council have appropriate policies and procedures to manage and investigate instances of fraud. Management responded that a specific core assurance fraud risk assessment could be completed through the internal audit function. Fraud controls are currently assessed through the core assurance reviews carried out by internal audit.

This review identified an action to implement a fraud policy by the end of 2015-16.

Marion Council endorsed a fraud and corruption management policy in May 2016.

At the conclusion of our examination, the Administration had prepared a draft fraud and corruption management framework for the finance and audit committee meeting of 4 October 2016.

Marion Council does not have a fraud and corruption control plan

In developing a fraud and corruption control plan, Marion Council should undertake an assessment of fraud and corruption risk to determine how significant the risk/threat is and where it is vulnerable. This should include responsibility for implementing, monitoring and reporting on the plan being assigned to someone with the appropriate skills and experience.

Transactional data analysis is an efficient and effective tool in identifying potential fraudulent activity and areas of vulnerability. In developing a fraud and corruption control plan, Marion Council should consider developing its data analytics capability.

Marion Council does not have a designated fraud control officer

AS 8001 emphasises that a key strategy in managing the risk of fraud and corruption in an entity is to implement and maintain a sound ethical culture. This includes senior management having a high level of commitment to controlling the risks of fraud and corruption both against and by the entity. A high level of risk consciousness for the risks of fraud and corruption should be present across senior management.

We were advised that management and budget officers are responsible for fraud control.

The extent of resources applied to managing fraud and corruption control depends on Marion Council's assessment of fraud and corruption risk, commitment to preventative strategies, and consideration of various responsibilities within Marion Council for managing fraud and corruption risk. For example, an existing position may be expanded to include the responsibilities of a fraud control officer with assistance from internal audit.

A fraud control officer has primary responsibility to ensure appropriate fraud control arrangements are in place. This officer may be directly responsible to the CEO and/or report to the audit committee. These duties may include:

- overseeing the implementation and review of the fraud and corruption control framework, including the policy and plan

- managing and reporting incidents of fraud

- keeping up to date with relevant legislation and good practice in fraud and corruption control

- facilitating relevant fraud and corruption awareness and training.

In developing a fraud and corruption control framework, Marion Council should identify the resources required to effectively manage, respond and report on fraud and corruption risk and incidents of fraud.

Marion Council does not have a fraud and corruption register

In developing a framework, Marion Council should establish and maintain a fraud and corruption register to capture all reportable fraud and corruption incidents. This information would help to:

- manage the incident to ensure compliance with policy and appropriate and timely action is taken

- report incidents to the relevant council authority and external bodies

- analyse the nature and cause of the incident to assist in future fraud and corruption risk assessment and ensuring effective internal controls are implemented to address the specific risk.

Marion Council's response

Marion Council has developed a fraud and corruption framework that was considered by the finance and audit committee on 4 October 2016. The committee endorsed the framework to be considered by Marion Council subject to the committee's feedback. The framework addresses a number of the recommendations and will be implemented by June 2017.

4 The Barossa Council

4.1 Executive summary

4.1.1 Audit conclusion

Overall, The Barossa Council's governance and accountability framework is adequate for managing its activities efficiently and economically. The Barossa Council reviews and evaluates its administrative arrangements and processes to manage its activities more efficiently and achieve better outcomes. The Barossa Council's strategic projects framework contributes to achieving operational efficiencies, financial and resources savings and process improvements. For example, the redefining community committees project resulted in a reduction in the number of council committees from 25 to nine.

There is scope for improvement in some areas, such as risk management and implementing a legal compliance framework.

4.1.2 Key findings and recommendations

Administrative arrangements (section 4.4)

The Barossa Council's governance structure has recently been reviewed resulting in a reduction of 16 committees. The roles and responsibilities of the committees are clearly defined and operate under approved terms of reference. Following good governance principles, an independent member has been appointed as chair of the audit committee.

The Barossa Council monitors the operation and performance of its committees and regional subsidiaries through regular reporting. Following good practice, the audit committee undertakes a self-evaluation of its performance. We recommended that this practice be applied to all committees.

The Barossa Council has endorsed policies for key activities that are reviewed regularly. Authorised persons are appointed in accordance with legislation and an accurate register of authorised persons is maintained.

Management and oversight (section 4.5)

The Barossa Council and its CEO has endorsed an instrument of delegations, which is regularly reviewed.

The Barossa Council has a strategic management framework and endorsed short and long-term strategic financial and operational plans. It receives regular performance reports against these approved plans.

The Barossa Council endorsed a risk management policy in November 2015 and was in the process of implementing the risk management framework. We recommended that this framework and process be fully implemented as a matter of priority.

Transparency and accountability (section 4.6)

The CEO's and senior management's performance evaluation is aligned with achieving The Barossa Council's strategic objectives.

The audit committee advises on the efficient and effective use of resources. We found that The Barossa Council does not have a specific resource dedicated to the internal audit function and that the internal audit program is focused on high financial risks. To ensure efficient use of resources, internal audit activities should also address other elements of The Barossa Council's risk profile. We recommended that The Barossa Council review the effectiveness of its internal audit function and confirm that resources allocated remain adequate.

Conduct (section 4.7)

The Barossa Council has endorsed policies and/or protocols for managing conflicts of interest, complaint handling and fraud corruption and control. We found areas that could be improved by implementing a legal compliance framework and making a timely assessment of fraud and corruption risk.

4.1.3   The Barossa Council's response

The Barossa Council responded that, throughout our examination, it was given an excellent opportunity to respond and provide input as to the overall governance framework. Where possible, the Administration has used the learnings from the examination to make immediate improvements, even prior to the final report.

The Barossa Council responded that it was pleased with the examination results and the report indicates that, with limited resources, it has achieved a balanced approach to governance, risk and organisational efficiency.

The Barossa Council noted and agreed with all recommendations.

4.2   The Barossa Council overview

The Barossa Council is responsible for managing its local area of 912 km^2, planning for the future and creating a safe and healthy environment. It does this by providing a range of services, facilities and programs that are either statutory or discretionary. These services include, for example:[17]

- local roads, footpaths and drainage
- waste collection and recycling management
- library and tourist information services
- recreation, sporting and cultural activities
- environmental health services.

The Barossa Council must seek to ensure that council resources are used fairly, effectively and efficiently in delivering services to its community and carrying out various activities. Good governance ensures the best possible structures and processes are in place to manage resources and lead to better outcomes and service delivery.

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[17]   The Barossa Council, home page, viewed 21 September 2016, <https://www.barossa.sa.gov.au/>.

4.2.1 The Barossa Council snapshot – year ending 30 June 2016[18]

5,389 tonnes
general waste removed

13,005
rateable properties

351km
of sealed roads managed
625km
of unsealed roads managed

897 tonnes
green waste collected

811
approved development applications

169km
of footpaths managed

2,086 tonnes
recyclables collected

$9.4 million
approved development applications

$5.5 million
renewal and upgrading roads, footpaths and kerbs

$1.9 million
waste management costs

225,560
library items loaned

$338.5 million
Infrastructure, property, plant & equipment

In 2015-16, The Barossa Council reported an operating surplus of $1.1 million. Figure 4.1 show the council's source of income and expenditure incurred to deliver on the services to the community.

Figure 4.1: Sources of income and expenditure incurred in 2015-16[19]

Operating income - $35.2m

Grants and subsidies $2.9m 8%
Other $2.0m 6%
Rates $27.2m 77%
Statutory and user charges $3.1m 9%

Operating expenses - $34.1m

Materials, contracts and other expenses $13.6m 40%
Depreciation $7.2m 21%
Finance $1.1m 3%
Employee costs $12.2m 36%
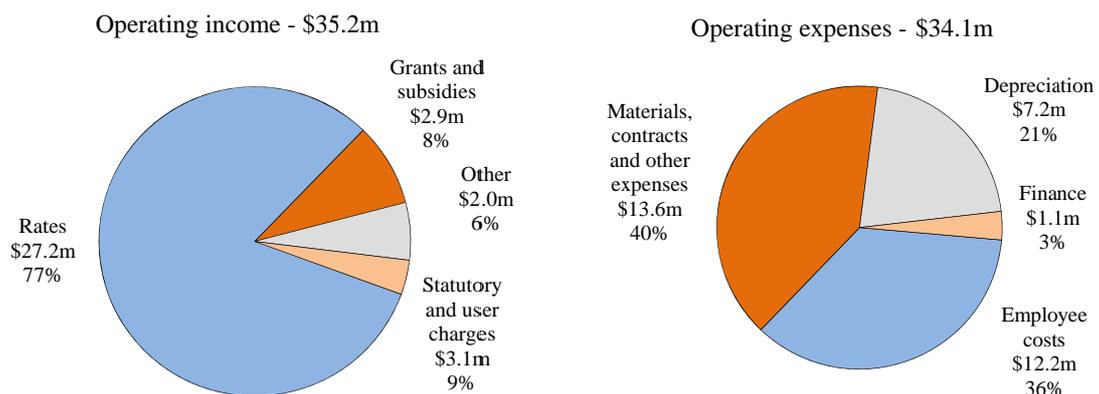
The operating surplus contributes to funding the renewal and maintenance of $338.5 million of physical assets managed by The Barossa Council.

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18 Data supplied by The Barossa Council. We have not audited this data.
19 Data sourced from The Barossa Council's audited financial statements for the year ending 30 June 2016.

4.3   The Barossa Council's governance structure

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                    ┌────────────────────────────────────────────────┐
                    │                   Committees                    │
                    │                     Audit                       │
                    │              Barossa Bushgardens                │
                    │            Barossa Regional Art Gallery          │
                    │               Building Fire Safety              │
                    │           Community Assistance Scheme           │
                    │          Development Assessment Panel           │
                    │             Disability Access Review            │
                    │        Strategic Assets Management Advisory      │
                    │     Strategic Planning and Development policy    │
                    │      Upper Torrens Land Management Project       │
                    └────────────────────────────────────────────────┘
          ┌──────┐
          │      │  ┌────────────────────────────────────────────────┐
          │      │  │                   Subsidiary                    │
          │      │  │        Nuriootpa Centennial Park Authority      │
          │      │  └────────────────────────────────────────────────┘
  C       │      │
  o       │      │  ┌────────────────────────────────────────────────┐
  u       │      │  │              Regional subsidiaries              │
  n       │      │  │   Gawler River Floodplain Management Authority   │
  c       │      │  │        Central Local Government Region of SA     │
  i       │      │  └────────────────────────────────────────────────┘
  l       │      │
          │      │  ┌────────────────────────────────────────────────┐
          │      │  │             Chief Executive Officer             │
          │      │  └────────────────────────────────────────────────┘
          │      │
          └──────┘  ┌────────────────────────────────────────────────┐
                    │                  Administration                 │
                    │        Development & Environmental Services     │
                    │           Works & Engineering Services          │
                    │          Corporate & Community Services         │
                    │               Executive Services               │
                    └────────────────────────────────────────────────┘
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The Barossa Council

The Barossa Council is incorporated under the LG Act. The Barossa Council is governed by an elected mayor and 11 elected councillors. The Barossa Council area is not divided into wards. The November 2014 local government elections resulted in six new appointments to the council, including a new mayor.

Sections 58 and 59 of the LG Act provide for the specific roles of mayors and council members. Specifically, as a person elected to the council, a council member is to represent the interests of residents and ratepayers, provide community leadership and guidance, and facilitate communication between the community and the council. As a member of the council's governing body, an elected member is to:

- participate in the deliberations and civic activities of the council

- keep the council's objectives and policies under review to ensure that they are appropriate and effective

- keep the council's resource allocation, expenditure and activities, and the efficiency and effectiveness of its service delivery, under review

- ensure, as far as practicable, that they observe the principles under section 8 of the LG Act in performing their roles and functions.

The Chief Executive Officer and Administration

The CEO is responsible for the daily management of The Barossa Council's operations and affairs, to achieve its objectives and perform the functions in section 99(1) of the LG Act. In consultation with The Barossa Council, the CEO determines the organisational structure of the Administration and appoints and manages staff. The Administration's role is to implement council's decisions, and to advise and support the council and CEO.

Barossa Council committees

To help it perform its functions, The Barossa Council has established the following committees to provide advice to the council on various matters:

- Audit – monitors the integrity of the financial statements including the annual report and review significant financial reporting issues. Reviews the effectiveness of internal controls, risk management systems, internal audit function and any other areas it deems appropriate. Oversees the selection process and monitors the relationship with external audit.

- Barossa Bushgardens – dedicated to the protection and promotion of local plant species and the health of the wider environment. Oversees a range of garden displays, a community nursery and Natural Resource Centre.

- Barossa Regional Art Gallery – manages the visual arts and music centre.

- Building Fire Safety[20] – investigates whether commercial building owners are maintaining the proper level of building fire safety for the protection of all building occupants and addresses bushfire risk and compliance in designated bushfire prone areas.

- Community Assistance Scheme – manages heritage, community and youth grants.

- Development Assessment Panel[21] – considers a range of development applications to ensure that new development proposals are consistent with The Barossa Council's development plan.

- Disability Access Review – provides specialist advice and information to The Barossa Council on disability issues.

- Strategic Assets Management Advisory – advises The Barossa Council on the strategic asset management of fixed assets that provide direct services to the community.

- Strategic Planning and Development Policy – develops strategic planning and development policy and initiate projects for the orderly and sustainable development for all Barossa Council areas.

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[20] Established under section 71 of the *Development Act 1993*.
[21] Established under section 56A of the *Development Act 1993*.

- Upper Torrens Land Management Project – oversees the implementation of biodiversity and environmental projects in the Upper Torrens Catchment area.

Subsidiaries

Under section 42 of the LG Act, The Barossa Council has established a subsidiary, the Nuriootpa Centennial Park Authority, which manages the Barossa Valley Tourist Park.

Under section 43 of the LG Act, The Barossa Council has established, with other specific councils, the following regional subsidiaries:

- Central Local Government Region of South Australia[22] which is established to undertake coordinating, advocacy and representational roles on behalf of constituent councils

- Gawler River Floodplain Management Authority[23] which coordinates the construction, operation and maintenance of flood mitigation in the Gawler River area.

As at 30 June 2016 The Barossa Council ceased its membership with the Southern and Hills Local Government Association as similar services were already provided by the Central Local Government Region of South Australia.

Authorised persons

Under section 260 of the LG Act, a council may appoint an authorised person to help perform council functions. As at 18 August 2016, The Barossa Council had appointed 48 authorised persons.

An authorised person must be issued an identity card, which provides any conditions or limitations of the authorisation. Authorised persons have powers to enter and inspect specific premises and make inquiries to ensure compliance with specific provisions of the LG Act or another Act the council administers. In some cases the powers extend to enforcing penalties for non-compliance with legislation. As such, authorised persons play an important role in administering legislation. Deficiencies in appointing and managing authorised persons may have adverse operational and legal consequences.

4.4   Administrative arrangements

4.4.1   Background

To conclude on whether The Barossa Council is governing its activities efficiently and economically, we examined whether the:

- governance structure is reviewed regularly to ensure it remains appropriate for managing its key activities and the best use of resources

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[22] Constituent councils are The Barossa Council, District Council of Barunga West, Clare and Gilbert Valleys Council, District Council of the Copper Coast, The Flinders Ranges Council, Regional Council of Goyder, Light Regional Council, District Council of Mallala, District Council of Mount Remarkable, Northern Areas Council, District Council of Orroroo/Carrieton, District Council of Peterborough, Port Pirie Regional Council, Wakefield Regional Council and District Council of Yorke Peninsula.

[23] Constituent councils are the City of Playford, District Council of Mallala, Town of Gawler, The Barossa Council, Light Regional Council and the Adelaide Hills Council.

- council monitors the operation and performance of its committees and subsidiaries

- roles and responsibilities of committees, subsidiaries and key personnel are clearly defined. This includes appointed members collectively having the necessary skills and experience for the purposes of the committee

- council has endorsed policies that establish how key activities are to be conducted

- appointment and management of authorised persons is in line with legislation and policy.

4.4.2   Positive council administrative practices for good governance

Our examination found that The Barossa Council:

- supports good governance, as expressed on its website:[24]

  The Barossa Council thoroughly supports a good governance framework to ensure that is it is open, accountable and transparent in its interactions with its community, businesses and other tiers of government and staff. It is the responsibility of the Elected Council to achieve and maintain standards of good public administration (section 8k of the Act). Good governance is critical to prevent corruption and maladministration

- through its strategic project on redefining community committees, developed new models for the sustainable delivery of council services, which are managed through its committees. It recognised that it was inefficient to continue to employ resources to assist numerous committees in fulfilling their role, some which had changed over the years. The council transitioned the activities of 19 community based committees to relevant community groups and incorporated associations. It continues to support the newly incorporated associations and community groups where needed. The number of council committees reduced from 25 to nine. The nine remaining committees have terms of reference that clearly outline their roles and responsibilities

- monitors the operation and performance of its regional subsidiaries by reviewing key outcome summary reports, minutes of meetings, draft business plans and budgets, audited financial statements and other reporting requirements of the charter

- audit committee comprises three independent members and two councillors. Following good governance principles, an independent member has been appointed as chair and the committee evaluates its performance annually

- has endorsed key policies as required by the LG Act which establish the way activities are to be conducted. We examined a sample of key policies and found that they were reviewed regularly and responsibility had been allocated to an appropriate officer.

The Barossa Council maintains an authorised persons register and sample testing found that the register was accurate in that:

- authorised person appointments were in accordance with approved delegations

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[24]   The Barossa Council, 'What is Governance?' viewed 21 September 2016,
        <https://www.barossa.sa.gov.au/sections/council/governance/what-is-governance>.

- authorised persons had been issued with an appropriate identification card and this agreed to the instrument of appointment

- officers had signed and acknowledged their responsibilities.

We also identified areas that should be improved to achieve better governance. These are outlined in sections 4.4.3 to 4.7.4.

4.4.3   Not all committees' performance is regularly evaluated

Recommendation

The Barossa Council should regularly evaluate the performance of all committees to ensure each is achieving its intended purpose and to encourage continuous improvements in performance. The evaluation requirement should be documented in the terms of reference for each committee.

Finding

While not in its terms of reference, the audit committee has self-evaluated its performance. This is considered good practice and not only encourages continuous improvement, but also helps to ensure the audit committee is fulfilling its objectives and intended purpose.

This practice could be applied to all council committees and council could consider seeking feedback from all elected members of The Barossa Council and key staff of the administration as part of the evaluation.

The Barossa Council's response

The Barossa Council does receive minutes, reports and annual reports from committees which helps it to oversee their activities and performance. Implementation of a broader evaluation tool has commenced and will be completed in the first quarter of 2017.

4.5   Management and oversight

4.5.1   Background

To conclude on whether The Barossa Council has mechanisms to efficiently monitor and manage performance of its key activities we examined whether it:

- and the CEO had endorsed an instrument of delegations that is regularly reviewed
- has a strategic management framework and endorsed strategic plans
- receives regular reports on actual performance against approved plans
- has a risk management framework and an endorsed risk management plan.

4.5.2   Positive council management and oversight practices for good governance

Our examination found that The Barossa Council:

- has a strategic management framework and endorsed short and long-term strategic financial and operational plans. The plans describe the services and projects that council intends to undertake and the financial decisions that underpin them

- receives regular reporting against approved plans, including quarterly budget reviews and monthly finance reports showing capital expenditure to date, actual versus budget with commentary and explanation of variations

- introduced a strategic projects framework in January 2013 that would contribute to the achievement of operational efficiencies, financial and resource savings and service and process improvements in delivering core council services. Targets for financial savings and efficiency gains have been identified and overall this framework aims to achieve savings of $1.1 million over four years. (The identified savings are outside the scope of this examination)

- has endorsed an instrument of delegations that is reviewed annually. The CEO has also endorsed his sub-delegations. The CEO has sub-delegated specific expenditure of fund limits to various council officers for efficient decision-making on daily operational matters

- endorsed a risk management policy in November 2015. The Administration is currently implementing a risk management framework and process.

We also identified an area that should be improved to achieve better governance. It is outlined in section 4.5.3.

4.5.3 The risk management framework and associated processes are still in progress

Recommendation

Consistent with the risk management action plan, The Barossa Council should fully implement the risk management framework and processes as a matter of priority to enable an efficient risk management system and effective risk management practices.

Finding

Risk management is the process by which potential impediments and opportunities for the council to achieve its objectives are managed. This management process includes risk identification, analysis, assessment, treatment, monitoring and review. Risk management therefore is a results-based concept with a focus on opportunities as well as exposures. The importance of risk management is that it underpins the council's control environment and is therefore integral to its operations.

The Barossa Council endorsed a risk management policy in November 2015. The policy reflects The Barossa Council's risk profile, appetite and tolerances to assist the Administration in assessing and managing risk. This will determine the extent of action needed to achieve an acceptable risk level for the identified risk.

Our examination noted that The Barossa Council is currently reviewing and implementing its risk management framework and processes to align with its risk management policy. The target completion date is December 2017.

The implementation process includes centralising the existing risk registers to a new system, Control Track (risk manager module). Once implemented this will provide better capability to link risks to controls and enable efficient reporting, monitoring and self-assessment of controls. We note that financial risks are already assessed and managed through Control Track.

A key priority is finalising the assessment of The Barossa Council's strategic and operational risks, which is scheduled to be completed by November 2016. This will enable better risk reporting to and monitoring by The Barossa Council, the audit committee and the corporate management team. For example, they will be able to generate a risk management plan and reports suited to the needs of The Barossa Council and various levels of the management.

The Barossa Council's response

The Barossa Council is well advanced in implementing the framework with available resourcing levels and is on target with the implementation plan provided during the examination.

4.6   Transparency and accountability

4.6.1   Background

The Barossa Council exists to govern on behalf of its community so it must account for its activities and performance and have appropriate systems that support this accountability. Such key systems include performance management and independent reviews.

To conclude on whether The Barossa Council has efficient systems to support its accountability to its community for its decisions and activities, we examined the:

- CEO's and senior management's performance evaluation process and whether it is aligned with achieving The Barossa Council's strategic objectives

- structures that provide independent review of processes and decision-making (ie audit committee and internal audit).

4.6.2   Positive council transparency and accountability practices for good governance

We found that The Barossa Council has:

- aligned the CEO's and Director's performance evaluation process with the achieving the strategic objectives

- an audit committee to monitor the integrity of the financial statements, including the annual reports and to review significant financial reporting issues. This committee reviews the effectiveness of internal controls, risk management systems, the internal audit function and any other areas it deems appropriate. It also oversees the selection process and monitors the relationship with external audit.

We also identified an area that should be improved to achieve better governance. It is outlined in section 4.6.3.

4.6.3   Undertake a strategic review of the internal audit function

Recommendation

Once the risk management framework is fully implemented, The Barossa Council, through its audit committee, should review the effectiveness of the internal audit function in the context

of council risks; confirm that the resources allocated to the internal audit function remain adequate; and consider investigating options to resource the internal audit function.

Finding

An internal audit function provides management with:

- an independent appraisal of council's key operations and activities
- advice to improve effectiveness, efficiency and economy in the use of resources
- monitoring and reporting on remedial action taken by management.

The Barossa Council does not have a specific resource dedicated to the internal audit function. The Coordinator, Internal Control provides support for financial internal controls. This resource has been dedicated to developing the self-assessment internal control system and monitoring management's control assessment processes. We were advised this is a current priority in preparing The Barossa Council for its first year of being issued a controls opinion by its external auditor. Additionally, the Risk Manager performs internal audits for work health and safety risks.

The draft internal audit schedule provides the areas of review for 2016-17 and 2017-18. We note that the draft schedule is focused on high financial risks. To ensure efficient use of internal audit resources, internal audit activities should also address other elements of The Barossa Council's risk profile. For example, strategic risks and other areas of high risk should be considered in identifying internal audit activities.

Once The Barossa Council's risk management framework is fully implemented, better information on risk will be readily available to the audit committee to review the effectiveness of the internal audit function and the internal audit program. This includes considering and making recommendations on the adequacy and efficient use of the resources allocated to internal audit.

The Barossa Council's response

In addition to the response provided under section 4.5.3, a review of the audit committee's role will be undertaken.

4.7   Conduct

4.7.1   Background

We examined whether The Barossa Council has endorsed policies and protocols to support the following key areas of conduct:

- conflict of interest
- legal compliance
- complaint handling
- fraud corruption and control.

4.7.2   Positive council conduct practices for good governance

Our examination found that The Barossa Council:

- maintains a current register of interests and the ordinary/primary returns are received in the time frames set out in the LG Act

- has a fraud and corruption control policy and process

- staff have regular fraud awareness training to maintain awareness of policies and legislative requirements in responding to known and suspected fraud

- has endorsed a complaint handling policy and process, request for services policy and process and internal review of council decisions policy and process as required by section 270 of the LG Act

- maintains a complaints register in the Customer Request Management System (CRMS)

- Corporate Management Team has a regular agenda item for quarterly reviews of CRMS data

- CEO reported to council in December 2015 that a customer request review had been conducted across the organisation to allow for improvements in customer service response and provision of information.

We also identified areas that should be improved to achieve better governance. These are outlined in sections 4.7.3 and 4.7.4.

4.7.3   There is no legal compliance framework

Recommendation

Once the risk management framework is fully implemented, The Barossa Council should consider developing a legal compliance framework suited to its size, the nature of its activities and legal obligations, and its risk tolerance.

Finding

The current risk register identifies non-compliance with legislation as a medium risk which is required to be reduced to low in accordance with The Barossa Council's current risk tolerance level. We note that the risk register is under review, with risks being assessed and the required risk treatments identified.

Responsibility for legislation has been assigned to individual officers. Our examination, however, did not identify a formal, structured and robust compliance framework.

A legal compliance framework would help ensure that The Barossa Council's activities are conducted in accordance with legal and internal policy requirements. Without it there is an increased risk of non-compliance with relevant legislation and related consequences for the efficiency and economy of activities. These include litigation and subsequent financial loss and rate-payer dissatisfaction, leading to a potential increase in complaints.

We consider an effective legal compliance framework to include:

- a central corporate role that supports identifying relevant legislation, documenting the requirements of key provisions and assigning responsibility to designated officers. This also includes keeping abreast of legislative changes, alerting the responsible officers and providing necessary assistance/training on the key changes

- formal processes for confirming that key provisions of legislation are assigned to officers and confirmation that this remains current

- documented policies and procedures which record action required to be taken with respect to specific provisions of legislation, including the management and reporting instances of non-compliance

- reference to other relevant activities, such as complaint handling and risk management.

The Barossa Council's response

The Barossa Council will consider the necessity for a legal compliance framework once the full risk management framework is implemented and undertaken an updated risk assessment on legislative compliance.

4.7.4 The assessment of fraud and corruption control risk is not timely

Recommendations

As a matter of priority, The Barossa Council should assess its fraud and corruption control risks and implement the necessary action to reduce the risk to an acceptable level consistent with policy.

In undertaking an assessment, The Barossa Council should consider developing a data analytics capability and a fraud and corruption control plan. Once the risk assessment is completed, The Barossa Council should review and confirm that the resources allocated to fraud prevention strategies remain adequate.

Finding

Fraud prevention strategies provide the most cost-effective method of controlling fraud in an organisation. Fraud can be perpetrated by employees, customers, contractors and external service providers, acting alone or in collusion. Research indicates that around 75% of fraud is being perpetrated by an employee and 47% of major frauds occur due to deficient internal controls.[25]

The Barossa Council's fraud and corruption prevention policy states that there is no tolerance for fraudulent or corrupt activity and that it is committed to its control and prevention through risk assessments to identify circumstances in which it could potentially occur.

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[25] 'A Survey of Fraud, Bribery and Corruption in Australia and New Zealand 2012', KPMG Forensic, February 2013.

We found that fraud and corruption risks have not been formally assessed since November 2011. At that time, a number of risks were assessed as high or medium, which does not reflect The Barossa Council's current risk tolerance. We were advised that these risks will be considered as part of the risk management framework implementation process.

Transactional data analysis is an efficient and effective tool in identifying potential fraudulent activity and areas of vulnerability. Data analytics would assist in risk assessment and efficient allocation of resources to address significant risks/threats.

The Barossa Council's response

Through the implementation of the full risk management framework, a specific strategic risk assessment of fraud and corruption controls will be completed by the end of March 2017.

As acknowledged in this Report, The Barossa Council has a proactive approach to fraud and corruption policy and process and associated training and awareness program, thus reducing its exposure. Equally a strong internal control system is in place and adequately addresses any significant risk exposure when coupled with the fraud and corruption framework in place. Further, a strong organisational culture and commitment to legislative compliance provides a level of assurance in regard to sound fraud and corruption controls.