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# Loch Lomond & The Trossachs National Park Authority and Cairngorms National Park Authority

Internal audit report 2013-14

Regulatory compliance

23 January 2014

This report is for:

## Action

*David Cameron - Corporate Services Director (Cairngorms National Park)*

*Jaki Carnegie – Director of Corporate Services (Loch Lomond & The Trossachs National Park)*

## Information

*Audit Committee*

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This Report has been prepared on the basis set out in our Engagement Letters addressed to Loch Lomond & The Trossachs National Park Authority and Cairngorms National Park Authority (“the Clients”) dated 15 June 2011 (the “Services Contracts”) and should be read in conjunction with the Services Contract. Nothing in this report constitutes a valuation or legal advice. We have not verified the reliability or accuracy of any information obtained in the course of our work, other than in the limited circumstances set out in the Services Contract. This Report is for the benefit of the Clients only. This Report has not been designed to be of benefit to anyone except the Clients. In preparing this Report we have not taken into account the interests, needs or circumstances of anyone apart from the Clients, even though we may have been aware that others might read this Report. We have prepared this report for the benefit of the Clients alone. This Report is not suitable to be relied on by any party wishing to acquire rights against KPMG LLP (other than the Clients) for any purpose or in any context. Any party other than the Clients that obtains access to this Report or a copy (under the Freedom of Information (Scotland) Act 2002, through the Clients’ Publication Scheme or otherwise) and chooses to rely on this Report (or any part of it) does so at its own risk. To the fullest extent permitted by law, KPMG LLP does not assume any responsibility and will not accept any liability in respect of this Report to any party other than the Clients. In particular, and without limiting the general statement above, since we have prepared this Report for the benefit of the Clients alone, this Report has not been prepared for the benefit of any other central government body nor for any other person or organisation who might have an interest in the matters discussed in this Report, including for example those who work in the central government sector or those who provide goods or services to those who operate in the sector.

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### Introduction and scope

In accordance with the 2011-12 to 2013-14 strategic internal audit plan for Loch Lomond & The Trossachs National Park Authority (“LL&TNPA”) and Cairngorms National Park Authority (“CNPA” and together “the Authorities”), as approved by the audit committees, we have performed an internal audit of regulatory compliance. The objective of the audit was to consider the Authorities’ processes to:

- ensure all relevant regulations (including changes to existing regulations) are identified; and
- ensure management and staff are aware of such regulations to ensure the Authorities are able to comply with them.

The specific objective, scope and approach, as agreed with management, is detailed in appendix one.

### Background

There are a number of regulatory requirements, across a wide range of areas, with which the Authorities must comply. The regulatory environment can be fast-paced, therefore, there is a risk of non-compliance if the Authorities are not aware of changes to regulation or new / evolving regulations. The Authorities also need to be pro-active in monitoring compliance with current regulations to ensure that policies and procedures still comply with relevant regulations.

Relevant regulations cover many areas of the Authorities’ activities including health and safety, human resources, payroll, conservation and governance. Responsibility for remaining up to date with regulation is held by relevant areas in each Authority, with ultimate responsibility held by the executive.

### Health and Safety

There appears to be robust processes around health and safety regulations at both Authorities. LL&TNPA receive regular updates and alerts from the British Safety Council, which they share with CNPA. The Health and Safety Executive’s website is checked regularly to ensure that any changes to regulations or new regulations are addressed in a timely manner. Communication and training requirements are then considered to ensure compliance throughout the Authorities.

### Payroll

Both Authorities make full use of HMRC and Pension Fund information and guidance to ensure compliance with all relevant regulations. Recent changes in regulation include real time information (“RTI”) payroll reporting to HMRC and auto-enrolment to the pension scheme. RTI reporting to HMRC was successfully implemented from 1 April 2013, and auto-enrolment is due to be implemented from May 2014.

### Conservation

The Environmental Assessment (Scotland) Act (2005) requires all Scottish public bodies to assess, consult and monitor the likely impacts of their plans, programmes and strategies on the environment. This is known as strategic environment assessment (“SEA”) and is in line with European Directive 2001/42/EC (the “SEA directive”).

This requires the Authorities to assess whether there is an environmental impact of each of their plans or strategies. If an environmental impact is likely then it is necessary to complete an SEA and to submit this to the Scottish Government. As part of this process the Authorities are required to list all relevant legislation which has been considered through the SEA process.

### Governance

Board members at both Authorities are required to complete an annual declaration of interests and this is a standing item at all board meetings. Compliance with the Freedom of Information (Scotland) Act 2002 is monitored on a monthly basis and is reported to the board.

## Key findings and recommendations

### LL&TNPA

We identified a number of areas of good practice through the course of our review but have not raised any recommendations.

### CNPA

We identified four 'high' graded recommendations, one 'moderate' graded recommendation and two 'low' risk rated recommendations .

The findings identified during the course of this internal audit are summarised below. A full list of the findings and recommendations are included in the report. Management has accepted the findings and agreed reasonable actions to address the recommendation.

	Authority	Critical	High	Moderate	Low
Number of internal audit findings	LL&TNPA	-	-	-	-
	CNPA	-	1	2	1
Number of recommendations accepted by management	LL&TNPA	-	-	-	-
	CNPA	-	1	2	1

Classification of internal audit findings is provided in appendix two.

**We have summarised our internal audit findings.**

### **Preparing SEA documents**

The SEA process involves many stages of review through the Scottish Government SEA Gateway, which includes consultation with Scottish Environment Protection Agency, Scottish National Heritage and Historic Scotland. Through our testing we identified that there were some differences between legislation included in appendix 3 of the LL&TNPA and CNPA park plan SEA documents. It may be useful to consider performing a best practice comparison exercise when completing SEA documents to ensure that all relevant legislation has been considered and included in the SEA.

### **Health and safety audits**

Health and safety (“H&S”) audits are carried out annually to consider all health and safety policies and practices. The audits also include site visits to ensure practical compliance with policies and practices at all sites, including head office. Action plans for each site are developed and distributed to communicate the results and recommendations from the audits. These are then followed up by the H&S officer to ensure that the required actions have been addressed.

We reviewed the latest audit report which was carried out by GTG and the relevant site action plans. Five of the nine sites had addressed all of the recommendations fully or were in the process of doing so. Three sites had actions outstanding. These included one medium-term action (1-3 months), and one long-term action (3-6 months). We discussed the outstanding actions with the H&S officer to ensure that these would continue to be monitored. The ninth site is due to close in 2014, therefore the audit actions are no longer applicable.

### **Identifying new/evolving regulations**

We found that there were processes to identify new or evolving regulations and good communication between staff to share this information when identified. We performed a walkthrough to gain evidence that this process was operating effectively and viewed information received from various news feeds received by the research and performance officer.

A walkthrough of a new area of case law was also performed. We viewed all email correspondence in relation to the case of Tracey Kennedy v Cordia (Services) LLP and the resulting policy which was developed as a result of this case law. We found that the response to the change in case law appeared timely, appropriate and adequately communicated to all staff.

We have summarised our internal audit findings.

### Preparing SEA documents

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### Health and safety

The LL&TNPA H&S officer carries out a H&S audit of CNPA sites. We reviewed the most recent audit report carried out in May 2012 and checked progress against these recommendations. The majority of the audit action points have been completed or are in progress; however these should have been implemented within 12 months of the audit. These audits are not regularly scheduled, therefore, there is a risk that non-compliance could develop and not be identified if regular audits are not carried out. There is also no follow-up process which adds to the risk of non-compliance. CNPA should consider formalising the H&S audit process to ensure that it is completed annually, by either LL&TNPA or an external party.

#### *Recommendation one*

Employees receive a copy of the H&S policy when commencing their employment with CNPA, which they are expected to read and understand. To confirm this, and to protect CNPA from potential litigation issues, the employee should sign / date to confirm that they have read and understood the H&S guidelines. This would also give them further opportunity to discuss any issues with HR.

#### *Recommendation two*

At present, CNPA are consulted by LL&TNPA on issues highlighted by the British Safety Council ("BSC"). CNPA should consider having their own subscription to the BSC to ensure that they receive important updates and opportunities to purchase online training directly as their priorities are different from those at LL&TNPA. Membership of the BSC may also develop the internal H&S staff, allowing them to provide more internal training and to raise awareness of H&S issues.

### Identifying new/evolving regulations

Various news / information feeds are also received by the relevant departments at both LL&TNPA and CNPA, including the 'newsdirect' feed. We discussed the case of Tracey Kennedy v Cordia (Services) LLP and found that CNPA had been alerted to this case law by LL&TNPA as opposed to their internal processes. Furthermore, to date CNPA had not taken any action on this case law. There is a risk that new legislation / case law is not being identified or actioned appropriately at CNPA creating a risk of non-compliance.

*Recommendation three*

### Policies and procedures

There is no formal structure for regular review of policies and procedures across the organisation. There is a risk that policies and procedures are not compliant with current legislation / regulations. An annual review of policies and procedures across the Authority would reduce the risk of not complying with legislation and ensure that suitable policies were in place for each department.

*Recommendation four*

The action plan summarises specific recommendations, together with related risks and management's responses.

Findings and risk	Recommendations	Agreed management actions
<b>1 Health and safety audits</b>		<b>High</b>
<p>Health and safety audits are carried out for CNPA by the LL&amp;TNPA H&amp;S officer, however, these are not regularly scheduled. The most recent audit was carried out in May 2012 and there are still some recommendations which have not been fully addressed.</p> <p>There is a risk that that audits are not carried out sufficiently regularly and that recommendations are not addressed in a timely manner.</p>	<p>Arrangements should be made to ensure that H&amp;S audits are carried out regularly.</p> <p>The results of the H&amp;S audits should be addressed within 12 months. A follow-up process should be implemented to ensure that progress towards meeting audit recommendations is monitored.</p>	<p>Agreed. We accept there has been some hiatus in H&amp;S audit arrangements over the last year as a result of a combination of an extended absence in cover of the shared H&amp;S advisor post and also pressures from internal structural change at CNPA. Agree that follow up on H&amp;S matters will be undertaken as a matter of urgency, and implement arrangements to ensure regular H&amp;S audits take place.</p> <p><b>Responsible officer:</b> Director of Corporate Services</p> <p><b>Implementation date:</b> Immediate</p>

## Action plan – CNPA (continued)

Findings and risk	Recommendations	Agreed management actions
<b>2 Health and Safety policy sign-off</b>		<b>Moderate</b>
<p>New employees receive a copy of the H&amp;S policy which they are expected to read. However, there is no formal confirmation in place to confirm that the employee has read and understood this policy. Implementing a formal sign off of the H&amp;S policy would help to protect CNPA from risks of potential litigation.</p>	<p>Management should implement a formal process for employees to confirm that they have read and understood the H&amp;S policy. This could be combined with other policies.</p>	<p>To some extent, the requirement to have staff to sign off that they have read certain policies is somewhat counter to organisational culture of trust and staff taking responsibility. We do accept that having a formal sign off from staff does add an additional level of assurance - we will consider the implementation of this sign off for key policies such as H&amp;S where there is clear dual benefit for both staff and the organisation to confirm that there is general awareness of policy.</p> <p><b>Responsible officer:</b> Director of Corporate Services</p> <p><b>Implementation date:</b> March 2015</p>

## Action plan – CNPA (continued)

Findings and risk	Recommendations	Agreed management actions
<b>3 Identifying new case law</b>		<b>Low</b>
<p>We found a control deficiency in relation to the identification and communication of new case law.</p> <p>Furthermore, our walkthrough of the action taken in relation to Tracey Kennedy v Cordia (Services) LLP found that no action had been taken to ensure that CNPA were compliant with the new legislation, despite this case being highlighted by LL&amp;TNPA as requiring action.</p>	<p>Management should review the process to identify and action new case law to ensure effectiveness and efficiency.</p>	<p>Agreed.</p> <p><b>Responsible officer:</b> Director of Corporate Services</p> <p><b>Implementation date:</b> March 2015</p>
<b>4 Policy and procedures review</b>		<b>Moderate</b>
<p>There is no formal structure in place for regular review of policies and procedures across the Authority.</p> <p>It is best practice to review policies and procedures in relation to compliance and regulations annually to ensure that policies and procedures remain up to date.</p>	<p>Policies and procedures should be subject to a formal annual review to ensure they remain compliant with current legislation.</p>	<p>Agreed.</p> <p><b>Responsible officer:</b> Director of Corporate Services</p> <p><b>Implementation date:</b> March 2015</p>

# Appendices

In accordance with the 2011-12 to 2013-14 strategic internal audit plan for Loch Lomond & The Trossachs National Park Authority and Cairngorms National Park Authority (“the Authorities”), we will undertake an internal audit review of regulatory compliance.

### Objective

The Authorities must comply with various regulatory requirements which range from general health and safety regulations to impacting on operational matters, such as various areas of legislation specific to the Authorities. There are a number of risks associated with regulatory compliance including:

- ensuring all relevant regulations (including changes to existing regulations) are identified; and
- ensuring management and staff are aware of such regulations to ensure the Authority is able to comply with them.

### Scope

This joint review will:

- review internal risk assessments;
- consider processes for identifying new/evolving regulatory requirements;
- review processes for monitoring compliance with existing requirements;
- review processes for disseminating information on regulatory requirements and any related training or certification; and
- consideration of best practice against comparable organisations.

### Approach

We will adopt the following approach in this review:

- project planning and scoping;
- conduct interviews with staff to gain an understanding of the Authorities’ processes and procedures in relation to regulatory compliance;
- identify and agree key risks and processes with management;
- review the adequacy and effectiveness of key processes through sample testing and discussion; and
- agree findings and recommendations with management.

## Appendix two

# Classification of internal audit findings

The following framework for internal audit ratings has been developed and agreed with management for prioritising internal audit findings according to their relative significance depending on their impact to the process.

Rating	Definition	Examples of business impact	Action required
Critical	Issue represents a control weakness, which could cause or is causing severe disruption of the process or severe adverse effect on the ability to achieve process objectives.	<ul style="list-style-type: none"> <li>■ Potential financial impact of more than 1% of total expenditure.</li> <li>■ Detrimental impact on operations or functions.</li> <li>■ Sustained, serious loss in brand value.</li> <li>■ Going concern of the organisation becomes an issue.</li> <li>■ Decrease in the public's confidence in the Authority.</li> <li>■ Serious decline in service/product delivery, value and/or quality recognised by stakeholders and customers.</li> <li>■ Contractual non-compliance or breach of legislation or regulation with litigation or prosecution and/or penalty.</li> <li>■ Life threatening.</li> </ul>	<ul style="list-style-type: none"> <li>■ Requires immediate notification to the Authority's audit committee.</li> <li>■ Requires executive management attention.</li> <li>■ Requires interim action within 7-10 days, followed by a detailed plan of action to be put in place within 30 days with an expected resolution date and a substantial improvement within 90 days.</li> <li>■ Separately reported to chairman of the Authority's audit committee and executive summary of report.</li> </ul>
High	Issue represents a control weakness, which could have or is having major adverse effect on the ability to achieve process objectives.	<ul style="list-style-type: none"> <li>■ Potential financial impact of 0.5% to 1% of total expenditure.</li> <li>■ Major impact on operations or functions.</li> <li>■ Serious diminution in brand value.</li> <li>■ Probable decrease in the public's confidence in the Authority.</li> <li>■ Major decline in service/product delivery, value and/or quality recognised by stakeholders and customers.</li> <li>■ Contractual non-compliance or breach of legislation or regulation with probable litigation or prosecution and/or penalty.</li> <li>■ Extensive injuries.</li> </ul>	<ul style="list-style-type: none"> <li>■ Requires prompt management action.</li> <li>■ Requires executive management attention.</li> <li>■ Requires a detailed plan of action to be put in place within 60 days with an expected resolution date and a substantial improvement within 3-6 months.</li> <li>■ Reported in executive summary of report.</li> </ul>

## Classification of internal audit findings (continued)

Rating	Definition	Examples of business impact	Action required
Moderate	Issue represents a control weakness, which could have or is having significant adverse effect on the ability to achieve process objectives.	<ul style="list-style-type: none"> <li>■ Potential financial impact of 0.1% to 0.5% of total expenditure.</li> <li>■ Moderate impact on operations or functions.</li> <li>■ Brand value will be affected in the short-term.</li> <li>■ Possible decrease in the public's confidence in the Authority.</li> <li>■ Moderate decline in service/product delivery, value and/or quality recognised by stakeholders and customers.</li> <li>■ Contractual non-compliance or breach of legislation or regulation with threat of litigation or prosecution and/or penalty.</li> <li>■ Medical treatment required.</li> </ul>	<ul style="list-style-type: none"> <li>■ Requires short-term management action.</li> <li>■ Requires general management attention.</li> <li>■ Requires a detailed plan of action to be put in place within 90 days with an expected resolution date and a substantial improvement within 6-9 months.</li> <li>■ Reported in executive summary of report.</li> </ul>
Low	Issue represents a minor control weakness, with minimal but reportable impact on the ability to achieve process objectives.	<ul style="list-style-type: none"> <li>■ Potential financial impact of less than 0.1%*of total expenditure.</li> <li>■ Minor impact on internal business only.</li> <li>■ Minor potential impact on brand value.</li> <li>■ Should not decrease the public's confidence in the Authority.</li> <li>■ Minimal decline in service/product delivery, value and/or quality recognised by stakeholders and customers.</li> <li>■ Contractual non-compliance or breach of legislation or regulation with unlikely litigation or prosecution and/or penalty.</li> <li>■ First aid treatment.</li> </ul>	<ul style="list-style-type: none"> <li>■ Requires management action within a reasonable time period.</li> <li>■ Requires process manager attention.</li> <li>■ Timeframe for action is subject to competing priorities and cost/benefit analysis, eg. 9-12 months.</li> <li>■ Reported in detailed findings in report.</li> </ul>



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