

**To the Chair and Members of the  
AUDIT COMMITTEE**

**IMPROVING GOVERNANCE AT DONCASTERS INTERNAL DRAINAGE BOARDS**

**EXECUTIVE SUMMARY**

1. The Audit Committee has responsibility for overseeing governance arrangements at the Council, including relating to its key partnerships. This report provides information on governance related matters at the three drainage boards in Doncaster (Danum, Doncaster East and Black Drain). It follows reports presented to the Audit Committee in April and November 2015. The Council, along with Barnsley and Selby Councils in the case of Danum Drainage Board, appoints a majority of members to the Boards and therefore these are amongst the Council's significant partnerships.
2. For various reasons outlined in the report, Internal Audit has carried out significant pieces of work across the three Drainage Boards in Doncaster over the last three years.
3. During the same period, Internal Audit has worked closely with the National Audit Office (NAO) on a NAO review of drainage boards' governance. A report produced by the NAO in March 2017 pleasingly reflects much input by the Internal Audit Team and it is hoped will lead to improvements nationally and regionally. This report makes reference to some of these regional and national developments.
4. No action is required by the Audit Committee, other than to note the update provided.

**EXEMPT REPORT**

5. The report is not exempt.

**RECOMMENDATION**

6. **The Audit Committee is asked to note:**
  - **the progress made to date and the further actions proposed to improve governance at Doncaster's Internal Drainage Boards**
  - **Internal Audit's influential involvement in the National Audit Office's work and the NAO's report on drainage boards' governance.**

**WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?**

7. Drainage Boards play a significant part in water level management within and

beyond the Borough. Effective governance supports the Boards' arrangements for the delivery of their objectives.

8. Drainage boards raise a large proportion of their funding via Doncaster Council. They are significant partnerships and present a number of lessons to the Council in relation to its working with partners and the Council's expectations that partners should comply with the same standards of governance that the Council itself has in place. Current, general, work on partnerships' governance will seek to ensure partnerships meet the high standards expected of them, but that where they are falling short, the Council's representatives on the partnerships can be supported to raise matters appropriately and help achieve appropriate remedial action.

## **BACKGROUND**

### **Drainage Boards**

9. Drainage Boards exist to ensure there are appropriate flood alleviation measures in place in areas of low lying land. The Land Drainage Act 1991 is the key legislation relating to drainage boards. Boards carry out works that will have a general benefit in relation to the protection of the area's properties and communities. Boards' responsibilities have evolved, and now include contributing to managing flood risk and protecting and enhancing biodiversity in urban and rural areas.
10. Drainage Boards are responsible for ensuring that their business is conducted in accordance with the law and proper standards, and that public money is safeguarded and properly accounted for, and used economically, efficiently and effectively. Boards also have a duty to make arrangements to secure continuous improvements in the way in which their functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
11. Doncaster Council has three Internal Drainage Boards (IDB's) within its boundaries, Danum Drainage Board, Doncaster East Internal Drainage Board and Black Drain Drainage Board. All three were formed in April 2012 by a Constitution Order under the Land Drainage Act 1991 (as amended) following amalgamation of the several smaller IDB's.
12. Each Drainage board has a set number of Members who are either elected from within the drainage board area (typically large landowners) or are nominated / appointed members from levy-paying local authorities. The numbers of members are set to provide a majority of 1 in favour of the (Council) nominated members. The Boards in Doncaster meet three times a year, with administrative and technical support being provided through tendered Clerk of Works Service Contracts.

### **Background to Internal Audit Involvement**

13. A number of concerns were raised by a member of the public as to how the Danum Drainage Board was operating. The member of the public had made several complaints to the Board during 2012 and 2013 regarding these concerns, however, had not felt that these had been properly dealt with or adequately investigated and concluded. Subsequently, the member of the

public voiced their concerns in a letter to the Mayor of Doncaster in view of Doncaster Council being the majority contributor to the Danum Drainage Board's Budget.

14. As a result of the concerns raised and the Board's lack of response to the concerns, Internal Audit was asked to carry out an audit of the Board's governance arrangements. Whilst the work was being carried out, other governance issues became apparent at the other two drainage boards in the Doncaster area.

### **Previous Reporting to the Audit Committee**

15. At the April and November 2015 meetings of the Council's Audit Committee, Internal Audit reported concerns over the governance arrangements at the Danum Drainage Board and the progress being made there to improve arrangements.

## **WORK CARRIED OUT AND ISSUES ARISING**

### **Danum Drainage Board**

16. Our governance review at Danum Drainage Board found that governance at the Board failed to meet the standards applicable to the Public sector. In particular, there was:
  - A lack of strategic planning relating to water management
  - Questions regarding the appropriateness of the use of Public resources
  - Inadequate transparency and accountability relating to decision making and responsiveness to complaints from the Public
  - Inadequate arrangements and compliance with declarations of interest requirements.
17. We also found other significant concerns regarding the activities of some former Board Members, such that we felt we needed to make South Yorkshire Police aware of these concerns. In the event, having looked at the information presented to them, South Yorkshire Police decided no action should be taken. It did however highlight the seriousness of our concerns.
18. Two Board members, including the former Chair of the Board, resigned during the course of the review as a result of their actions coming to light and following the actions being brought to the attention of the Police.
19. Our first report on the weaknesses found was reported to Drainage Board in November 2014. A follow up audit was carried out during the Summer 2015 to establish progress made by the Board in improving its governance arrangements. This showed considerable progress had been made in implementing the actions agreed by the Board following the initial report.
20. No further work has been undertaken by Internal Audit as it is considered that the Board is now sufficiently well placed to operate in accordance with good governance. The exception to this is around a procedure to deal with poor conduct of standards and this has proven problematic with the limited sanctions available to public bodies. This matter continues to be pursued.

## **Doncaster East Drainage Board**

21. Concerns were raised with Internal Audit on behalf of the Board by the Chair of the Board (Councillor Chris McGuinness) regarding a major funded project in the Doncaster East Drainage Board area which the Board had responsibility for. The specific concerns raised were regarding (1) the legitimacy of an access payment of £30,000 to the then Vice-Chair of the Board and (2) progress in addressing issues raised by the Board's own Internal Auditors over the overall management of the scheme.
22. The Board commissioned Internal Audit Team to carry out a review of the project. To date, an interim audit report providing a summary of the work carried out to date has been presented to and agreed by the Board.
23. Our review found that initial governance arrangements over the project were inadequate. Our concerns centred around potential / perceived conflicts of interest, project award, access payments and the justification for project management fee increases. While arrangements were improved following a Board audit, they still did not provide an appropriate level of governance required for a project of this nature.
24. The interim audit report presented to the Board made a series of recommendations, all of which were agreed unanimously by the Board Members. The two fundamental actions agreed were:
  - To engage consultants to provide an independent technical assessment of the work undertaken and of the management of the project.
  - To look further at the access payments made by the Board.
25. These are in the process of being pursued.

## **Black Drain Drainage Board**

26. The main governance weakness at the Black Drain Drainage Board related to problems in appointing appropriate persons to the Board and poor attendance records for appointed members. These were dealt with on an ongoing basis, predominantly through the Council's Democratic Services Team and ultimately through the Elected Mayor of Doncaster using her powers of appointment. All the vacant DMBC appointee positions have now been filled and further work is being carried out to continue the improvement in attendance rates.
27. Our involvement has confirmed this Board is well-focussed and effective.

## **National Audit Office**

28. The issues arising in Doncaster were formally referred to the National Audit Office (NAO) by both Internal Audit and the members of the public who had raised the concerns originally regarding Danum Drainage Board. Subsequent contact with the NAO showed that there were fundamental weaknesses in the governance arrangements for IDBs which were not unique to Doncaster.
29. We continued to work with the NAO to assist the Office with a national review it had decided to undertake. In relation to this, we:
  - Held an initial conference call to the Director of the NAO dealing with DEFRA.

- Provided our reports and updates from our Danum Drainage Board reviews.
  - Provided a summary report capturing the key concerns our work had highlighted.
  - Held further conference calls with the NAO project team to clarify / update them on progress on relevant issues.
  - Provided a comprehensive written response to an initial draft of their report.
  - Held further conference calls regarding the revised draft report.
30. The NAO issued an investigative report in March 2017 which heavily highlighted the issues and concerns we had raised with them. Subsequently we have maintained contact with the NAO with a view to continuing to support the drive for improvements at regional and national levels, recognising that any strengthening of these arrangements should have a positive knock-on effect at a local level.
31. A summary of the NAO report and Internal Audit's contribution to it are shown in **Appendix 1**.

## **OUTCOMES / IMPROVEMENTS MADE**

32. Although initially it could perhaps not be regarded as a mainstream audit area for Doncaster Council's Internal Audit, our work at the drainage boards has helped highlight and then begin to address a number of significant issues that did not reflect effective partnerships' governance. In this respect, this work has proven to be very valuable. A number of positive outcomes have been achieved, including:
- Considerable improvements in the governance arrangements in the local drainage boards, including:
    - The Council filling appointments to vacant member positions, ensuring the balance of members is brought to the intended levels and facilitating decision making that is for the benefit of the boards and their stakeholders, and not biased towards the interests of elected members
    - The adoption and reporting of a limited number of performance indicators helping to define outcomes that the Boards are seeking to deliver and transparently reporting progress in achieving them
    - Increased the transparency and accountability through opening up meetings to Public attendance
    - Clear standards and actions needed to promote better governance
    - Improvement in compliance with requirements for managing conflicts of interest.
  - Outstanding significant issues still being addressed by respective parties
  - The development and provision of training to Board Members by the Boards' clerks.
  - The establishment and provision of further training and support, where needed, to Doncaster Council appointees to the Boards

- Supporting and influencing the NAO’s national review of drainage board governance arrangements and working with the NAO to continue to seek improvements in the arrangements.

## WAY FORWARD

33. Priorities for Internal Audit now, are:

- To assist in the investigation of the access payment made as part of the project under the Doncaster East Drainage Board
- To assist independent professional technical consultants to review the delivery and management of the major project delivered through the Doncaster East Drainage Board
- To progress actions within the NAO report and other local issues to sustain and improve governance.

## OPTIONS CONSIDERED AND RECOMMENDED OPTION

34. There are no specific options to consider within this report as it provides an opportunity for the Committee to review and consider progress made against governance issues within Doncaster’s Internal Drainage Boards.

## IMPACT ON THE COUNCIL’S KEY OUTCOMES

35.

	Outcomes	Implications
	<p>All people in Doncaster benefit from a thriving and resilient economy.</p> <ul style="list-style-type: none"> <li>• <i>Mayoral Priority: Creating Jobs and Housing</i></li> <li>• <i>Mayoral Priority: Be a strong voice for our veterans</i></li> <li>• <i>Mayoral Priority: Protecting Doncaster’s vital services</i></li> </ul>	
	<p>People live safe, healthy, active and independent lives.</p> <ul style="list-style-type: none"> <li>• <i>Mayoral Priority: Safeguarding our Communities</i></li> <li>• <i>Mayoral Priority: Bringing down the cost of living</i></li> </ul>	
	<p>People in Doncaster benefit from a high quality built and natural environment.</p> <ul style="list-style-type: none"> <li>• <i>Mayoral Priority: Creating Jobs and Housing</i></li> <li>• <i>Mayoral Priority: Safeguarding our Communities</i></li> <li>• <i>Mayoral Priority: Bringing down the cost of living</i></li> </ul>	<p>The purpose of Internal Drainage Boards is to protect people and their property against river and surface water flooding, through water level management within low lying areas</p>

	<p>All families thrive.</p> <ul style="list-style-type: none"> <li>• <i>Mayoral Priority: Protecting Doncaster's vital services</i></li> </ul>	
	<p>Council services are modern and value for money.</p>	<p>The majority of funding for Doncaster's Drainage Boards comes from a levy against Local Authorities. Local Authorities are required to ensure that public funds are spent appropriately and represent value for money. Effective Governance at Drainage Boards helps improve performance and the efficiency of the organisation which in turn impacts on the funding levy paid by Doncaster residents</p>
	<p>Working with our partners we will provide strong leadership and governance.</p>	<p>The work undertaken by Internal Audit has improved and strengthens governance arrangements within the Internal Drainage Boards based within the Borough.</p>

## **RISKS AND ASSUMPTIONS**

36. Failure to address governance weaknesses at the Drainage Boards exposes the council to the risks associated with partnership working that can impact on a number of levels as follows:
- Failing to ensure an effective Strategic Fit with the authorities flood risk management responsibilities
  - Reputational damage to DMBC due to flawed partnership working
  - Conflict of interest not being managed
  - Damaged relationships with partners
  - Failing to achieve value for money for Doncaster residents.

## **LEGAL IMPLICATIONS**

37. The Council's current and former Monitoring Officers have been closely involved in aspects of the review and the resolution of the complaints raised by the members of the public.

## **FINANCIAL IMPLICATIONS**

38. There are no specific financial implications associated with this report.

## **HUMAN RESOURCES IMPLICATIONS**

39. There are no specific human resources issues associated with this report.

### **TECHNOLOGY IMPLICATIONS**

40. There are no specific technological implications resources issues associated with this report.

### **EQUALITY IMPLICATIONS**

41. We are aware of the Council's obligations under the Public Sector Equalities Duties and there are no identified equal opportunity issues within this report.

### **CONSULTATION**

42. There was consultation with relevant board members of both the Danum and Doncaster East Drainage Boards and the Clerk to the Boards and his staff throughout the work undertaken. There was also considerable engagement with the members of the public who raised the concerns originally. Finally, there has been effective conveying of information and discussion of the issues identified at these Drainage Boards with the National Audit Office in the production of their report on Internal Drainage Boards in March 2017.

### **BACKGROUND PAPERS**

43. Doncaster MBC, Internal Audit Report - Danum Drainage Commissioners – Governance Audit 2014.

Doncaster MBC, Internal Audit Report - Doncaster East Internal Drainage Board - Thorne, Crowle and Goole Moors Water Level Management Project – November 2016 and

National Audit Office – Internal Drainage Boards March 2017

### **REPORT AUTHOR & CONTRIBUTORS**

Colin Earl, Head of Internal Audit,

Tel 01302 862939 E-mail - [colin.earl@doncaster.gov.uk](mailto:colin.earl@doncaster.gov.uk)

**Colin Earl**  
**Head of Internal Audit**



## National Audit Office Report

The outcome of our liaison with the NAO was a report by the NAO which highlighted seven headline ‘observations’: This report can be accessed at <https://www.nao.org.uk/report/internal-drainage-boards/>

NAO Report – Principal Observations	Source of Concern raised by DMBC
<p><b><u>Governance and oversight</u></b></p> <p>There is no statutory governance standard for IDBs, and the government has no legislative powers to ensure that IDBs, as public bodies, meet expectations for good-quality internal governance and sound financial management</p> <p>There is limited oversight of IDBs’ operations</p> <p>The Association of Drainage Authorities (ADA) supports DEFRA in overseeing the sector and addressing concerns and DEFRA supports ADA in providing advice and support to IDBs.</p>	<p>We highlighted concerns specifically from our work at Danum Drainage Board:</p> <p>From improved responsiveness needed from the EA and DEFRA</p> <p>Limited responsibilities of the External Auditor</p> <p>The NAO acknowledge their oversight role without having direct jurisdiction over individual IDBs</p> <p>ADA as an advisory body being used where a regulatory input was required</p>
<p><b><u>Skills to support governance</u></b></p> <p>Most IDBs report that they do not have Board members with appropriate environmental expertise, instead accessing the skills they need through consultants.</p> <p>Some smaller IDBs have reported benefits from merging with each other, forming consortia or working collaboratively.</p>	<p>We highlighted the skills issue in our report to Danum Drainage Board and highlighted the need for training – also highlighted by the NAO.</p> <p>We suggested also a size reduction for all three Boards as a means to improve the Board expertise, operation and attendance.</p>
<p><b><u>Raising concerns</u></b></p> <p>If an individual has a concern about an IDB’s conduct, it is not always clear whom they should approach, and no Government Department has a role under the legislation in ensuring that any concerns raised are addressed.</p>	<p>We highlighted that the route for reporting concerns was ineffectual and unclear from our initial work at Danum Drainage Board when we received the complaints from the members of the public who had exhausted all other means of raising their concerns.</p>

**Conflicts of interest**

The requirements for oversight and assurance of IDBs are not sufficient to ensure that IDBs are able to meet the expectations associated with public expenditure and leaves them vulnerable to potential conflicts of interest.

We highlighted conflict of interest concerns :

At all Drainage Boards between elected and nominated members.

At Danum and Doncaster East Drainage Boards where the Clerk and his team are overseeing work undertaken by companies and employees within the same group.