

# **Audit and Governance Committee**

## **Agenda**

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**Date:** Thursday, 27th September, 2012  
**Time:** 2.00 pm  
**Venue:** Committee Suite 1, 2 & 3, Westfields, Middlewich Road,  
Sandbach CW11 1HZ

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The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

### **PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT**

1. **Apologies for Absence**

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any disclosable pecuniary and non-pecuniary interests in any item on the agenda.

3. **Public Speaking Time/Open Session**

In accordance with Procedure Rules Nos.11 and 35 a period of 10 minutes is allocated for members of the public to address the meeting on any matter relevant to the work of the meeting. Individual members of the public may speak for up to 5 minutes but the Chairman or person presiding will decide how the period of time allocated for public speaking will be apportioned where there are a number of speakers. Members of the public are not required to give notice to use this facility. However, as a matter of courtesy, a period of 24 hours' notice is encouraged.

Members of the public wishing to ask a question at the meeting should provide at least three clear working days' notice in writing and should include the question with that notice. This will enable an informed answer to be given.

4. **Minutes of Previous meeting** (Pages 1 - 8)

To approve the minutes of the meeting held on 28<sup>th</sup> June 2012.

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**Contact:** Paul Mountford, Democratic Services Officer  
**Tel:** 01270 686472  
**E-Mail:** paul.mountford@cheshireeast.gov.uk

5. **Action Plan arising from Internal Audit Report into Waste Transfer Station (Lyme Green)** (Pages 9 - 24)

To consider an updated action plan and progress report to improve working practices highlighted by the findings of the internal audit review of the project relating to a potential waste transfer station at Lyme Green.

6. **Compliance with Contract Procedure Rules** (Pages 25 - 28)

To consider a report on the recently introduced revised procedure for Delegated Decisions to waive Contract Procedure Rules and Non-Compliances with Contract Procedure Rules.

7. **Annual Governance Report 2011-12** (Pages 29 - 30)

To consider the Annual Governance Report for 2011-12.

8. **Final Statement of Accounts 2011-12** (Pages 31 - 36)

To consider the Final Statement of Accounts for 2011-12.

9. **Annual Governance Statement 2011/12** (Pages 37 - 70)

To consider the Annual Governance Statement for 2011/12.

10. **Code of Corporate Governance and the Governance Framework Update** (Pages 71 - 96)

To consider an update to the Council's Code of Corporate Governance and to receive a report on the ongoing work by the Corporate Governance Group in respect of the Council's Governance Framework.

11. **Internal Audit Interim Report 2012/13** (Pages 97 - 104)

To consider a report on progress against the Internal Audit Plan 2012/13, revisions to the plan and a summary of the work undertaken during the first quarter of 2012/13.

12. **Anti-Fraud and Corruption Arrangements** (Pages 105 - 116)

To consider a report on a review of the Council's anti-fraud and corruption arrangements.

13. **Treasury Management Update** (Pages 117 - 136)

To consider a report on the Council's treasury management operation, with details of the activities undertaken in 2011/12 and the first quarter of 2012/13.

14. **Update Report on Risk Management** (Pages 137 - 152)

To consider a report of the Corporate Risk Management Group summarising the key corporate risks and risk management work undertaken since the last report.

15. **Standards Issues and Planning Protocol** (Pages 153 - 190)

To consider a report advising Members on a number of issues in relation to the new Code of Conduct adopted by Cheshire East Council in July 2012, including the possibility of an Appeals Procedure, the need to review the Council's Planning Protocol and the necessity to have in place a number of dispensations under the Code.

16. **Audit and Governance Committee Annual Report 2011/12** (Pages 191 - 212)

To consider the draft 2011/12 Annual Report of the Audit and Governance Committee with a view to agreeing the final version of the report for submission to Council in October 2012.

17. **Work Plan 2012/13** (Pages 213 - 220)

To consider an updated work plan.

**THERE ARE NO PART 2 ITEMS**

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**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Audit and Governance Committee**  
held on Thursday, 28th June, 2012 at Committee Suite 1,2 & 3, Westfields,  
Middlewich Road, Sandbach CW11 1HZ

**PRESENT**

Councillor J Hammond (Chairman)  
Councillor L Brown (Vice-Chairman)

Councillors S Corcoran, R Fletcher, M Hardy, S Hogben, A Kolker, D Marren,  
L Roberts and M J Simon

**Councillor in attendance**

Councillor K Edwards

**Officers**

Lisa Quinn, Director of Finance and Business Services  
Chris Mann, Finance Manager  
Joanne Butler, Risk Manager  
Paul Mountford, Democratic Services Officer  
Julie Openshaw, Deputy Monitoring Officer  
Neil Taylor, Internal Audit  
Joanne Wilcox, Corporate Finance Lead

**Audit Commission**

Judith Tench

Before proceeding with the business of the meeting, the Chairman referred to an email he had received from a Mr A Lloyd-Weston relating to Lyme Green which he had copied to other members of the Committee and forwarded to the Strategic Director Children, Families and Adults as the Officer overseeing the review.

**53 DECLARATIONS OF INTEREST**

There were no declarations of interest.

**54 PUBLIC SPEAKING TIME/OPEN SESSION**

There were no members of the public present.

**55 MINUTES OF PREVIOUS MEETING****RESOLVED**

That the minutes of the meeting of 14<sup>th</sup> June 2012 be approved as a correct record subject to an amendment to include the following additional resolution:

“(13) the Council’s decision-making process needs to be more robust and all matters relating to high risk projects need to be tabled through Scrutiny regardless of whether or not they are taken by delegated decision.”

## **56 AUDIT COMMITTEE UPDATE**

The Committee considered a report on the progress of the Audit Commission in delivering their responsibilities as external auditors.

The report included an update on the externalisation of the Audit Practice and highlighted key emerging national issues and developments.

Judith Tench of the Audit Commission was in attendance and presented the report. She advised that following the review of Lyme Green, there were additional risk assessments that she needed to consider. Whilst these were not material to her audit, there was a need to do some more work around controls. In addition, more work was needed in relation to capital projects. The report would be updated as appropriate and resubmitted to the Chairman for distribution to members of the Committee.

The report highlighted five key considerations for the Committee to consider in respect of the issues highlighted in the briefing paper. The Officers confirmed that the Council had reviewed its prudential indicators in the light of CIPFA's revised prudential code. It had also reviewed CIPFA's guidance notes for the 2011/12 financial statements and made them available to all members of the Finance Team. The implications of the amendments to the capital financing regulations were considered on an ongoing basis. The Council had reviewed the questions included in the Audit Commission's briefing paper on joining up health and social care, and consultants had been commissioned to test the efficiency of the Council's programmes, a report on which would be submitted to the Committee's next meeting.

### **RESOLVED**

That the report, and the updates provided by the officers on the issues highlighted, be noted.

## **57 DRAFT STATEMENT OF ACCOUNTS 2011-12 - APPROVAL PROCESS**

The Committee considered a report on the process and timetable for the approval of the 2011-12 Statement of Accounts in accordance with the Accounts and Audit (England) Regulations 2011.

Members were required to consider and approve the accounts before 30<sup>th</sup> September, taking into account the auditors' findings and any consequential adjustments to the draft accounts.

The Officers highlighted a number of issues covered in the explanatory foreword relating to abortive capital expenditure on waste PFI, increased pension liability and a number of schools achieving academy status. The outturn position would be considered fully in the report to Cabinet in July.

The draft Statement of Accounts had been made available to members of the Audit & Governance Committee and the Cabinet from 15<sup>th</sup> June 2012 and would be presented for audit by 29<sup>th</sup> June. The Accounts would be made available on the Cheshire East Website from 30<sup>th</sup> June and the public inspection period would commence on 2<sup>nd</sup> July for a period of 20 working days.

A training/briefing session would be held in early September to address both the structure and content of the accounts together with the Annual Governance Statement (AGS) and the accompanying assurance documents. It was proposed that the training sessions be held on 3<sup>rd</sup> September at Westfields and on 11<sup>th</sup> September at Macclesfield Town Hall.

The approval of the audited accounts and the AGS would take place at the Committee's meeting on 27<sup>th</sup> September 2012.

## **RESOLVED**

That

- (1) the process and timetable for the approval of the 2011-12 Statement of Accounts be noted; and
- (2) Members notify Joanne Wilcox of their preferred training dates.

## **58 DRAFT ANNUAL GOVERNANCE STATEMENT (AGS) 2011/12**

The Committee considered the draft Annual Governance Statement 2011/12.

The final version of the AGS would be submitted to the Committee for approval in September 2012.

The AGS identified a number of governance issues that required action, including the issues and actions arising from Lyme Green. Members commented on the distinction between the good practice referred to in the draft AGS and what had happened in practice with Lyme Green.

Members expressed the wish to see some of the key documentation referred to in the AGS, such as Member job descriptions and reported measures of satisfaction with the Authority. They also commented that the ASPIRE values should be set out in full in the AGS.

Members sought assurances that there were robust schemes of Officer delegation within each Service which set out the decision-making and financial limits on officers at different levels and which could be made available to Members on request. In this respect, Councillor Marren asked for a copy of the delegation scheme for the Places Directorate to be provided the following day, which the officers undertook to provide. The officers also indicated that a comprehensive review of departmental schemes of delegation was underway with a view to reporting back to the Corporate Management Team at the first available opportunity following the agreed deadline of 31<sup>st</sup> July. The Council's main scheme of delegation was being updated to reflect changes to the senior management structure and was to be reviewed by the Constitution Committee as requested by this Committee.

Members suggested that the role of scrutiny in decision-making be referred to the Scrutiny Chairmen's Group for consideration with a view to ensuring a consistent approach. Councillor M Simon agreed to refer the matter to the Group. The Director of Finance and Business Services advised that, where relevant, future reports to scrutiny committees would not only include the financial implications of any proposals but also relevant budget information. Service Managers would be expected to assume full responsibility for their own budget information when advising committees. The Director would be meeting the Scrutiny Chairmen's Group with a view to embedding these principles in future reporting practice.

The Committee would receive progress reports on the action plan at future meetings. Members asked that where an action was referred as 'ongoing', this term be replaced with a specific time frame in each case.

## **RESOLVED**

That

- (1) the draft Annual Governance Statement be amended to reflect the comments of Members;
- (2) a final version of the AGS be submitted to the Committee for approval at its September meeting;
- (3) Members be provided with the revised delegated decision process workflow and templates and other documentation requested; and
- (4) Members be provided with information on what the Corporate Governance Group is doing to improve compliance with the AGS action plan.

**59 INTERNAL AUDIT ANNUAL REPORT 2011/12**

The Committee considered the Internal Audit Report for 2011/12.

The primary purpose of the report was to provide an opinion on the adequacy and effectiveness of the Council's internal control environment, which included consideration of any significant risk or governance issues and control failures that had been identified.

A number of significant issues had been reported by Internal Audit during the course of 2011/12 and these were being addressed and monitored. There were no outstanding significant control issues identified through the work of Internal Audit that required disclosure in the Council's 2011/12 Annual Governance Statement.

In the opinion of Internal Audit, the Council had established a satisfactory framework of risk management, control and governance. This provided adequate assurance over the Council's control environment, with control weaknesses identified during audits and/or by management addressed or being addressed.

Members commented that the definitions within the action plan should be made more precise and that there should be a clear indication of whether action had been taken within the agreed timetable.

**RESOLVED**

That

- (1) the contents of the Internal Audit Annual Report for 2011/12 be noted;  
and
- (2) the action plan be amended to include a performance indicator on whether each action has been taken within the agreed timetable, and further consideration be given to the definitions within the plan.

**60 ANNUAL REPORT ON RISK MANAGEMENT**

The Committee considered the annual report of the Corporate Risk Management Group.

The report covered the financial year from 1 April 2011 to 31 March 2012 and recorded the work of the Corporate Risk Management Group in reviewing the development, maintenance and implementation of the Council's risk management framework, including monitoring and reporting arrangements.

The Risk Management Group had reviewed the Council's Risk Management Policy and an updated version was attached at Appendix A to the report. The report included an overview of the key corporate risks,

corresponding risk ratings and direction of travel of risks. A key corporate risk heat map was attached at Appendix B to the report.

The Officers reported that the Cabinet would be reviewing the key corporate risks at a risk workshop on 16<sup>th</sup> July.

The Audit & Governance Committee had requested a short briefing at each meeting from the risk owners/managers of the highest key corporate risks. The Committee received a briefing on Key Corporate Risk 2 – Financial Control from the Director of Finance and Business Services. A copy of the risk stewardship template was circulated at the meeting. With regard to the Council's financial position, the Director commented that reserves were currently at an acceptable level and that, whilst future funding was uncertain, over the longer term reserves were on an upward trend and these would be used strategically to achieve financial sustainability. The Finance Manager referred to the Financial Reporting Centre, a new online financial management tool which was currently being piloted with managers.

It was proposed that there be a contingency plan to deal with the implications of the Lyme Green review. Whilst it was difficult to identify specific risks and eventualities at this stage, it was felt that the Risk Management Group could be asked to consider the matter. Members also commented that the roles and responsibilities of individuals and groups referred to in the risk management policy should include clear reporting lines.

### **RESOLVED**

That

- (1) the report of the Risk Management Group be noted; the attendance record of members of the Group be circulated to Members of the Committee for information and included in future annual reports;
- (2) the minor changes made to the risk management policy by the Risk Management Group, and the additional changes suggested at the Committee's meeting, including reporting lines for individuals and groups involved with risk management, be approved;
- (3) the Risk Management Group be asked to consider the need for a contingency plan to address the implications of the Lyme Green Review;
- (4) the briefing by the Director of Finance and Business Services on Key Corporate Risk 2 – Financial Control be noted;
- (5) the Key Corporate Risk to be reviewed at the next meeting be Risk 15 – Reputation and the risk holder be requested to attend the meeting; and

(6) a report on operational risks be submitted to the next meeting.

**61 WORK PLAN 2012/13**

The Committee considered a proposed work plan for 2012/13.

At the Committee's meeting in September 2011, it was agreed that separate Member/Officer groups, to deal with specific areas of audit and governance work, would be set up as a means of developing specialist in-depth knowledge and expertise. The individual groups had now met on several occasions. A list of the groups, their memberships and terms of reference was circulated at the meeting.

Members noted a proposal coming before the next Council meeting that the Committee's terms of reference be amended to include responsibility for the Member Code of Conduct. The Committee would be required to appoint three panels and sub-committees which would meet on an ad hoc basis to consider alleged misconduct and breaches of the Code. The membership of the bodies would be drawn from a pool of 15 members comprising the members of the Audit and Governance Committee and five others.

**RESOLVED**

That

- (1) the proposed work plan for 2012/13 be approved subject to the following:
  - (a) the Committee at its September meeting receive a quarterly progress report on Lyme Green;
  - (b) the Committee at its September meeting consider a report on whether contractual regulations are being complied with, including specific examples; and
  - (c) training be provided on the Member Code of Conduct for those Members who will sit on the proposed ad hoc bodies;
- (2) it be noted that the plan will be periodically brought back to the Committee for further development and approval; and
- (3) any changes to the memberships of the specialist Member/Officer groups, and any expressions of interest in joining a group, be notified to the Internal Audit Manager.

The meeting commenced at 2.00 pm and concluded at 4.44 pm

Councillor J Hammond (Chairman)

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## **CHESHIRE EAST COUNCIL**

### **Audit and Governance Committee**

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**Date of meeting:** 27<sup>th</sup> September 2012  
**Report of:** Head of Performance, Customer Services and Capacity  
**Title:** Action Plan arising from Internal Audit Report into Waste Transfer Station (Lyme Green)  
**Portfolio Holder:** Councillors Barry Moran/Les Gilbert/Peter Raynes

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#### **1.0 Report Summary**

- 1.1 The purpose of the report is to provide an updated action plan and progress report to improve working practices highlighted by the findings of the internal audit review of the project relating to a potential waste transfer station at Lyme Green. The original audit report was submitted to this Committee in June 2012.
- 1.2 The Council is committed to an open and transparent way of working and is putting significant emphasis on improving systems as a result of this review. The action plan has been much further developed since the last meeting to ensure that the issues identified are properly addressed and the learning points fully embedded. Regular updates on progress will be reported to this Committee.
- 1.3 The findings have been separated into three central themes covering: the need for more robust option appraisal; the need for a comprehensive framework for programme and project management; the need for better systems to ensure compliance. By implementing the improvements in project initiation, governance, monitoring and staff training, the sanctions which exist for non-compliance with these enhanced arrangements can, and will, be instigated for any relevant instances readily in future, where appropriate.

#### **2.0 Recommendation**

- 2.1 That the Committee receive and approve the action plan attached at Appendix A, subject to any comments Members wish to make.

#### **3.0 Reasons for Recommendations**

- 3.1 To ensure that the learning points arising from the internal audit review are being effectively implemented and monitored, so that the Council's future working practices are consistently improved.

#### **4.0 Wards Affected**

4.1 All wards

#### **5.0 Local Ward Affected**

5.1 Not applicable

#### **6.0 Policy Implications**

6.1 Not applicable

#### **7.0 Financial Implications (Provided by the Director of Finance and Business Services)**

7.1 The staffing resources required to implement the new governance arrangements and processes that have been established are being reviewed. It is anticipated that the required resources will be achieved within budget, but a realignment of resources may be required to ensure speedy progress.

7.2 The central themes of the Action Plan clearly state the areas that have been focused upon in terms of robust financial appraisal, monitoring and control:

- A. The need for more robust option appraisal, **financial analysis** and authorisation for project commencement.
- B. The need for a comprehensive, corporate programme/project management framework and effective project management. (This includes **financial** and planning **implications**)
- C. The need for better systems to ensure adherence to compliance with EU rules and internal **financial and contract procedure rules**.

The associated improvements in processes are already implemented and are becoming embedded across the Council.

#### **8.0 Legal Implications**

8.1 Apart from any legal issues connected with the investigation itself, which will already have been separately addressed, there are no further apparent legal implications arising from this report.

#### **9.0 Risk Assessment**

9.1 There are a number of risks arising from the implementation of actions within the Appendix. However, the key risk is around non-implementation. Implementation of the actions is required to mitigate risks around non-achievement of outcomes, financial control and reputational risk.

## **10.0 Background and Options**

- 10.1 The Audit and Governance Committee on 31<sup>st</sup> January 2012 resolved that “a thorough and robust investigation of all issues surrounding the expenditure incurred on the proposed waste transfer station at Lyme Green be added to the work plan; in particular to identify any governance issues and whether all financial and contractual regulations have been complied with.”
- 10.2 At its meeting on 27<sup>th</sup> March 2012, the Committee had further resolved that a special meeting be held to consider the outcome of the investigation. This special meeting was held on 14<sup>th</sup> June 2012 where it was resolved that progress reports against the identified actions in the Action Plan be submitted to the Committee on a quarterly basis. This is the first of these progress reports.
- 10.3 A Member/Officer task and finish group was set up following the special meeting of the 14<sup>th</sup> June with membership comprising three Portfolio Holders, the Head of Performance, Customer Services and Capacity and Internal Audit representation. The interim Chief Executive has since joined the group.
- 10.4 “Issues and Actions arising from Lyme Green” is one of the significant governance issues identified in the Council’s Annual Governance Statement (AGS) for 2011/12. The AGS is also on the agenda for this Committee meeting. Progress against the actions in the AGS Action Plan will be monitored throughout the year by the Corporate Governance Group and reported to this Committee.

## **11.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer:

Name: Vivienne Quayle

Designation: Head of Performance, Customer Services and Capacity

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## Action Plan Arising from the Internal Audit Report into Waste Transfer Station (Lyme Green)

- 1.1 The report submitted to the Audit and Governance Committee on 14/6/12 fully details the Findings, Implications, Recommendations, Management Actions and Section 151 Officer/Corporate Services responses and the Action Plan (*at Appendix 2, pages 67-106 of Audit and Governance Committee Agenda Reports Pack, 14/6/12*) contained within that report is available on the Council's website here: [www.cheshireeast.gov.uk](http://www.cheshireeast.gov.uk).
- 1.2 For clarity and focus, the required actions have been separated into three central themes highlighted by the investigation:
  - A. **The need for more robust option appraisal, financial analysis and authorisation for project commencement.** The actions noted below will improve the initial appraisal of significant projects, give appropriate approval for project initiation and provide an escalation and governance arrangement to highlight key variances and ensure effective project monitoring.
  - B. **The need for a comprehensive, corporate programme/project management framework and effective project management.** (This includes financial and planning implications)  
The actions below will ensure that there is a robust project management methodology that captures financial implications and specific planning requirements as well as all other essential aspects of good project methodology.
  - C. **The need for better systems to ensure adherence to compliance with EU rules and internal Finance and Contract Procedure Rules.** The actions are to ensure that the non-compliance issues highlighted are prevented in the future. The audit report listed non-compliance in relation to waiving EU rules to extend a contract, appointing a contractor and committing expenditure significantly over budget, the delegated decisions process, awarding works without appropriate competition, failure to use an appropriate contract, non-adherence to schemes of delegation and appointment of consultants outside of the Finance procedure rules.
- 1.3 The group of actions within each of the three issues above together provide a full framework to address the full range of requirements. This includes a governance, quality assurance and monitoring process, guidance and awareness raising for staff through to sanctions for non compliance.
- 1.4 The actions (with cross reference to the original Audit Report Action Plan) and progress on implementation are shown below:

## Action Plan Arising from the Internal Audit Report into Waste Transfer Station (Lyme Green)

Ref	Action	Responsibility	Implementation Progress at 14/9/12
<b>A</b>	<b>Options Appraisal/Planning Gateway (Actions 1 and 2 from Audit Report Action Plan)</b> <i>Address 'The Business Case/Capital Planning Process' Actions – Action 1 (page 67 – 71, Audit and Governance Committee Agenda Reports Pack, 14/6/12) and Action 2 (page 72-73).</i>		
A1	<p>A new Gateway Process for project approval will be developed and implemented, and incorporated as part of the business planning process. This process will oversee the effectiveness of options appraisal, pre-project planning and will have improved project proposal forms. A new Executive Monitoring Board (EMB) chaired by the Performance portfolio holder will be formed. Membership will include the Portfolio holders for Performance and Finance; the Strategic Director (Places and Organisation Capacity); Strategic Director (Children, Families and Adults), Director of Finance and Business Services, and others as relevant. The Gateway Process will apply to capital and revenue projects which:</p> <ul style="list-style-type: none"> <li>i. have a total value of £250k or more; and/or</li> <li>ii. where there is significant risk</li> </ul>	<p><b>Lead Member:</b> Barry Moran  <b>Support Member:</b> Peter Raynes  <b>Lead Officer(s):</b>            Lisa Quinn for process oversight            All Corporate Management Team (CMT) for implementation and adherence to the process across their span of responsibility  <b>Timescale (s):</b>            Start date of new gateway process: 1/9/12</p>	<p><b>IMPLEMENTED</b></p> <p>The process was launched at the first Executive Monitoring Board meeting on 29/8/12. New starts for capital spend are currently on hold until EMB endorsement is given. There has been clear communication to all staff and all managers.</p> <p>The process will be built upon to ensure that there is a quality assurance mechanism in place and that a robust governance arrangement is in place for every project, including clear accountabilities.</p> <p>The staffing resources to co-ordinate the full extent of this action are significant and may result in a realignment of resources across the Council. This is in progress and will be in place by end November 2012.</p>

### Action Plan Arising from the Internal Audit Report into Waste Transfer Station (Lyme Green)

Ref	Action	Responsibility	Implementation Progress at 14/9/12
A2	The Capital Asset Group will be subsumed by the Executive Monitoring Board with membership as above and will manage the Gateway Process.	<b>Lead Member:</b> Barry Moran <b>Support Member:</b> Peter Raynes <b>Lead Officer:</b> Lisa Quinn <b>Timescale (s):</b> As A1 above	<b>IMPLEMENTED</b>  As A1 above.
A3	A new group, the Technical Enabler Group (TEG) will be established and take on the responsibilities of the Capital Appraisal and Monitoring Group, which will cease to exist. This group will have a substantive role and report to the Executive Monitoring Board and be responsible for the monitoring of projects which have been approved through the Gateway, as well as monitoring the remainder of the capital programme and key revenue projects selected by the EMB.	<b>Lead Member:</b> Barry Moran <b>Support Member:</b> Peter Raynes <b>Lead Officer:</b> Lisa Quinn <b>Timescale (s):</b> October 2012	<b>IN PROGRESS</b>  Terms of Reference for this group have been developed and will support the EMB. Date for the first meeting of the Technical Enabler Group is 4 <sup>th</sup> October 2012. This is a key part of the monitoring aspect of the process and, with the EMB, provides a framework for governance, quality assurance and monitoring.
<b>B</b>	<b>Corporate Programme/Project Management, including financial and planning implications (Actions 3,4,5,6 and 16 from Audit Report Action Plan)</b> <i>Address 'Project Management' Actions – Action 3 (page 74-75) and Action 4 (page 76-78), 'Planning' Actions – Action 5 (page 79-80) and Action 6 (Page 81-82) and one of the 'Compliance with Finance and Contract Procedure Rules' Actions – Action 16 (page 104-106).</i>		
B1	A new project management framework will be developed and implemented and appropriate training undertaken. The Gateway process referred to in actions A 1 – 3 above is the first aspect of the framework to be developed. Best	<b>Lead Member:</b> Barry Moran <b>Support Member:</b> Peter Raynes <b>Lead Officer:</b>	<b>IN PROGRESS</b>  Development and implementation of the new approach are in progress. A Council-wide project

### Action Plan Arising from the Internal Audit Report into Waste Transfer Station (Lyme Green)

Ref	Action	Responsibility	Implementation Progress at 14/9/12
	<p>use of already skilled staff will be made to ensure consistency of approach and learning across the organisation.</p> <p>Current service methodologies are to be continued until the new framework is in place. Where no current service framework exists, there is a default corporate framework available to all staff.</p>	<p>Vivienne Quayle - Draft of new framework CMT for effective implementation of framework</p> <p><b>Timescale (s):</b> New framework to be agreed by end October and with training beginning in November 2012.</p>	<p>managers' group has been set up to establish the detail within the programme and ensure all services use the corporate framework. A draft framework exists which is being used by those services that don't have their own framework already.</p> <p>A training strategy and plan is being developed to implement the new framework. This will be in place by end of October 2012. Training has already taken place on general project management in high priority areas e.g. across the Development service within the Places Directorate. The framework is on track to be in place by the end of October target date.</p> <p>Additional resource requirements to develop and implement the new project management methodology and framework are being established during September 2012.</p>



### Action Plan Arising from the Internal Audit Report into Waste Transfer Station (Lyme Green)

Ref	Action	Responsibility	Implementation Progress at 14/9/12
B2	All relevant aspects of good programme and project management will be incorporated in to the new framework including escalating of key risks, financial variances and reputational issues. An awareness raising exercise led by CMT to highlight the new process will be instigated. CMT to personally commit to implementation and assisting staff to implement the new requirements. All budget holders to have a scheme to capture committed spend and escalate any potential overspends as part of the process.	<b>Lead Member:</b> Barry Moran <b>Support Member:</b> Peter Raynes <b>Lead Officer:</b> CMT – for effective implementation of framework and recognising training needs <b>Timescale (s):</b> As B1 above	<b>IN PROGRESS</b>  The new framework is being developed as above. The interim Chief Executive is personally overseeing CMT's input to the staff communication and behavioural changes necessary to ensure implementation of the new arrangements. A staff communication plan for the EMB is in place.
B3	Aspects of programme and project management relating to the need for planning permission will be integral to the programme and project management framework and checklists. Pre-application advice will become part of the criteria for projects to progress through the Project Gateway, as managed through the new Executive Monitoring Board.	<b>Lead Member:</b> Barry Moran <b>Support Members:</b> Rachel Bailey, Peter Raynes <b>Lead Officer(s):</b> Vivienne Quayle, Lisa Quinn. <b>Timescale (s):</b> Framework to be determined by end October, detailed aspects to be incorporated by end December 2012	<b>IN PROGRESS</b>  The detailed methodologies are being developed and the first aspect is the launch of the project Gateway process which began in August 2012. The key aspects around planning will be integral to the detail behind the framework. A staff communication plan around EMB and TEG is in place. Achievement against the October and December 2012 target dates is on track.  Pre- application advice is part of the criteria for projects to progress through the Project Gateway and is specifically included in the remit of the TEG.

### Action Plan Arising from the Internal Audit Report into Waste Transfer Station (Lyme Green)

Ref	Action	Responsibility	Implementation Progress at 14/9/12
B4	Each Director to review skills and capacity to deliver capital and revenue projects across the Directorate, and to provide training and support where necessary.	<b>Lead Member:</b> Barry Moran <b>Support Members:</b> Peter Raynes <b>Lead Officer:</b> John Nicholson/Lorraine Butcher/Lisa Quinn <b>Timescale (s):</b> End of October 2012 for skills analysis End of March 2013 for all relevant staff to be trained	<b>IN PROGRESS</b>  This is on track for the review to be completed by the end of October target date.
B5	Project management training to take place for all project and programme managers across the authority in all relevant services to ensure understanding of roles and responsibilities.	<b>Lead Member:</b> Barry Moran <b>Support Members:</b> Peter Raynes, Les Gilbert <b>Lead Officer:</b> CMT <b>Timescale (s)</b> Training to begin in November 2012 with full schedule of requirements in place by December 2012 and completed by end March 2013.	<b>IN PROGRESS</b>  This is being reviewed by CMT and priority areas have already been identified. The full training schedule will be implemented once resource requirements are agreed and implemented and the framework is in place (framework on target to be in place by end October 2012).

### Action Plan Arising from the Internal Audit Report into Waste Transfer Station (Lyme Green)

Ref	Action	Responsibility	Implementation Progress at 14/9/12
B6	Internal Audit to review new capital project and programme management arrangements in Places and Organisational Capacity during 2012/13 and across the Authority.	<b>Lead Member:</b> Peter Raynes <b>Support Members:</b> Barry Moran, Les Gilbert <b>Lead Officer:</b> Lisa Quinn <b>Timescale:</b> Audit scheduled in audit plan by September 2012. Audit to take place in 4th quarter 2012/13	<b>IMPLEMENTED</b>  The audit forms part of the revised audit plan for 2012/13. An audit also commenced, at the request of the Head of Development, in August 2012 of the project management arrangements within Assets, with the findings to be reported back to management in September/October 2012.
B7	A task and finish group on Planning Enforcement will be set up: <ul style="list-style-type: none"> <li>i. To review the current scope of services delivered through the Planning Enforcement function</li> <li>ii. To review performance against current service standards</li> <li>iii. To review resources aligned to Planning Enforcement and recommend changes in service standards/scope of services of working practices to improve overall performance.</li> <li>iv. To review the relationships between Planning Enforcement and other Planning Functions to ensure structures do not compromise conflicting demands.</li> </ul>	<b>Lead Member:</b> Rachel Bailey <b>Support Members:</b> Barry Moran, Peter Raynes <b>Lead Officer:</b> Caroline Simpson <b>Timescale:</b> End of October 2012	<b>IN PROGRESS</b>  The Environment and Prosperity Scrutiny Committee has agreed Terms of Reference for the task and finish group and the group has started to meet with a report to be provided by end of October 2012.  The Council's approach to enforcement is a high priority in the overall Council Plan which will be included in a report to Cabinet on 15 <sup>th</sup> October 2012.

### Action Plan Arising from the Internal Audit Report into Waste Transfer Station (Lyme Green)

Ref	Action	Responsibility	Implementation Progress at 14/9/12
<b>C</b>	<b>Compliance with European Directives and Finance and Contract Procedure Rules (Actions 7,8,9,10,11,12,13,14 and 15 from Audit Report Action Plan)</b>  <i>Address 'Compliance with European Directives' Action – Action 7 (page 83-87) and 'Compliance with Finance and Contract Procedure Rules' Actions – Action 8 (page 88-90), Action 9 (page 91-93), Action 10 (page 94-95), Action 11 (page 96), Action 12 (page 97-98), Action 13 (page 99), Action 14 (page 100-101) and Action 15 (page 102-103).</i>		
C1	A comprehensive training and awareness raising programme covering financial, contract and procedural rules is required. This will assist all staff in complying and properly explain the reasons for rules in these areas so that non-compliance is restricted to human error with a clear consequence for non-compliance.	<b>Lead Member:</b> Les Gilbert <b>Support Members:</b> Barry Moran, Peter Raynes <b>Lead Officer:</b> Caroline Elwood/Lisa Quinn <b>Timescale(s):</b> Training plan in place by end October 2012 and rolled out to all relevant staff by March 2013	<b>IN PROGRESS</b> Training has taken place across the organisation since the Lyme Green investigation through individual line managers and in key services. Staff have had clear messages from the interim Chief Executive about the need for compliance and the importance of accountability for all decisions. This is a key component of the action plan. Following the implementation of the governance and monitoring framework and the guidance/training for staff - clear sanction will be instigated for non compliance. These form part of the existing staff performance system and HR procedures and will be exercised where there is non-compliance.
C2	A task and finish group to be established by the Constitution Committee which will undertake a fundamental review of the application of Delegated Decisions. These relate to contract procedure rules as they lay down the levels of authority for members and individual officers.	<b>Lead Member:</b> Les Gilbert <b>Support Members:</b> Barry Moran, Peter Raynes <b>Lead Officer:</b> Caroline Elwood/Lisa Quinn <b>Timescale:</b> Group to be set up by end August and report	<b>IN PROGRESS</b> The task and finish group has been set up and will present a final report and recommendations to the Constitution Committee. The group met in August to discuss Contract Procedure Rules and the Delegated Decisions process was included in

### Action Plan Arising from the Internal Audit Report into Waste Transfer Station (Lyme Green)

Ref	Action	Responsibility	Implementation Progress at 14/9/12
		by end December 2012	this discussion. This is on track to report by end of December 2012. Reviews of such matters are part of the work of the Constitution Committee on an ongoing basis.
C3	CMT will establish interim arrangements to consider all delegated decisions at CMT meetings with relevant legal, finance and procurement advisors present. This will be an interim process subject to the outcome of the task and finish group described in C2.	<b>Lead Member:</b> Les Gilbert <b>Support Members:</b> Barry Moran, Peter Raynes <b>Lead Officer:</b> CMT/ Lisa Quinn <b>Timescale:</b> New process to be established by 1/7/12	<b>IMPLEMENTED</b>  New process for CMT to consider all Delegated Decisions has been in place since July 2012 and is fully operational.  This is an interim measure and there will be a role for the member policy development groups in influencing this process.
C4	Internal Audit will work with the Procurement team to identify specific areas where non-compliance occurs in order that appropriate training can be carried out.	<b>Lead Member:</b> Peter Raynes <b>Support Members:</b> Les Gilbert, Barry Moran <b>Lead Officer:</b> Lisa Quinn <b>Timescale:</b> Specific areas of non-compliance to be reviewed by end September 2012	<b>IN PROGRESS</b>  Review is in progress and will be linked to wider training programme.  The Procurement team has established a variety of training programmes for officers, commencing in October 2012 and covering "How to procure" and bespoke training.
C5	The monitoring processes of the Technical Enabler Group referred to in Section A will include checks on project cost estimates, including safeguards against project proceeding where costs may escalate beyond approved budgets.	<b>Lead Member:</b> Peter Raynes <b>Support Members:</b> Les Gilbert, Barry Moran <b>Lead Officer:</b> All CMT <b>Timescale:</b> Communication	<b>IN PROGRESS</b>  Communication to all staff from Leader and interim Chief Executive during August 2012.

### Action Plan Arising from the Internal Audit Report into Waste Transfer Station (Lyme Green)

Ref	Action	Responsibility	Implementation Progress at 14/9/12
	Clear communication of the need to spend within budget and the escalation process where there are financial pressures will be put in place.	by end Aug 2012. Detailed process as part of overall framework by end December 2012	Further detailed guidance on monitoring project costs, for use by Technical Enabler Group, to be in place within the project methodology by end December 2012 with detailed work in progress on this action.
C6	The monitoring processes of the Technical Enabler Group, reporting to the Executive Monitoring Board, referred to in Section A will provide a robust process which will identify variations in project costs and delivery, and ensure Finance and Contract Procedure Rules are complied with.	<b>Lead Member:</b> Peter Raynes <b>Support Members:</b> Les Gilbert Barry Moran <b>Lead Officer:</b> Lisa Quinn <b>Timescale:</b> As C5 above	<b>IN PROGRESS</b>  Staff have been made aware of the immediate issue of budget overspend expectations and the consequences of non-compliance. The detailed processes to achieve effective project management across the whole organisation are covered in actions B 1 - 7.
C7	The Corporate Governance Group will complete a review of internal procedures and compliance policy, its communication across the Council and the associated compliance framework. This group reports to the Audit & Governance Committee, and will make recommendations to this Committee at the end of the review.	<b>Lead Member:</b> Peter Raynes <b>Support Members:</b> Les Gilbert Barry Moran <b>Lead Officer:</b> Lisa Quinn <b>Timescale:</b> Review completed by end Dec 2012	<b>IN PROGRESS</b>  The Corporate Governance Group meets regularly. The review is underway and an update on the Governance framework is being presented to the Audit and Governance Committee in September. The review is on track to be completed by end December 2012.
C8	Corporate Management Team will ensure all Schemes of Delegation are reviewed, updated and published on the Council's intranet.	<b>Lead Member:</b> Peter Raynes <b>Support Members:</b> Les Gilbert, Barry Moran <b>Lead Officer:</b> All CMT <b>Timescale:</b> End July 2012	<b>IMPLEMENTED</b>  All updated Schemes of Delegation were in place and published by 31 <sup>st</sup> July 2012.

### Action Plan Arising from the Internal Audit Report into Waste Transfer Station (Lyme Green)

Ref	Action	Responsibility	Implementation Progress at 14/9/12
			Corporate Governance Group report to CMT in September will follow up and remind managers of their responsibility to comply.
C9	Changes will be made to the Oracle system to ensure that it reflects Schemes of Delegation, thereby reducing the opportunity for non-compliance.	<b>Lead Member:</b> Peter Raynes <b>Support Members:</b> Les Gilbert, Barry Moran <b>Lead Officer:</b> Lisa Quinn <b>Timescale:</b> End September 2012	<b>IN PROGRESS</b>  Significant progress has been made on updating service Schemes of Financial Delegation. This includes a review of approval limits (General Ledger and Procurement) held within the Oracle system to ensure consistency and appropriateness. There are a small number of remaining anomalies which require updating. These will be completed by end of October 2012.
C10	The final account for the Lyme Green project will be agreed to ensure that it is accurately reflected in the authority's financial accounting system and the published accounts.	<b>Lead Member:</b> Peter Raynes <b>Support Members:</b> Les Gilbert, Barry Moran <b>Lead Officer:</b> Lisa Quinn <b>Timescale:</b> End September 2012	<b>IMPLEMENTED</b>  Appropriate entries/disclosures have been made in the Statement of Accounts for the expenditure incurred at Lyme Green in 2011/12. For more details see Note 5 to the 2011/12 audited Statement of Accounts.

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## **CHESHIRE EAST COUNCIL**

### **Audit and Governance Committee**

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**Date of meeting:** 27<sup>th</sup> September 2012  
**Report of:** Corporate Governance Group  
**Title:** Compliance with Contract Procedure Rules

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#### **1.0 Report Summary**

- 1.1 The purpose of the report, as requested by Members, is to provide the Committee with details of the operation of the recently introduced revised procedure for Delegated Decisions to waive Contract Procedure Rules and Non-Compliances with Contract Procedure Rules and an update of those decisions, in order to see whether procedures are being complied with.

#### **2.0 Recommendations**

- 2.1 To note the revised procedure and update on Delegated Decisions and Non-Compliances.
- 2.2 To note that further reports on the process, and its robustness, will be brought to the Committee as part of the regular monitoring of the Annual Governance Statement Action Plan.

#### **3.0 Reasons for Recommendation**

- 3.1 The Audit and Governance Committee has a key role in overseeing governance arrangements and ensuring that the Council has appropriate policies and mechanisms in place to safeguard resources.
- 3.2 The issue of an effective and consistent approach to dealing with Delegated Decisions to waive Contract Procedure Rules and Non-Compliances with Contract Procedure Rules has been highlighted by Officers, and by the recent Lyme Green investigation, as well as being included in the Council's Annual Governance Statement for 2011/12.

#### **4.0 Wards Affected**

- 4.1 All wards.

**5.0 Local Wards Affected**

5.1 Not applicable.

**6.0 Policy Implications**

6.1 A task and finish group has been established by the Constitution Committee to review Contract Procedure Rules, including the Delegated Decisions process. Subsequent changes to those Rules would result in changes to the Constitution, to be approved by full Council.

**7.0 Financial Implications (Authorised by the Director of Finance and Business Services)**

7.1 There are no direct financial implications associated with the decisions requested.

**8.0 Legal Implications (Authorised by the Borough Solicitor)**

8.1 All employees must ensure that they use any Council or other public funds entrusted to them through their job role in a responsible and lawful manner.

8.2 Employees must also seek to ensure value for money and take care to avoid the risk of legal challenge to the Council in relation to the use of its financial resources. The Council's Officer Delegations, Finance and Contract Procedure Rules and Operating Procedures must, therefore, be followed at all times.

**9.0 Risk Assessment**

9.1 Laws and regulations, policies and procedures have been implemented to help ensure the Council's objectives are achieved in a manner that promotes economic, efficient and effective use of public resources and that assets and interests are safeguarded. The controls these put in place are designed to provide reasonable assurance rather than absolute certainty, because systems are susceptible to human error and poor judgement, and controls can be deliberately circumvented or overridden.

9.2 An important way for the Council to assess the efficacy of, and provide assurance on, its risk management, internal control and governance arrangements is to monitor and identify adverse incidents that it has had to deal with, and provide public assurance that appropriate action has been taken to ensure that any shortcomings are rectified promptly, and are less likely to be repeated in future. Often, it is sufficient to draw attention to the

proper requirements and the likelihood of sanctions for non-compliance with them, supported by guidance and, where necessary, training.

## **10.0 Background and Options**

- 10.1 As reported in the Council's Annual Governance Statement, "*during 2011-12 concerns were voiced by Officers regarding the content and timeliness of a number of Delegated Decisions to waive Finance and Contract Procedure Rules. A revised procedure whereby all such Delegated Decisions would go to Corporate Management Team for approval was subsequently introduced in May 2012*".
- 10.2 'Awareness and compliance with Council processes/procedures' has been included as a 'significant governance issue' within the Annual Governance Statement Action Plan, as well as the Lyme Green Action Plan, and reports of the monitoring of these Action Plans will be brought to future Committee meetings.
- 10.3 As a result, new systems and procedures are being put in place across the Council, new guidance for staff is being developed and issued, and these are being supported by an extensive programme of staff training.
- 10.4 From 29 May 2012, a new procedure was introduced, whereby the signing of Delegated Decision and Non Compliance forms is a standing item on the weekly Corporate Management Team agenda. Decision authors attend, together with those support staff who signed off the report, to explain the necessity for any waiver of the rules.
- 10.5 All forms are signed off by Legal, Procurement and Finance Officers, as well as the decision taking Officer along with the relevant Head of Service and Portfolio Holder.

## **10.6 Delegated Decisions**

From 29<sup>th</sup> May to 4<sup>th</sup> September this year there have been 13 Delegated Decision forms considered by Corporate Management Team, of which 12 have been approved and only 1 rejected.

The Delegated Decisions considered cover a wide range of services and also a number of different circumstances. Reasons include:

- Insufficient time to tender – where delays would cause operational difficulties for two local schools.
- Continuity of personal service provision, which was not the cheapest option but was considered to be in the best interest of a child with severe learning disabilities.

## **Non-Compliances**

From 29<sup>th</sup> May to 4<sup>th</sup> September there have been 10 Non-Compliance forms considered by Corporate Management Team, of which 9 have been approved and only 1 rejected.

The decisions considered cover a wide range of services and also a number of different circumstances. Reasons include:

- Legacy issues - where a contract has been rolled forward a number of years
- Continued support for a current operational system, whilst an alternative is developed and implemented.

- 10.7 Waivers to Contract Procedure Rules should be seen as the exception rather than the norm and lessons need to be learnt within Services if a waiver is requested because due process has not been followed. As part of the new process for all Non-Compliances, Corporate Management Team will ensure that appropriate intervention is made and action taken to avoid recurrence. Together with the implementation of the new arrangements outlined in 10.3 above, this will change the previous organisational 'culture' in which insufficient attention and rigour was given to ensuring proper compliance.

## **11.0 Access to information**

The background papers relating to this report can be inspected by contacting:

Name: Lisa Quinn

Designation: Director of Finance and Business Services

Tel No: 01270 686628

Email: [lisa.quinn@cheshireeast.gov.uk](mailto:lisa.quinn@cheshireeast.gov.uk)

## **CHESHIRE EAST COUNCIL**

### **Audit and Governance Committee**

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<b>Date of Meeting:</b>	27 <sup>th</sup> September 2012
<b>Report of:</b>	Director of Finance and Business Services
<b>Subject/Title:</b>	Annual Governance Report 2011-12
<b>Portfolio Holder:</b>	Councillor Peter Raynes (Finance)

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#### **1.0 Report Summary**

- 1.1 The Annual Governance Report will be presented to the Committee by the Audit Commission, the Council's external auditors. The report summarises the findings from the 2011/12 Audit. It identifies the key issues that have been considered by the Audit Commission before issuing their opinion on the Council's financial statements and its arrangements for securing economy, efficiency and effectiveness in the use of resources.

#### **2.0 Recommendation**

- 2.1 That the Committee receive and comment on the Annual Governance Report for 2011/12.

#### **3.0 Reasons for Recommendations**

- 3.1 The appointed auditors are required to report to those charged with governance. The Annual Governance Report presents the findings, conclusions and recommendations from audit work undertaken relating to the financial year 2011/12.

#### **4.0 Wards Affected**

- 4.1 Not applicable

#### **5.0 Local Ward Members**

- 5.1 Not applicable

#### **6.0 Policy Implications including climate change and health**

- 6.1 None

#### **7.0 Financial Implications (Authorised by the Director of Finance and Business Services)**

- 7.1 As covered in the report

## **8.0 Legal Implications (Authorised by the Borough Solicitor)**

8.1 As covered in the report

## **9.0 Risk Management**

9.1 The Local Government Act 2003 and the Local Government and Housing Act 1989 require the Statement of Accounts to be produced in line with recommended accounting practices.

## **10.0 Background and Options**

10.1 The auditors are responsible for giving an opinion on:

- whether the accounts present a true and fair view of the financial position of the authority and its expenditure and income for the year in question;
- whether they have been prepared properly in accordance with relevant legislation and applicable accounting standards.
- whether the Council has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources. This is known as the value for money (VFM) conclusion.

10.2 The findings, conclusions and recommendations from the audit work undertaken by the appointed auditors will be presented to the Committee on 27<sup>th</sup> September 2012.

## **11.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer:

Name: Joanne Wilcox

Designation: Corporate Finance Lead

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Email: [joanne.wilcox@cheshireeast.gov.uk](mailto:joanne.wilcox@cheshireeast.gov.uk)

## **CHESHIRE EAST COUNCIL**

### **Audit and Governance Committee**

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<b>Date of Meeting:</b>	27 <sup>th</sup> September 2012
<b>Report of:</b>	Director of Finance and Business Services
<b>Subject/Title:</b>	Final Statement of Accounts 2011-12
<b>Portfolio Holder:</b>	Councillor Peter Raynes (Finance)

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#### **1.0 Report Summary**

- 1.1 Following completion of the statutory audit, in accordance with the Accounts and Audit Regulations 2011, the Statement of Accounts are now presented to the Committee for approval.
- 1.2 The Final Statement of Accounts will be circulated to members prior to the meeting.

#### **2.0 Recommendation**

- 2.1 That subject to consideration of the Annual Governance Report and the auditors' findings, the Committee approve the final Statement of Accounts for 2011/12.

#### **3.0 Reasons for Recommendations**

- 3.1 To ensure compliance with the Accounts and Audit Regulations 2011.

#### **4.0 Wards Affected**

- 4.1 Not applicable

#### **5.0 Local Ward Members**

- 5.1 Not applicable

#### **6.0 Policy Implications including carbon reduction and health**

- 6.1 None

#### **7.0 Financial Implications (Authorised by the Director of Finance and Business Services)**

- 7.1 As covered in the report

## **8.0 Legal Implications (Authorised by the Borough Solicitor)**

- 8.1 As covered in the report

## **9.0 Risk Management**

- 9.1 The Local Government Act 2003 and the Local Government and Housing Act 1989 require the Statement of Accounts to be produced in line with recommended accounting practices.

## **10.0 Background and Options**

- 10.1 The Accounts and Audit (England) Regulations 2011 removed the requirement for the 2011/12 Accounts to be formally reviewed and approved by the Audit and Governance Committee prior to audit i.e. before the end of June. Members are now required to consider and approve the Accounts before 30<sup>th</sup> September, taking into account the auditors findings and any consequential adjustments to the draft Accounts.
- 10.2 The audit of the Accounts commenced on 2<sup>nd</sup> July 2012 and is now reaching its conclusion. As a result of the audit and the Council's own scrutiny of its Accounts a number of errors have been identified and amended in the final version of the Statements.
- 10.3 Training sessions have been held with the Committee in early September, which provided members with the opportunity to consider more detailed aspects of the Accounts.

## **11.0 Changes in Accounting Treatment**

- 11.1 2011/12 represented the second year of International Financial Reporting Standards (IFRS) implementation. Local government bodies have adopted IFRS and the 2011/12 accounts have been produced on this basis, as defined by the CIPFA Code of Practice.
- 11.2 In 2011/12 there was only one significant change in the Code's requirements; that is to reflect the introduction of a new category of assets called Heritage Assets. These assets include historical buildings, archaeological sites, military and scientific equipment of historical importance, civic regalia and museum and art gallery collections. Heritage Assets are defined as assets that are maintained for their contribution to knowledge and culture and are held in order to preserve them for future generations.

## **12.0 Amendments to the Accounts**

- 12.1 At the time of writing the following amendments have been agreed and reflected in the final Statement of Accounts.



- Investments (Note 19a) ~ An amount of £1.508m has been reclassified from short term to long term investments.
  - Defined benefit pension schemes (Note 47) ~ An amount of £2.946m has been reclassified from past to current service costs.
  - Revaluation Reserve (Note 26a) and Property, Plant and Equipment (Note 12) ~ Correction of an overstatement of revaluations and impairments recognised in the Revaluation Reserve and Property, Plant and Equipment, value £1.188m.
  - Current debtors (Note 21) ~ Correction of a misclassification relating to a benefits claimants comparative, value £0.351m.
- 12.2 The Explanatory Foreword has been revised to provide a reconciliation from the final outturn position to the figures disclosed in the Comprehensive Income and Expenditure Account.
- 12.3 The remainder of the changes are presentational and include minor changes to wording to improve readability.

### **13.0 Summary of Final Accounts**

- 13.1 The changes outlined above have had no material impact on the Core Statements.

### **Comprehensive Income and Expenditure Statement**

- 13.2 This statement shows the accounting cost in the year of providing services in accordance with generally accepted accounting practices, rather than the amount to be funded from taxation.

	2011/12			2010/11 Restated
	Expenditure £000s	Income £000s	Net £000s	Net £000s
Central services to the public	26,884	(2,639)	24,245	4,028
Cultural & Related Services	43,492	(9,531)	33,961	29,825
Environmental & Regulatory Services	42,085	(5,178)	36,907	37,594
Planning Services	13,391	(5,604)	7,787	8,307
Education and children's services	315,442	(233,641)	81,801	88,209
Highways and transport services	38,828	(9,405)	29,423	31,120
Other housing services	86,567	(2,288)	84,279	6,165
Adult social care	160,111	(45,744)	114,367	117,686
Exceptional items	0	0	0	(109,253)
Corporate and democratic core	4,877	0	4,877	3,277
Non distributed costs	5,087	(48)	5,039	8,482
<b>Cost Of Services</b>	<b>736,764</b>	<b>(314,078)</b>	<b>422,686</b>	<b>225,440</b>
Other Operating Expenditure	40,372	(3,089)	37,283	11,694
Financing and Investment Income and Expenditure	11,843	(7,894)	3,949	30,458
Taxation and Non-Specific Grant Income	0	(411,581)	(411,581)	(305,392)
<b>(Surplus) or Deficit on Provision of Services</b>	<b>788,979</b>	<b>(736,642)</b>	<b>52,337</b>	<b>(37,800)</b>
(Surplus) / deficit on revaluation of assets/investments			(12,992)	(183,628)
(Surplus) / deficit on Pensions			84,614	(235,281)
<b>Other Comprehensive Income and Expenditure</b>			<b>71,622</b>	<b>(418,909)</b>
<b>Total Comprehensive Income and Expenditure</b>			<b>123,959</b>	<b>(456,709)</b>

- 13.3 The Surplus or Deficit on Provision of Services gives the overall 'true economic cost' of providing the Council's services. The figure of £52.3m for 2011/12 shows an overall deficit and is due to the number of adjusting items in the income and expenditure account which do not impact on balances, these adjustments relate to the depreciation and impairment of assets, gain/losses on disposal of assets, capital grants and pension costs. After taking into account these adjustments the final impact on the general fund balance for 2011/12 is a reduction of £1.1m, which is consistent with the position reported to members at outturn.
- 13.4 The final outturn position reflects the decision to write off capital expenditure of £1.6m on the aborted PFI Waste Project and fund the costs from revenue reserves.

- 13.5 By comparison the adjusting items for 2011/12 resulted in an overall surplus on the provision of services. In the main this related to the rebasing of future pension increases to the Consumer Price Index rather than the Retail Price Index and this is reflected in the Exceptional Items line.
- 13.6 Aside from pension costs, the other main variances from the 2010/11 Income and Expenditure Statement relate to the treatment of Council Tax and Housing Benefit Subsidy as Non-specific Grant Income rather than service specific.

### Balance Sheet

- 13.7 This statement shows the value as at the Balance Sheet date of the assets and liabilities recognised by the Council.

Balance Sheet	31 March 2012 £000	31 March 2011 £000	Change
Non-Current Assets	882,859	916,633	(33,774)
Long Term Investments and Debtors	22,607	5,389	17,218
<b>Long Term Assets</b>	<b>905,466</b>	<b>922,022</b>	<b>(16,556)</b>
Short Term Investments	5,195	39,358	(34,163)
Assets Held for Sale	9,314	215	9,099
Inventories	682	1,011	(329)
Short Term Debtors	52,292	61,393	(9,101)
Cash and Cash Equivalents	34,592	26,365	8,227
<b>Current Assets</b>	<b>102,075</b>	<b>128,342</b>	<b>(26,267)</b>
Short Term Borrowing	(5,521)	(5,021)	(500)
Short Term Creditors	(102,094)	(100,614)	(1,480)
<b>Current Liabilities</b>	<b>(107,615)</b>	<b>(105,635)</b>	<b>(1,980)</b>
Provisions	(6,039)	(5,864)	(175)
Long Term Borrowing	(128,880)	(129,382)	502
Net Pension Liability	(360,242)	(280,723)	(79,519)
Other Long Term Liabilities	(26,858)	(26,894)	36
<b>Long Term Liabilities</b>	<b>(522,019)</b>	<b>(442,863)</b>	<b>(79,156)</b>
<b>Net Assets</b>	<b>377,907</b>	<b>501,866</b>	<b>(123,959)</b>
<b>Usable Reserves</b>	<b>60,785</b>	<b>74,968</b>	<b>(14,183)</b>
<b>Unusable Reserves</b>	<b>317,122</b>	<b>426,898</b>	<b>(109,776)</b>
<b>Total Reserves</b>	<b>377,907</b>	<b>501,866</b>	<b>(123,959)</b>

- 13.8 The value of the Council's Non-Current assets has fallen by £33.8m due to the depreciation and impairment of assets and the writing out of four Foundation Schools. A number of assets have also been reclassified.

- 13.9 The increase in Long Term Investments relates to investments in Pooled Funds where the expectation is for these investments to be retained over twelve months.
- 13.10 The reduction in Short Term Investments is due to a combination of transfers to Long Term Investments and a general reduction in cash balances held by the Council. The Council has deliberately used cash balances to finance capital expenditure in 2011/12 to avoid the need to externally borrow and has therefore made substantial savings in external interest costs.
- 13.11 The Net Pension Liability has increased by £79.5m, mainly as a result of the Local Government Pension Scheme (LGPS). The decrease in the LGPS is due to falling bond yields and poor asset returns.
- 13.12 Both usable and unusable reserves have fallen over the last 12 months. The £14.2m reduction in usable reserves is due to the Council's use of capital receipts and grant funding brought forward from previous years to fund capital expenditure and the planned drawdown of earmarked reserves. Unusable reserves have been used to fund the increase in the pension liability.

#### **14.0 Next Steps**

- 14.1 The final version of the Statement of Accounts will be published on the Cheshire East website before the statutory deadline of 30<sup>th</sup> September and a more accessible version of this information will be made available in the form of a Summary Statement of Accounts.

#### **15.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer:

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## **CHESHIRE EAST COUNCIL**

### **Audit and Governance Committee**

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**Date of meeting:** 27<sup>th</sup> September 2012  
**Report of:** Corporate Governance Group  
**Title:** Annual Governance Statement 2011/12  
**Portfolio Holder:** Councillor Peter Raynes

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#### **1.0 Report Summary**

- 1.1 The purpose of the report is for the Committee to approve the Annual Governance Statement (AGS) 2011/12 for signature by the Leader of the Council and the Chief Executive. Once approved, the AGS will accompany the statement of accounts.

#### **2.0 Recommendation**

- 2.1 That the Committee approve the Annual Governance Statement.

#### **3.0 Reasons for Recommendation**

- 3.1 In accordance with the Accounts and Audit Regulations, the Annual Governance Statement should be approved by Members meeting as a whole of Committee at the same time as the statement of accounts is approved, i.e. by 30 September.

#### **4.0 Wards Affected**

- 4.1 All wards

#### **5.0 Local Wards Affected**

- 5.1 Not applicable

#### **6.0 Policy Implications**

- 6.1 None

## **7.0 Financial Implications**

- 7.1 No specific financial implications. The production of the AGS aligns with the production of the Annual Accounts and is published alongside the audited accounts (approved by end of September 2012).

## **8.0 Legal Implications**

- 8.1 The production of the AGS is required by the Accounts and Audit Regulations.

## **9.0 Risk Assessment**

- 9.1 The Authority is required to prepare and publish an Annual Governance Statement to meet the statutory requirement set out in Regulation 4 of the Accounts and Audit Regulations. Failure to do so could result in non-compliance with the requirements of the Regulations.

## **10.0 Background and Options**

- 10.1 As previously reported to the Audit and Governance Committee, the Council is required to prepare and publish an Annual Governance Statement (AGS). This requirement was introduced by the revised CIPFA/SOLACE Good Governance Framework (Delivering Good Governance in Local Government) and is necessary to meet the statutory requirement set out in Regulation 4 of the Accounts and Audit Regulations.
- 10.2 At the last meeting in June, the Committee considered the draft Annual Governance Statement. The AGS has been amended to take account of Members comments at that meeting and also any feedback received in the interim period from Members and Officers.
- 10.3 Once finalised, the AGS will be published on the Council's website, along with the Statement of Accounts, for members of the public, Members, Officers and other stakeholders to view.
- 10.4 A workshop for Members that examines the draft AGS and supporting documentation has taken place prior to this Committee meeting.
- 10.5 Regular updates on progress on the AGS Action Plan will be brought to this Committee during 2012/13.

#### **11.0 Access to information**

The background papers relating to this report can be inspected by contacting the report writer:

Name: Lisa Quinn

Designation: Director of Finance and Business Services

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**Cheshire East Council**  
**Annual Governance Statement 2011/12**

**Introduction**

Cheshire East Council, like all local government bodies, is responsible for ensuring that its 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.

The development of a Code of Corporate Governance, consistent with the principles and requirements of the CIPFA/SOLACE Framework *'Delivering Good Governance in Local Government'* helps to ensure proper arrangements are in place to meet that responsibility. Cheshire East Council adopted a Code of Corporate Governance in 2009 and this is subject to annual review and update where necessary.

The Council undertakes an annual review of its governance arrangements to ensure continuing compliance with best practice as set out in the Framework. This Annual Governance Statement (AGS) is that review.

It is important that the AGS is reported on both within the Authority, to the Audit Committee or other appropriate member body, and externally with the published accounts, to provide assurance that:

- governance arrangements are adequate and operating effectively in practice, or
- where reviews of the governance arrangements have revealed gaps, action is planned that will ensure effective governance in future.

The process of preparing the governance statement itself adds value to the corporate governance and internal framework of the Council. Both officer and Member involvement in the drafting process ensures that the document is robust and reflective of the Authority's governance and internal control arrangements for 2011/12.

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**Section 3      Significant governance issues and Action Plan**

**Section 1 Cheshire East Council's Governance Framework****Scope of responsibility**

- 1 Cheshire East Council is responsible for ensuring that its 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. Cheshire East Council also has a duty under the Local Government Act 1999 to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
- 2 In discharging this overall responsibility, Cheshire East Council is responsible for putting in place proper arrangements for the governance of its affairs, facilitating the effective exercise of its functions, and arrangements for the management of risk.
- 3 Cheshire East Council has approved and adopted a [Code of Corporate Governance](#), which is consistent with the principles of the CIPFA/SOLACE Framework Delivering Good Governance in Local Government.
- 4 This statement explains how Cheshire East Council has complied with the Code and meets the requirements of Regulation 4 (3) of the Accounts and Audit (England) Regulations 2011.

**The purpose of the Governance Framework**

- 5 The governance framework comprises the systems and processes, culture and values, by which the authority is directed and controlled and its activities through which it accounts to, engages with and leads the community. It enables the authority to monitor the achievement of its strategic objectives and to consider whether those objectives have led to the delivery of appropriate, cost effective services.
- 6 The system of internal control is a significant part of that framework and is designed to manage risk to a reasonable level. It cannot eliminate all risk of failure to achieve policies, aims and objectives and can therefore only provide reasonable and not absolute assurance of effectiveness. The system of internal control is based on an ongoing process designed to identify and prioritise the risks to the achievement of Cheshire East Council's policies, aims and objectives, to evaluate the likelihood of those risks being realised and the impact should they be realised, and to manage them efficiently, effectively and economically.

## The Governance Framework

- 7 The governance framework has been in place at Cheshire East Council for the year ended 31 March 2012 and up to the date of approval of the annual report and statement of accounts.
- 8 The process that has been applied in maintaining and reviewing the effectiveness of the governance framework is as follows:
  - **The Authority/Constitution**
  - **The Cabinet/Other Committees**
  - **Audit & Governance Committee**
  - **Scrutiny Committees**
  - **Standards Committee**
  - **Internal Audit**
  - **External Audit and Inspection**
  - **Chief Financial Officer** (Director of Finance and Business Services)
  - **Monitoring Officer** (Borough Solicitor)
  - **Management Assurance**
  - **Performance Management**

### **The Authority/Constitution**

- 9 The Council has formally adopted a [Constitution](#) last updated in April 2012. The Constitution Committee, with other appropriate Members, and senior Officers, monitor and review the Constitution to make sure that its aims and principles are given full effect. Changes to the Constitution are approved by full Council after consideration of the proposal by the Constitution Committee.
- 10 All Councillors meet together a number of times each year as the full [Council](#) to set the Council's major plans, policies, strategies and the budget, take decisions required by law or where the Council decides that collective decisions should be taken.

### **The Cabinet/Other Committees**

- 11 The Council has appointed a [Cabinet](#) and a number of [committees](#) to make decisions. Many of the Council's decisions are made by the Council's Cabinet, Cabinet committees, or officers acting on its behalf. Other decisions, such as planning and licensing decisions, have to be made by committees of the Council, or officers acting on their behalf. The decision making framework has been developed in accordance with the requirements of the law.
- 12 The Cabinet meets formally at least once per month, to deal collectively with the high level operational and more strategic business, including key decisions of the Authority. Additionally, the Cabinet has adopted a scheme of delegation to the individual [Cabinet Members](#), so that they are able to take decisions as appropriate within their portfolio responsibility.

### Audit & Governance Committee

- 13 The [Audit and Governance Committee](#) plays a key role in the review of the effectiveness of the governance framework by seeking assurance on the adequacy of the Council's risk management, control and governance arrangements and monitoring the AGS action plan. During 2011/12, the Chair and Vice Chair of the Committee, with the Audit Managers, assessed the effectiveness of the system of internal audit using the following checklists:
- compliance with the [Code of Practice for Internal Audit in Local Government in the United Kingdom 2006](#)
  - self-assessment - Measuring the Effectiveness of the Audit Committee. This was reported to and agreed by the [Audit and Governance Committee](#).
- 14 The Corporate Governance Group (CGG) is an officer group chaired by the Section 151 Officer, with membership including the Monitoring Officer and Head of Service representation from Finance, HR and Internal Audit. The group undertakes an on-going review of the Council's governance arrangements and identifies, collects, and challenges supporting evidence as part of the annual review to feed into the production of the AGS. It reports its findings to the Audit and Governance committee after consideration by the Corporate Management Team. CGG met five times during 2011/12.
- 15 The Audit and Governance Committee critically review the Statement of Accounts, the AGS and the supporting documentation and, in considering whether to approve the Statement, seeks to satisfy itself that Management has obtained relevant and reliable evidence to support the disclosures made.

### Scrutiny Committees

- 16 There have been six [Scrutiny and Overview Committees](#) operating during 2011/12; Adult Social Care, Children and Families, Corporate Scrutiny, Environment and Prosperity, Health and Wellbeing and Sustainable Communities.
- 17 The role of the Committees includes not just 'holding the Cabinet to account' but also carrying out advisory work on policy development (the 'Overview' function). Each of these Scrutiny Committees meets a minimum of six times during the year. Additional meetings may be required, to deal with unplanned business such as the "call in" of particular Cabinet decisions, ad hoc requests by the Cabinet to undertake policy development work, and specific proposals identified by non Executive Members.

### Standards Committee

- 18 The [Standards Committee](#) promotes high standards of ethical behaviour by developing, maintaining and monitoring codes of Conduct for Members of the Council (including Co-opted Members and other persons acting in a similar capacity) and for employees in accordance with best practice and Government guidance. The Standards Committee has formed three Sub-Committees to deal with the initial assessment of any complaints raised against Members; review of decisions whether or not to investigate; and to conduct hearings.
- 19 Between April 2011 and March 2012, the Committee has considered ten complaints in total, two against members of Cheshire East Council and eight against members of the Borough's Town and Parish Councils. Of these complaints, four have been referred for formal investigation, with no further action taken on the remaining six.
- 20 The coming into force of the Localism Act 2011 on 1 November 2011 has changed the way in which local authorities will deal with complaints. Whilst the Act will still expect Councils to promote and maintain high standards of conduct by Councillors and co-opted members and the Town and Parish Councils in its areas, there will be no requirement to appoint a Standards Committee. Council agreed at its 19 July 2012 meeting to a recommendation from Constitution Committee, which will see future Member conduct issues will be dealt with by subcommittees and panels of the Audit and Governance Committee, on an ad-hoc basis.

#### **Internal Audit**

- 21 The Council's Internal Audit Service produces and delivers against a risk-based Annual Plan, approved by the Audit and Governance Committee, in accordance with the CIPFA 'Code of Practice for Internal Audit in Local Government in the United Kingdom 2006'. The Head of Internal Audit (currently vacant) reports progress against the Plan and the service's individual performance targets to the Audit and Governance Committee throughout the year.
- 22 The Internal Audit Annual Report for 2011/12 was presented to the Audit & Governance Committee at its meeting on [28th June 2012](#). The report concluded with the formal Internal Audit opinion that the Council had established a satisfactory framework of risk management, control and governance. This provides adequate assurance over the Council's control environment, with control weaknesses identified during audits and/or by management addressed or being addressed.

#### **External Audit and Inspection**

- 23 During 2011/12, the Council has undergone an inspection by the Audit Commission ([Annual Audit Letter 2010/11](#)). The Council's External Auditors (The Audit Commission), annually reviews the financial aspects of corporate governance, including the work of Internal Audit. In carrying out this work the Commission seeks assurance that the systems of financial control are in place and operating effectively. This includes a review of the Council's key financial systems in order to establish that they operate soundly and that there are no fundamental breakdowns in controls that

would result in material discrepancies. Grant Thornton will become the Council's new External Auditors as from 1<sup>st</sup> September 2012.

- 24 An [OFSTED](#) inspection of the Council's Safeguarding and Looked After Children role was carried out in June/July 2011 with the subsequent report giving an 'adequate' assessment. An improvement plan was agreed by the [Children & Families Scrutiny Committee](#) in September 2011.
- 25 The [Local Government Ombudsman's Annual Review](#) for the year ended 31st March 2011 was reported to the Audit and Governance Committee in September 2011. Of the 50 enquiries which were formally investigated, the Ombudsman found that, in 95% of the cases, there was no evidence of maladministration or injustice to the complainant. In the remaining 5% of the cases, Local Settlements were reached.

#### **Chief Financial Officer**

- 26 The roles and responsibilities of the Chief Financial Officer are outlined in the Constitution, along with their appointment as the Section 151 officer.
- 27 The Chief Financial Officer attends Corporate Management Team, Cabinet and Council to provide direct input on all key decisions and is consulted on and signs off financial input to all Committee reports.

#### **Monitoring Officer**

- 28 The Borough Solicitor is formally appointed as the Monitoring Officer and their roles and responsibilities are set out in the Constitution.

#### **Management Assurance**

- 29 The [Council's Corporate Management Team](#) provides strategic advice to the Council and co-ordinates the Council's activities to ensure high standards of performance.
- 30 Formal assurance with regard to the governance framework is provided by Directors, Heads of Service and Service Managers who independently sign off on the adequacy of controls within their service areas, including joint working arrangements, via disclosure statements. Furthermore, designated officers complete Annual Governance Statement self-assessments in order to determine the extent to which the Council complies with the principles of good governance contained within its local code.

#### **Performance Management**

- 31 There is a defined performance management process beginning with the Business Plan, linked to service plans, team plans and then individual performance and

development plans. This is supported by an electronic performance management system; CorVu.

- 32 The performance reporting framework includes monthly reporting to Corporate Management Team and informal Cabinet with quarterly reporting and a quarterly challenge discussion between the Leader, Chief Executive and relevant Portfolio Holder and Director.



## **Section 2      Review of effectiveness**

Cheshire East Council has responsibility for conducting, at least annually, a review of the effectiveness of its governance framework including the system of internal control. The review of effectiveness is informed by the work of the executive managers within the authority who have responsibility for the development and maintenance of the governance environment, the Head of Internal Audit's annual report, and also by comments made by the external auditors and other review agencies and inspectorates.

The six principles of Cheshire East Council's governance framework, as set out in the Authority's Code of Corporate Governance are outlined below, along with a brief description of arrangements and an assessment of the effectiveness of those arrangements during 2011/12.

### **Principle 1      Focusing on the purpose of the authority and on outcomes for the community and creating and implementing a vision**

#### ***1.1      Exercising strategic leadership by developing and clearly communicating the Authority's purpose and vision and its intended outcome for citizens and service users***

- The Authority's Business Plan 2012-15, '[Ambition, Action, Achievement](#)' integrates financial and service planning at a corporate level, setting out priorities and targets for the next three years, linked to Cheshire East's Sustainable Community Strategy, '[Ambition for All](#)'.
- The Council's vision and Sustainable Community Strategy was subject to extensive consultation in Spring 2010 leading to approval of the Strategy in July 2010. The vision has been revisited and remains as 'Working together to improve community life'.
- Assessment criteria have been developed and applied to identify the Authority's Significant Partnerships, and a self assessment governance questionnaire has been completed by responsible officers. The findings from these questionnaires will also be used to inform the development of a Partnerships Protocol to provide further support and guidance on joint working arrangements. A Partnerships Register is being developed and alongside the Protocol will be used as the basis of an internal audit review of Partnerships governance.
- Arrangements for the publication of the annual financial statements meet statutory requirements. There is on-going dialogue with the Audit Commission to address [issues raised](#) during the audit of the [2010/11 accounts](#).
- Information on the performance of the Authority over the previous financial year is being included in the autumn 2012 edition of Cheshire East News.

**1.2 Ensuring that users receive a high quality of service whether directly, or in partnership, by commissioning**

- A VFM Strategy was developed for the 2012/15 Business Planning process and the Business Plan now integrates reporting on corporate priorities with the budget, so that allocation of resources and service delivery priorities are more clearly linked. Audit Commission benchmarking data was used to inform the Business Planning process planning/challenge sessions and a positive VFM opinion was given in the 2010/11 accounts.
- The CorVu performance system was implemented during 2011/12 to allow tracking and reporting on key performance data.
- The Council has a [Corporate Complaints](#) procedure, supported by a database to record and monitor complaints. Performance data on the time it takes to respond to complaints and the number of complaints escalated to the Ombudsman are reported quarterly. The Council participates in the Local Government Benchmark Group that provides mystery shopping on a half yearly basis. The [Citizen's Panel](#) provides insight into overall satisfaction with the way Council runs things, and provides more detailed insight such as on 'contacting the Council'.

**1.3 Ensuring that the authority makes best use of resources and that taxpayers and service users receive excellent value for money**

- A VFM Strategy is in place which incorporates the corporate approach and its relevance to services. It includes an agreed approach to benchmarking and has been endorsed by Corporate Management Team. The business planning group meets on a weekly basis to discuss process and also the input to the budget setting process around benchmarking data, corporate challenge and key financial indicators. The efficiency requirements focused on those areas that were deemed to provide least value for money.
- The Council is continuing to improve its processes and is reviewing the approach to achieving value for money. A revised VFM Strategy will accompany the Business Planning Process for 2013/2016 and consider links to the Sustainable Community Strategy. Increasing cost drivers, such as social care, continue to be a feature of the Council's Budget and further work is underway to establish the basis for these costs and the options for providing services in the future with limited funding sources.
- The intention is that understanding the options available, and their impact, in terms of capital, one off revenue expenditure and organisational capacity, set against the Council's priorities and performance targets, will enable Cabinet Members and Corporate Management Team to set a "direction". That will determine which of the options can be explored in more detail and which will need to be delayed. This work will include consideration of alternative service delivery options where appropriate. In addition, funding mechanisms are changing to give the Council an opportunity to

influence its income levels through additional business rates etc. The need to invest to maintain / grow funding levels will also be considered as part of this process.

- Cheshire East Council's financial management arrangements comply with the governance arrangements of [CIPFA's Statement on The Role of the Chief Financial Officer in Local Government \(2010\)](#).
- The Chief Financial Officer plays a key role in business planning process, providing regular updates to Cabinet and Scrutiny Committees on the financial scenario and budgetary position, including capital programme and treasury management.
- The robustness of budget estimates is reviewed by the Chief Financial Officer as part of the Business Planning process. Quarterly financial updates ensure that budget variances are identified, reported and addressed through remedial action in order to minimise any unplanned call on balances. Delivery of significant budget changes are risk assessed and tracked on a monthly basis.
- There are a number of areas e.g. Adult Social Care, ICT Shared Service where overspends have been identified and mitigating actions introduced. Further actions are ongoing and detailed in the Action Plan at Appendix 1.
- The Council has approved a [Treasury Management Policy and Strategy for 2012-15](#), however there is a need to develop Treasury Management Practice Statements which will document the processes used for business continuity purposes, elaborate upon the risk management strategies required and clarify the responsibilities for decision making.
- The Council has approved a [5 year Carbon Management Plan](#) which includes a clear baseline position and targets for improvement. There is a Programme Management Board in place chaired by a member of CMT and clear plans to deliver the priorities and actions identified.

**Principle 2    Members and Officers working together to achieve a common purpose with clearly defined functions and roles**

**2.1    *Ensuring effective leadership throughout the authority and being clear about executive and non-executive functions and of the roles and responsibilities of the scrutiny function***

- The Scrutiny Chairs Group has been formally recognised in the Council's Constitution. The role of this group is to drive the work of the Overview and Scrutiny Functions, monitoring progress and workloads, as well as acting as a sounding board for matters of common interest across all overview and scrutiny committees, including new legislation and best practice.

- The Council appointed a Joint Member Working Group to investigate all available options to review governance arrangements under the Localism Act 2011. The [proposed governance option](#) agreed by Council in May 2012 continues the arrangements of the existing leader and cabinet model although with two Overview and Scrutiny Committees (instead of six) and up to nine new cross-party policy groups, aligned to the Cabinet.
- Delegated Decisions by Officers are recorded in Departmental Registers. During 2011-12 concerns were voiced by Officers regarding the content and timeliness of a number of Delegated Decisions to waive Finance and Contract Procedure Rules. A revised procedure whereby all such Delegated Decisions would go to Corporate Management Team for approval was subsequently introduced in May 2012.

**2.2 *Ensuring that a constructive working relationship exists between authority members and officers and that the responsibilities of members and officers are carried out to a high standard***

- The Council [elected a new Leader](#), Cllr Michael Jones at the Annual Council in May 2012. New working relationships will need to be developed between the Leader and the Chief Executive.
- The Council's Chief Executive was absent from work for a significant period due to ill health before leaving the Authority on June 30th. In her absence, key duties were covered by the Strategic Directors, and approval by Council has been given to the appointment of an interim Chief Executive, should it become necessary. An interim Chief Executive has been appointed to cover the period from August 2012 for six months.
- During 2011/12, Finance and Contract Procedure Rules were [revised](#) and updated to reflect changes to the Officer Scheme of Delegation, [national best practice recommendations](#), changes to the way the Council operates and to improve alignment to other parts of the Constitution.

**2.3 *Ensuring relationships between the authority, its partners and the public are clear so that each knows what to expect of the other***

- The Council established a new [Independent Remuneration panel](#), which will recommend the annual remuneration for Members.
- In line with the requirements of the Localism Act 2011, the Council published a [Pay Policy Statement](#), outlining the Council's policy on all elements of pay and reward for Chief Officers and Deputy Chief Officers.
- Harmonisation of staff pay and conditions was achieved with effect from 1<sup>st</sup> November 2011, via a collective agreement with the Trade Unions. Officer terms and conditions are clearly set out and the full set of harmonised policies and procedures is available online to staff.

- The performance reporting framework has been developed and now covers monthly performance reports against the Service/Business plan made to informal Cabinet, quarterly reporting, quarterly challenge discussion between the Chief Executive, Leader, relevant Portfolio Holder and Director. Staff performance has been monitored against agreed objectives which link to team plans, through to the corporate priorities. A new Performance Development framework will be used in 2012/13.
- The Business Planning process is being used to demonstrate how resources will be matched against delivering the priorities outlined in “Ambition for All” and this has also been agreed by the [PACE \(Partnerships for Action in Cheshire East\) Board](#).

<b>Principle 3     Promoting values for the authority and demonstrating values of good governance through upholding high standards of conduct and behaviour</b>
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### ***3.1     Ensuring Council Members and Officers exercise leadership by behaving in ways that exemplify high standards of conduct and effective governance***

- Member reports are generally open to the public, unless the Borough Solicitor authorises exemption on an exceptional basis, in accordance with [Access to Information Rules](#) as described in the Constitution. Meeting agendas contain public speaking and questions. The Council has in place provisions for [petitions and e-petitions](#).
- The Localism Act 2011 requires the council to adopt a new Code of Conduct and to have in place a process for investigating alleged breaches of the Code. A new Code of Conduct and investigation procedure, recommended from Constitution Committee were approved by Council at the 17<sup>th</sup> July meeting.
- Members have received training and advice on bias and conflicts of interest, reinforced by protocols, the Code of Conduct for members and officers, and financial regulations. Departmental registers are maintained for officer conflicts and hospitality. Members register their interests, including hospitality. The Council has a [Whistle-Blowing policy](#), which is communicated to staff and available on the website and within the Constitution.
- The Employee Code of Conduct has been reviewed and updated and clearly sets out responsibilities and expectations for Officers. It was reissued to all staff with their revised statement of particulars in June 2012.

### ***3.2     Ensuring that organisational values are put into practice and are effective***

- The Council has recently reviewed its ASPIRE<sup>1</sup> values and is embarking on a programme of culture change and corporate improvements stemming from the Leadership Conferences last year.
- The Council's Business Management Review has identified 'corporate process owners', responsible for leading the development of key financial processes/systems, including dissemination of best practice and compliance. Finance Procedure Rules set out a clear framework of financial control/accountabilities and an updated version was agreed by Council in February 2012.
- The Anti-Fraud & Corruption Strategy, Confidential Reporting Procedure (Whistleblowing policy), Complaints Procedure, and Money-Laundering Policy provide the framework for identification and reporting of financial irregularities and potential control breaches. Disclosure statements from managers require the reporting of any suspected breaches of financial control/irregularity. The risk of financial loss due to unplanned expenditure arising from breaches of financial control is recognised in the corporate risk register and kept under continual review.
- The Standards Board for England was [formally abolished](#) on 21<sup>st</sup> March 2012 and Cheshire East Council's Standards Committee was abolished on 1<sup>st</sup> July, 2012. Under the Localism Act, the Council had the option to set up a 'voluntary' Standards Committee or sub-committee with delegated powers to deal with Standards issues. Council (17<sup>th</sup> July 2012) agreed that the Audit & Governance Committee will establish this sub-committee and a new Code of Conduct has been adopted.
- All officer reports to Committee follow a mandatory template which indicates how recommendations take into account relevant policy and statutory obligations.

**Principle 4    Taking informed and transparent decisions which are subject to effective scrutiny and managing risk**

**4.1    *Being rigorous and transparent about how decisions are taken and listening and acting on the outcome of constructive scrutiny***

- Scrutiny is supported by a dedicated team. Each Chair has briefings with individual [Portfolio Holders](#) and [Service Heads](#) which ensures that the work programmes complement corporate priorities, whilst recognising the independence of the scrutiny function. Individual work programmes items are aligned to the Business Plan.
- A sixth Scrutiny Committee was added to the structure in 2011/12 to focus on health and wellbeing matters in preparation for the introduction of the Health and Wellbeing Board in 2013. This also provided an opportunity to create a dedicated

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<sup>1</sup> ASPIRE values are summarised as "Take the *action* with *integrity*, *support* and *recognise* others, achieve *excellence* for *people* across Cheshire East"

Adult Social Scrutiny committee to give extra focus on that area of the Council's function. Changes to the scrutiny arrangements have been covered in 2.1.

- Internal Audit reports are submitted to management for comment and formal response. Towards the end of 2011/12, Internal Audit introduced a new Reporting Protocol, including a formal Audit Opinion for each audit with a follow-up procedure linked to this opinion.
- Internal Audit now report directly to the CFO, with a reporting line to the Chief Executive as well. The Audit and Governance Committee receive regular updates on Internal Audit work plans and key findings.
- Although the Head of Internal Audit post was vacant during 2011/12, appointment to this post is now being progressed. Collaboration opportunities with neighbouring authorities/public sector partners are being pursued through Cheshire & Warrington Sub-Programme Office.
- The Council maintains registers of interests and hospitality, as specified in [Finance and Contract Procedure Rules](#). Training is given to members and officers periodically. Agendas for member meetings contain specific reminders and explanation for the declaration of interests.
- The Council has established an Audit and Governance Committee supported by the Director of Finance and Business Services. The Constitution sets out the Terms of Reference and these follow the CIPFA model guidance. The number of members has been formally agreed and the number is such that should any conflict of issues arise this would be declared and there is no risk to the independent or effective decision making within this Committee. The CFO attends meeting of the Audit & Governance Committee in person. Regular monthly liaison meetings between CFO and Audit Commission leads, plus ad-hoc meetings on specific issues, are held as required.
- During 2011/12, five specialist Member/Officer groups were set up, each covering a specific area of audit and governance work, and made up of a small number of Members and relevant Officers. These were set up to help develop in depth knowledge and expertise amongst Audit & Governance Committee Members with the aim of improving the effectiveness of the Committee and building up good working relationships between Members and Officers.
- Under the Council's [Corporate Complaints procedure](#), described in 1.2, complainants are advised in stage 2 responses of their right to appeal to the Local Government Ombudsman if they are still dissatisfied.

#### **4.2 *Having good quality information, advice and support to ensure that services are delivered effectively and are what the community wants/needs***



- Significant investment has been made during the year to improve the financial management information available to managers. This has been delivered through a self-serve Financial Reporting Centre. Further investment in the financial accounting systems has been provided for in the medium term capital strategy.
- Committee report authors are required to complete a co-ordination sheet recording the 'sign off' of the report from Legal and Finance. Reports must also contain the legal and financial implications, either written or approved by the relevant department.
- Committee decision reports with material financial implications have to be cleared by the CFO, who also attends all CMT, Cabinet and Council Meetings and meets regularly with the Finance Portfolio holder.
- A [Citizen's Panel](#) has been set up in 2011/12 and the results of the first survey used to set service plans for 2012/13.

#### **4.3 Ensuring that an effective risk management system is in place**

- There is a [Risk Management Strategy](#) in place with a Corporate Risk Management Group chaired by the Portfolio holder. Risk assessments are required on all Cabinet and CMT reports. The process for risk management has been reviewed and improved in 2011/12 with the continued development of the process and clearer links to the service plan, business continuity and decision making.
- Corporate risks have been regularly discussed and reviewed with Cabinet and CMT, and update reports have gone to every Audit and Governance Committee. Training has been carried out for key staff and members as well as a number of workshops for key departments.
- Audit & Governance Committee receive regular updates on progress against the Annual Governance Statement action plan. Finance Procedure Rules set out comprehensive and robust financial management framework and principles.
- Findings in key system reviews carried out by Internal Audit during 2011/12 found that some processes and procedures supporting key Council policies required improvements e.g. local schemes of financial delegation. Actions are underway to address these issues (see Appendix 1).
- The Whistleblowing Policy complies with best practice as detailed in the [Whistleblowing Code of Practice Publically Available Specification](#). All concerns received via the Policy are logged and tested out prior to a decision being made as to the appropriate action to be taken. The Audit and Governance Committee Fraud Sub Group receives verbal briefings on relevant cases and the full Committee is provided with more general updates as part of Internal Audit update reports.



#### **4.4 *Using their legal powers to the full benefit of the citizens and communities in their area***

- The Monitoring Officer fulfils the statutory role with the help of the Legal team, who are involved in preparing reports and advising departments. The Constitution underlines this role, which is further enhanced by membership of CMT and close working with the Executive. External legal advice is sought as appropriate.
- The Monitoring Officer and Legal Team are proactive in ensuring advice is given on relevant legislation and ensuring the principles of natural justice and good administrative law are recognised and observed.

### **Principle 5    Developing the capacity and capability of members and officers to be effective**

#### **5.1 *Making sure that members and officers have the skills, knowledge, experience and resources they need to perform well in their roles***

- Members receive individual induction and access to a comprehensive member training programme. Members receive a formal induction every 4 years with the last one being in May 2011. Any member who is new to a committee or taking on a new role is offered an induction and any training required.
- Workforce development plans are developed each year both at a Corporate level and a service level as an integral part of the business planning process. Individual development plans are also identified as part of the performance appraisal process and linked to objectives. A corporate induction programme is in place and all new starters are required to attend. A 'Management' Induction programme continues to be developed for Council managers and a new Institute of Leadership and Management (ILM) development programme for supervisors / first line managers was launched in June 2012.
- There is a set of Model descriptions and specifications in place for Members, and these are used for reference. These have been developed as a set of Cheshire East descriptions, but they have not been formally adopted.
- All Statutory Officers have clear job descriptions and person specifications which state the necessary experience, skills and qualifications required to perform in the role. This is supported by the Corporate Training Programme; Corporate Governance has been identified as part of this. Briefings take place around the Council's Constitution, Finance Procedure Rules and Risk Management.
- The CFO is professionally qualified with extensive local government experience. The Finance team is extremely qualified and experienced and appropriately resourced, given the wider budgetary constraints facing the Council. Changes to team structure

have been made to address capacity issues and facilitate more flexible working and skills pooling.

- The Council was issued with a monetary penalty notice in February 2012 by the Information Commissioner's Office (ICO) for a breach of the Data Protection Act. The Council had reported the breach in May 2011. A number of improvements to processes have been implemented as part of the undertaking agreed with the ICO and to enhance procedures where possible. (See Section 3)

## ***5.2 Developing the capability of people with governance responsibilities and evaluating their performance, as individuals and as a group***

- Member training and development is delivered through a Member's Training and Development Strategy. Members have Personal Development Plans, although in some cases these will need to be reviewed and updated
- Skills assessment is an important part of the performance appraisal process and individual development plans are developed as part of these discussions. This includes 6 monthly reviews as well as monthly one to one sessions. The new Behaviour/ Competency Framework will assist managers in identifying specific skills gaps to inform the development plans. The ASPIRE shared values continue to be embedded within the appraisal process and these, along with the six key behaviours are priority areas for development.
- Further work is needed to develop the competence frameworks, which include financial knowledge and skills and to systematically embed these in person specifications and individual performance appraisal. Recent changes to Corporate Personal Development framework, which includes increased focus on 'Managing Resources' will provide an opportunity to pursue this. Investment in e-learning tools will extend the range of training offerings for officers and Members during 2012/13.
- Challenges remain in respect of developing Member roles and financial skills. The establishment by the Audit and Governance Committee, of Member task groups to provide a more focused channel for development input is offering some potential for progress.

## ***5.3 Encouraging new talent for membership of the authority so that best use can be made of individuals' skills and resources in balancing continuity and renewal***

- Active steps are taken to encourage new members at Citizenship ceremonies. Community participation is actively promoted through Local Area Partnerships and, joint working with parishes. There are also events held e.g. Local Democracy Week where Councillors visited schools. The membership of the PACE Board is kept under regular review.

- Annual development and appraisals are delivered within groups. Portfolio Holders are supported by Cabinet Support Assistants who learn and become familiar with Portfolio Holder responsibilities.
- Succession planning takes place at a local/service level and is integrated into the Workforce Planning framework. A formal corporate framework for succession planning is to be developed during 2012/13. Members participate in regular learning and development activity and there is succession planning within the Cabinet where there have been several changes to its composition over the last year and cabinet support members introduced to act as back up for existing portfolio holders.

**Principle 6     Engaging with local people and other stakeholders to ensure robust public accountability**

**6.1     *Exercising leadership through a robust scrutiny function, which effectively engages local people and all local institutional stakeholders, including partnerships, and develops constructive accountability relationships***

- In addition to the Council's Constitution and scrutiny toolkit, the use of social media has been developed to widen Scrutiny's reach and to improve two way communications with the public, through the use of Twitter, Chairman's blogs and by updating the Council's web pages.
- The [Health and Wellbeing Scrutiny Committee](#) has developed good working relationships with health partners and has an existing protocol in place with the PCT. This is under discussion so it can be revised to reflect the new role of the Clinical Commissioning Groups. Health partners understand the scrutiny process and regularly attend meetings. The Committee has started to look at how it will work with the Health and Wellbeing Board.

**6.2     *Taking an active and planned approach to dialogue with and accountability to the public to ensure effective and appropriate service delivery whether directly by the Council, in partnership or by commissioning***

- A [Citizen's Panel](#) has been set up in 2011/12 and the results of the first survey used to set service plans for 2012/13. There is a Communications team plan and this covers the main methods of corporate communication with the public supported by communications in individual departments.
- Most meetings are held in public, using the public interest criteria in the Access to Information Rules. The status of sub-committees and working parties is critically reviewed to ensure that public access is given wherever appropriate.
- There are a variety of communication methods adopted which are targeted at particular audiences. For example, there is a [Council newspaper](#) giving overall updates and key messages, there is a very active media team producing proactive

[press releases](#). The [consultation](#) exercises previously referred to are sometimes general e.g. quality of life and sometimes specific e.g. Highways annual survey. In addition work takes place with particular groups within our differing communities through the community engagement team; the migration impact fund, gypsy and traveller focus and through LAP area working

- Processes are in place to ensure effective management of [FOI](#), media relations and a culture of openness. A revised complaints and suggestions procedure has been put in place, formal consultation with the public has taken place on key areas during 2011/12, and a Citizen's Panel has been launched and one full survey undertaken in 2011/12. This is continuing into 2012/13 and the panel will be regularly refreshed.
- Regular reports on [FOI](#) are received by the Audit and Governance Committee and there is a new transparency process which was approved by CMT in April 2011. Significant FOI issues are raised on a weekly basis at informal cabinet and cabinet take an active interest in ensuring that we comply with our statutory requirements.
- The Council's [website](#) received the highest possible rating in the annual [SOCITM](#) survey which rates accessibility and customer focus of the website; Cheshire East was one of only three unitary councils to gain this score nationally.

### **6.3 *Making best use of human resources by taking an active and planned approach to meet responsibility to staff***

- There is a clear commitment from the Council to involve and consult with the recognised Trade Unions on all key decisions affecting employees and, as a result of fulfilling this commitment successfully, the Council has forged strong and positive relationships with all of the recognised Trade Unions. There is Trade Union representation at the Council's quarterly [Staffing Committee](#), providing an opportunity to discuss issues directly with Members and senior officers.
- The Council has a People Panel in place which comprises of employees from across the service areas. The panel focus on key 'people' initiatives such as the employee survey action plans, employee recognition schemes, communication and involvement in decision making etc. The panel, which complements the directorate specific employee focus groups plays a key role in influencing key decisions and policies aimed at improving and strengthening employee engagement.

<b>Section 3</b>	<b>Significant governance issues and Action Plan</b>
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We have been advised on the implications of the result of the review of the effectiveness of the governance framework by the Audit and Governance Committee, and a plan to address weaknesses and ensure continuous improvement of the system is in place.

As a result of the review of effectiveness process described above, the Council's Governance Framework is considered adequate.

There are a number of issues that require action and development. These are listed below:

- Awareness and compliance with Council processes/procedures
- Issues and actions arising from Lyme Green
- Empower Card Review
- Care Provider Failure
- Judicial Review
- Financial Management
- Shared Services SLE
- Data Protection breach

We propose over the coming year to take steps to address the above matters to further enhance our governance arrangements. A detailed Action Plan is included as Appendix 1. We are satisfied that these steps will address the need for improvements that were identified in our review of effectiveness and will monitor their implementation and operation as part of our next annual review.

**Signed:**

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Leading Member & Chief Executive on behalf of Cheshire East Council

Cheshire East Council  
Significant Governance Issues and Action Plan 2011/12

The Annual Governance Statement 2010/11 identified the following significant governance issues:

- Responding to the new policy agenda freedoms since the reduction in the inspection regime and national performance reporting regimes
- Financial Management
- Review of Constitution

Progress against these actions identified for the above has been monitored throughout the year by the Corporate Governance Group, and reported to the Audit and Governance Committee. In reviewing the 2010/11 issues, the Corporate Governance Group identified “Financial Management” as a continuing significant issue. Sufficient progress has been made against the other issues for them not to be included in the 2011/12 statement.

No.	Actions	Responsibility	Target Date
1	<b>Issue: Awareness and compliance with Council processes/procedures</b> <i>Area: A number of Council policies have and are being updated. Sufficient awareness of Council policy and key documents (e.g. Finance &amp; Contract Procedure Rules) in some areas of the Authority has proven to be lacking. The processes and procedures supporting key Council policies needs to be communicated/reiterated to managers/staff and compliance monitored thereon.</i>		
	<p>The Constitution Committee has continued to review the Council’s Constitution on an ongoing basis. The Committee considered a number of reports in 11/12 and made recommendations to full Council, leading to an update of the Constitution, including Finance and Contract Procedure Rules and Officer Schemes of Delegation.</p> <p>CMT to ensure service managers familiarise themselves with the Finance and Contact Procedure Rules, contained within the recently updated Constitution.</p> <p>As required by the Constitution, Managers are to ensure that they are familiar with the requirements of relevant delegated functions (Officer Schemes of Delegation), and that any further sub delegations are set out in a Local Scheme of Delegation.</p>	Service Managers/CMT	<p>July 2012</p> <p>To be reviewed by Corporate Governance Group September 2012</p>

Cheshire East Council  
Significant Governance Issues and Action Plan 2011/12

No.	Actions	Responsibility	Target Date
	<p>In addition, approval limits for financial transactions should be documented within a Financial Scheme of Delegation. Delegated approval limits must be consistent with the Oracle workflow limits, and these limits should be complied with, even when purchases are initiated outside of the Oracle system.</p> <p>Service managers are asked to ensure such Schemes are in place, are kept up to date, and that compliance with approval limits and delegated functions is monitored.</p>		
<b>2</b>	<b>Issue: Issues and actions arising from Lyme Green</b> <i>Area: In February 2012 a review of the Council's proposal to build a waste transfer station at Lyme Green Depot, Macclesfield commenced. This followed cessation on 30th November 2011 of all works in relation to the construction of the facility. The review, commissioned by the Chief Executive and Leader followed the resolution of the Audit and Governance Committee on 31 January 2012 which stated:</i> <p style="margin-left: 40px;"><i>"a thorough and robust investigation of all issues surrounding the expenditure incurred on the proposed waste transfer station at Lyme Green be added to the work plan; in particular to identify any governance issues and whether all financial and contractual regulations have been complied with."</i></p> <i>The results of the review which were reported to the Audit and Governance Committee on 14 June 2012 indicated that whilst, in the main, appropriate Council procedures are in place to prevent financial and legal irregularities and ensure compliance with Officer Delegations, Standing Orders, EU procurement rules and ensure effective reporting to Members, in this instance there was evidence that officers failed to comply with many of these arrangements. An Action Plan, detailing proposed actions to prevent reoccurrence has been agreed and quarterly progress reports will be submitted to the Audit and Governance Committee</i>		
	As per the <a href="#">Action Plan</a> agreed by the Audit & Governance Committee at its special meeting of 14 <sup>th</sup> June 2012.	Audit & Governance Committee	As per. Committee timetable.
<b>3</b>	<b>Issue: Empower Card Review</b> <i>Area: In November 2011 a review of the Empower Card implementation process was undertaken following concerns raised by users and providers. The early findings established that there were difficulties with Client Contributions, payment arrangements with providers and the relationship and processes with the supporting bank. The review, which included feedback from staff, customers and providers, has identified changes required to the supporting processes and the product in the form of an action plan. Further background is</i>		

Cheshire East Council  
Significant Governance Issues and Action Plan 2011/12

No.	Actions	Responsibility	Target Date
	<p><i>available in the March 2012 <a href="#">report</a> to Adult Social Care Scrutiny Committee</i></p> <p>The review has been conducted by a task force led by the Strategic Director for Children's Families and Adults which included input from Audit, Finance and Legal.</p> <p>A steering group is in place to oversee the implementation of the action plan. An update report, which will seek approval for the future vision and options, will be brought to Members during the autumn.</p> <p>Specific actions include:</p> <ul style="list-style-type: none"> <li>• Undertaking an audit of payments and client contributions, by a specially created Empower Audit Task Team, aiming to establish the robustness of the payment arrangements with providers</li> <li>• Establishing and recovering directly from clients any contributions not paid in accordance with the Care Support Plan and Financial Assessment</li> <li>• Once the above actions have delivered sufficient stability, determine a new vision for the financial arrangements for Adults, explore future systems, banking products and processes to simplify and standardise</li> </ul>	Strategic Director of Children, Families and Adults.	March 2013
4	<p><b>Issue: Care Provider Failure</b></p> <p><b>Area:</b> <i>There is increased potential for legal challenge around fees paid, and of provider sustainability and or failure in the current economic climate, as demonstrated by the collapse of Southern Cross, the UK's largest care home provider in July 2011.</i></p> <p>The Council has commissioned a consultant to assist in developing a Fees Framework for Residential, Nursing, Domiciliary Care, Support Living and Direct Payments. This work will also achieve the development of Quality Frameworks – to assist the Council in raising standards of care, and to assure quality provision within the fees framework and affordability. By working with providers the aim will be to establish a fee structure that is sustainable for both the Council and providers over the medium term.</p>	Head of Integrated Strategic Commissioning and Safeguarding	December 2012



Cheshire East Council  
Significant Governance Issues and Action Plan 2011/12

No.	Actions	Responsibility	Target Date
5	<b>Issue: Judicial Review</b> <b>Area:</b> <i>Challenges to the Authority in the form of judicial reviews are increasing. The basis of the challenges involves the allocation of funding and resources, and deprivation of liberty. The financial impact in 2011/12 is £500,000. The risk of provider failure in the care market has become a real concern during 2011/12, highlighted by the events at Southern Cross, the UK's largest care home provider until its demise in July 2011.</i>		
	<p>The service has improved the application of policy, staff training and tightened procedures with the assistance of Legal. However, the risk of Judicial Reviews remains significant because of the continuing growth and availability of litigation, and the changing personalisation agenda.</p> <p>Continued close liaison with Legal, jointly assessing and monitoring potential cases will continue for the foreseeable future, allowing early warning and action to be taken across the Council.</p>	Head of Local Delivery and Independent Living Service	March 2013 – to be monitored by Corporate Governance Group.
6	<b>Issue: Financial Management</b> <b>Area:</b> <i>Delivery of the 2011/12 budget has proved challenging with a number of services facing out-turn pressures due to a range of factors, including inflation, ambitious delivery and savings targets and higher than anticipated levels of service demand. General economic pressures and the demands arising from the delivery of an ambitious capital programme and complex pay harmonisation package have added to the challenges.</i>		
	<b>Actions already implemented/in progress</b> <u>General</u> <ul style="list-style-type: none"> <li>• Monthly performance monitoring embedded</li> <li>• Corporate Training Programme extended to include Budget Management module</li> <li>• Development of improved suite of financial management reports and self-serve portal (Financial Reporting Centre)</li> <li>• 2012/13 budget adjusted to address permanent growth pressures (including Teachers Pensions, Placement costs for 16+ young people, Adults Care costs and undeliverable cross-cutting savings)</li> <li>• Monthly capital monitoring review meetings with main service directorates</li> </ul>		

Cheshire East Council  
Significant Governance Issues and Action Plan 2011/12

No.	Actions	Responsibility	Target Date
	<p><u>Specific</u></p> <p><u>Children and Families</u></p> <ul style="list-style-type: none"> <li>Development of in-house residential provision to reduce out of borough placement costs</li> </ul> <p><u>Adults</u></p> <ul style="list-style-type: none"> <li>Refinement of cost driver analysis</li> <li>Targeted debt recovery action</li> <li>Empower audit and review</li> <li>Consultant engaged to support care cost challenge and undertake 'stress testing' of future savings delivery.</li> </ul> <p><u>ICT</u></p> <ul style="list-style-type: none"> <li>Rationalisation of Shared Service staffing levels and targeted VR programme</li> <li>Review of third party spend, cancellation and consolidation of contracts)</li> <li>Maximisation of partnership and third party income</li> </ul>	<p>Deputy Director of Children and Families</p> <p>Strategic Director of Children, Families and Adults</p> <p>Head of Business Management and Challenge</p> <p>Strategic Director of Children, Families and Adults and Director of Finance and Business Services</p> <p>Head of Integrated Strategic Commissioning and Safeguarding</p>	<p>March 2013</p> <p>December 2012</p> <p>March 2013</p> <p>See Issue 3 above.</p> <p>September 2012</p>

Cheshire East Council  
Significant Governance Issues and Action Plan 2011/12

No.	Actions	Responsibility	Target Date
	<p><u>Waste Management</u></p> <p>Service out-turn relating to Waste included the one off implementation costs of the new harmonised collection rounds and also redundancy costs. Certain cost pressures remain, attributable to pay harmonisation, fuel inflation and services contracts. Actions in progress include:</p> <ul style="list-style-type: none"> <li>Review of waste fleet provision, including provision and maintenance</li> <li>Review of waste structure, particularly use of agency support</li> <li>Review of third party spend, contract provisions and revised tonnage forecasts</li> </ul> <p><u>Community Services</u></p> <ul style="list-style-type: none"> <li>Increased car park tariffs and alternative payment options</li> </ul> <p><b>Further action proposed</b></p> <ul style="list-style-type: none"> <li>Roll out of Financial Reporting Centre to 250 budget managers, and development of capital and payroll forecasting reports.</li> <li>Implementation of revised operating model for client finance</li> <li>Development of fully costed product/service catalogue for HR &amp; Finance &amp; ICT Shared Service</li> <li>Capital training module to be added to Corporate Training programme</li> <li>Strengthening of capital programme governance and monitoring arrangements in accordance with recommendations arising from report on Lyme Green Waste Transfer Station project.</li> </ul>	<p>Head of Waste &amp; Recycling/Strategic Fleet Manager</p> <p>Head of Waste &amp; Recycling</p> <p>Head of Waste &amp; Recycling</p> <p>Director of Finance &amp; Business Services</p> <p>Strategic Director Children, Families &amp; Adults and Director of Finance &amp; Business Services</p> <p>Director of Finance &amp; Business Services</p> <p>Finance Manager</p> <p>Director of Finance &amp; Business Services</p>	<p>Sept 2012</p> <p>Sept 2012</p> <p>Sept 2012</p> <p>Dec 2012</p> <p>April 2013</p> <p>December 2012</p> <p>December 2012</p> <p>September 2012</p>

Cheshire East Council  
Significant Governance Issues and Action Plan 2011/12

No.	Actions	Responsibility	Target Date
	<ul style="list-style-type: none"> <li>5 year capital programme planning being developed to ensure affordability and deliverability of medium term investment programme.</li> </ul>	Director of Finance & Business Services	September 2012
7	<b>Issue: Shared Services Separate Legal Entity (SLE)</b> <b>Area:</b> The Council has a range of shared services. Of these, it is proposed that the ICT and HR and Finance shared service be set up as a separate legal entity (SLE) to enable greater collaboration and potential increased trading. This arrangement would also allow for employees in those services to be employed on a single set of terms and conditions.  In preparation for the SLE an extensive improvement programme has been undertaken to address performance issues and to stabilise infrastructure and systems. Another outcome was the development of a fit for purpose Target Operating Model to move the services into a company situation. Recruitment to the TOM is currently underway to enable a transition to shadow mode in anticipation of the move to an SLE as it is believed that this will help to minimise risk of failure. It is anticipated that the SLE Business Case will be approved by Shared Services Joint Committee in the autumn to enable new arrangements to be put in place from 1 April 2013. Existing governance will be reviewed to ensure that this continues to be appropriate to this new way of working.		
	The latest Business Case will be subject to informal discussion by the Joint Committee in June 2012. Should Members informally endorse the Business Case, it will then be subject to the formal decision making processes of both Cheshire East and Cheshire West and Chester Councils. This will include formal consideration by the appropriate scrutiny committees of each authority.	Director of Finance and Business Services	Ongoing – to be monitored by Corporate Governance Group during 2012/13
8	<b>Issue: Data Protection breach</b> <b>Area:</b> The Council was issued with a monetary penalty notice by the Information Commissioner's Office (ICO) for a breach of the Data Protection Act. The Council reported the breach to the ICO following an incident reported in May 2011, where an email containing sensitive personal information was sent to a wider audience than intended. A number of improvements to processes have subsequently		

Cheshire East Council  
Significant Governance Issues and Action Plan 2011/12

No.	Actions	Responsibility	Target Date
	<p>been made.</p> <p>Following the monetary penalty notice received in January 2012, the Chief Executive signed an undertaking with the Information Commissioner. The requirements of the undertaking included updating policy, introducing various organisational and technical measures and giving training to members and officers.</p> <p><b>Actions already implemented</b></p> <ul style="list-style-type: none"> <li>• Data Protection Policy amended and updated.</li> <li>• Data Sharing Protocol and guidance leaflet published.</li> <li>• ICT Security policies updated.</li> <li>• Increased use of secure e-mail facilities.</li> <li>• Training delivered to managers and members</li> <li>• E-learning modules introduced.</li> <li>• Mandatory training for all members of staff as part of Personal Development Plan.</li> <li>• Establishment of Data Protection Liaison Officer within services.</li> <li>• Concerted communications campaign including Team Talk articles, refresh of intranet pages, separate DP e-mail address etc.</li> </ul> <p><b>Actions in progress</b></p> <ul style="list-style-type: none"> <li>• Development of Data Sharing Policy, Paper Record Policy, Personal Data Definition leaflet, standard paragraphs to be used by services restricting further distribution of information etc.</li> <li>• Further training for members planned.</li> <li>• Other targeted training, awareness sessions planned.</li> <li>• Continued establishment of DP Liaison Officers.</li> </ul>	CMT/Data Protection Officer	Ongoing – to be monitored by Corporate Governance Group during 2012/13.

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## **CHESHIRE EAST COUNCIL**

### **Audit and Governance Committee**

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**Date of meeting:** 27<sup>th</sup> September 2012  
**Report of:** Corporate Governance Group  
**Title:** Code of Corporate Governance and the Governance Framework Update  
**Portfolio Holder:** Councillor Peter Raynes

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#### **1.0 Report Summary**

- 1.1 The purpose of the report is for the Committee to agree the update to the Council's Code of Corporate Governance and also note the ongoing work by the Corporate Governance Group in respect of the Council's Governance Framework.

#### **2.0 Recommendation**

- 2.1 To agree the update to the Code of Corporate Governance (Appendix A).
- 2.2 To note the ongoing work on the Council's Governance Framework (Appendix B).

#### **3.0 Reasons for Recommendation**

- 3.1 In accordance with the Council's Constitution, the Audit and Governance Committee is responsible for "developing a Code of Corporate Governance and to undertake as appropriate an assessment of wider governance issues".

#### **4.0 Wards Affected**

- 4.1 All wards.

#### **5.0 Local Wards Affected**

- 5.1 Not applicable

#### **6.0 Policy Implications**

- 6.1 Not applicable

## **7.0 Financial Implications**

7.1 None

## **8.0 Legal Implications**

8.1 None

## **9.0 Risk Assessment**

9.1 Adoption and continuous review of the Code of Corporate Governance assists the overall response to a number of risks relating to adherence to good governance standards and the need to demonstrate effective governance.

## **10.0 Background and Options**

10.1 The Council has approved and adopted a [Code of Corporate Governance](#), which is consistent with the principles of the CIPFA/SOLACE Framework *Delivering Good Governance in Local Government*. A copy of the Code is on the Council's website.

10.2 Cheshire East Council's Code of Corporate Governance was approved by the Governance and Constitution Committee in November 2009. In November 2010, the Code was revised to include the requirements of the CIPFA *Statement on the Role of the Chief Financial Officer in Local Government*.

10.3 As part of the Annual Governance Statement process, it is good practice to review and update, if necessary, the Code of Corporate Governance. This review has taken place and there are a few minor changes to the Code. These can be summarised as follows:

- Changes in title e.g. 'Director of Finance and Business Services' replaces 'Borough Treasurer'
- Deleting Use of Resources references, as no longer applicable.
- Updating to align with current Business Planning process.

10.4 The Corporate Governance Group has been working on producing a diagrammatic version of the Council's Governance Framework to include a core policy list. Versions of the framework have been discussed with Corporate Management Team and also within the specialist Member/Officer group and at the recent Member training sessions. The latest version is brought to Committee to note the ongoing work in this area.



## **11.0 Access to information**

The background papers relating to this report can be inspected by contacting the report writer:

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Designation: Director of Finance and Business Services

Tel No: 01270 686628

Email: [lisa.quinn@cheshireeast.gov.uk](mailto:lisa.quinn@cheshireeast.gov.uk)

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# CODE OF CORPORATE GOVERNANCE

Cheshire East Council

Version 1.1  
August 2012

## **INTRODUCTION**

Cheshire East operates through a governance framework. It is an interrelated system that brings together an underlying set of legislative requirements, governance principles and management processes.

In 2001, the Chartered Institute of Public Finance and Accountancy (CIPFA) in conjunction with the Society of Local Authority Chief Executives (SOLACE) with the support from key organisations in local government, responded to the need to draw together the principles identified by Cadbury, Nolan and, in England, the former Department of the Environment, Transport and the Regions (DETR). A single framework of good governance for use in local government was published entitled “Corporate Governance in Local Government – A Keystone for Community Governance: Framework”.

Since the Framework was published, local government has been subject to continued reform intended to improve local accountability and engagement and a revised framework was deemed timely.

Good governance leads to good management, good performance, good stewardship of public money, good public engagement and ultimately good outcomes for citizens and service users. Good governance enables Cheshire East to pursue its vision effectively as well as underpinning that vision with mechanisms for control and the management of risk.

The revised Framework “Delivering Good Governance in Local Government – Framework” issued in 2007 defines the principles that should underpin the governance of a local authority. It identifies six core principles: -

- Focusing on the purpose of the authority and on outcomes for the community and creating and implementing a vision for the local areas
- Members and officers working together to achieve a common purpose with clearly defined functions and roles
- Promoting the values of the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour
- Taking informed and transparent decisions which are subject to effective scrutiny and managing risks
- Developing the capacity and capability of members and officers to be effective
- Engaging with local people and other stakeholders to ensure robust public accountability

The annual review of the Code of Corporate Governance is reported to the Audit and Governance Committee.

The production of the Governance Statement, in compliance with the Accounts and Audit Regulations 2011, is presented to the Audit and Governance Committee annually in conjunction with the Statement of Accounts.

**PRINCIPLE 1****Focusing on the purpose of the authority and on outcomes for the community and creating and implementing a vision for the local areas:**

- Exercising strategic leadership by developing and clearly communicating the authority's purpose and vision and its intended outcome for citizens and users
- Ensuring that users receive a high quality of service whether directly, or in partnership, or by commissioning
- Ensuring that the authority makes best use of resources and that tax payers and service users receive excellent value for money

The function of governance is to ensure that authorities, other local government organisations or connected partnerships fulfil their purpose and achieve their intended outcomes for citizens and service users and operate in an effective, efficient, economic and ethical manner.

Local government bodies need to develop and articulate a clear vision of their purpose and intended outcomes for citizens and service users that is clearly communicated, both within the organisation and to external stakeholders

<b>Supporting Principles</b>	<b>To meet with the requirements of Principle 1, Cheshire East will:</b>
Exercising strategic leadership by developing and clearly communicating the authority's purpose and vision and its intended outcome for citizens and users	<ul style="list-style-type: none"> <li>• Develop and promote the authority's purpose and long term vision</li> </ul>
	<ul style="list-style-type: none"> <li>• Review on a regular basis the authority's priorities for the local area and its implications for the authority's governance arrangements</li> </ul>
	<ul style="list-style-type: none"> <li>• Ensure that partnerships are underpinned by a common vision of their work that is understood and agreed by all partners</li> </ul>
	<ul style="list-style-type: none"> <li>• Communicate the authority's activities and achievements, its financial position and performance</li> </ul>
Ensuring that users receive a high quality of service whether directly, or in partnership, or by commissioning	<ul style="list-style-type: none"> <li>• Decide how the quality of service for users is to be measured and make sure that the information needed to review service quality effectively and regularly is available</li> </ul>
	<ul style="list-style-type: none"> <li>• Put in place effective arrangement to identify and deal with failure in service delivery</li> </ul>
Ensuring that the authority makes best use of resources and that tax payers and service users receive excellent value for money	<ul style="list-style-type: none"> <li>• Decide how value for money is to be measured and make sure that the authority or partnership has the information needed to review value for money and performance effectively.</li> </ul>

	Measure the environmental impact of policies, plans and decisions
	<ul style="list-style-type: none"> <li>• Ensure that timely, accurate and impartial financial advice and information is provided to assist in decision making and to ensure that the authority meets its policy and service objectives and provides effective stewardship of public money and value for money in its use</li> </ul>
	<ul style="list-style-type: none"> <li>• Ensure that the authority maintains a prudential financial framework; keeps its commitments in balance with available resources; monitors income and expenditure levels to ensure that this balance is maintained and takes corrective action when necessary</li> </ul>
	<ul style="list-style-type: none"> <li>• Ensure compliance with CIPFA's Code on a Prudential Framework for Local Authority Capital Finance and CIPFA's Treasury Management Code</li> </ul>

**PRINCIPLE 2**

<b>Members and officers working together to achieve a common purpose with clearly defined functions and roles:</b> <ul style="list-style-type: none"> <li>Ensuring effective leadership throughout the authority and being clear about executive and non-executive functions and of the roles and responsibilities of the scrutiny function</li> <li>Ensuring that a constructive working relationship exists between authority members and officers and that the responsibilities of members and officers are carried out to a high standard</li> <li>Ensuring relationships between the authority, its partners and the public are clear so that each knows what to expect of each other</li> </ul>	
The governing body of an organisation has overall responsibility for directing and controlling that organisation. In local government, the governing body is the full council or authority.	
<b>Supporting Principles</b>	<b>To meet with the requirements of Principle 2, Cheshire East will:</b>
Ensuring effective leadership throughout the authority and being clear about executive and non-executive functions and of the roles and responsibilities of the scrutiny function	<ul style="list-style-type: none"> <li>Set out a clear statement of the respective roles and responsibilities of the Cabinet and the Cabinet members individually and the authority's approach towards putting this into practice.</li> </ul>
	<ul style="list-style-type: none"> <li>Set out a clear statement of the respective roles and responsibilities of other authority members, members generally and of senior officers.</li> </ul>
	<ul style="list-style-type: none"> <li>Ensure that the CFO (Chief Financial Officer –in this case the Director of Finance and Business Services) reports directly to the Chief Executive and is a member of the leadership team with a status at least equivalent to other members. If different organisational arrangements are adopted, explain the reasons publicly, together with how these deliver the same impact.</li> </ul>
Ensuring that a constructive working relationship exists between authority members and officers and that the responsibilities of members and officers are carried out to a high standard	<ul style="list-style-type: none"> <li>Determine a scheme of delegation and reserve powers within the constitution, including a formal schedule of those matters specifically reserved for collective decision of the authority, taking account of relevant legislation, and ensure that it is monitored and updated when required.</li> </ul>
	<ul style="list-style-type: none"> <li>Make the Chief Executive or equivalent responsible and accountable to the authority for all aspects of operational management.</li> </ul>
	<ul style="list-style-type: none"> <li>Ensure that the authority's governance arrangements allow the CFO direct access to the CEO and to other</li> </ul>



	leadership team members
	<ul style="list-style-type: none"> <li>• Develop protocols to ensure that the Leader and Chief Executive negotiate their respective roles early in the relationship and that a shared understanding of roles and objectives is maintained.</li> </ul>
	<ul style="list-style-type: none"> <li>• Make a senior officer (the Director of Finance and Business Services as Section 151 officer) responsible to the authority for ensuring that appropriate advice is given on all financial matters, for keeping proper financial records, and for maintaining an effective system of internal financial control.</li> </ul>
	<ul style="list-style-type: none"> <li>• Appoint a professionally qualified CFO whose core responsibilities include those set out in the “Statement on the Role of the CFO in Local Government” and ensure that they are properly understood throughout the authority</li> <li>• Ensure that the CFO : <ul style="list-style-type: none"> <li>○ leads the promotion and delivery by the whole organisation of good financial management so that public money is safeguarded at all times and used appropriately, economically, efficiently and effectively</li> <li>○ has a line of professional accountability for finance staff throughout the organisation</li> </ul> </li> <li>• Ensure that budget calculations are robust and reserves adequate, in line with CIPFA’s guidance</li> <li>• Ensure that appropriate management accounting systems, functions and controls are in place so that finances are kept under review on a regular basis. These systems, functions and controls should apply consistently to all activities including partnership arrangements, outsourcing or where the authority is acting in an enabling role</li> </ul>

	<ul style="list-style-type: none"> <li>• Make a senior officer (the Borough Solicitor as Monitoring Officer ) responsible to the authority for ensuring that agreed procedures are followed and that all applicable statutes and regulations are complied with</li> </ul>
Ensuring relationships between the authority, its partners and the public are clear so that each knows what to expect of each other	<ul style="list-style-type: none"> <li>• Develop protocols to ensure effective communication between members and officers in their respective roles</li> </ul>
	<ul style="list-style-type: none"> <li>• Set out terms and conditions for remuneration of members and officers and an effective structure for managing the process, including an effective independent remuneration panel (for members)</li> </ul>
	<ul style="list-style-type: none"> <li>• Ensure that effective mechanisms exist to monitor service delivery</li> </ul>
	<ul style="list-style-type: none"> <li>• Ensure that the organisations vision, strategic plans, priorities and targets are developed through robust processes, and in consultation with the local community and other stakeholders, and that they are clearly articulated and disseminated.</li> </ul>
	<ul style="list-style-type: none"> <li>• Establish a medium term business planning process to deliver strategic objectives including:</li> </ul>
	<ul style="list-style-type: none"> <li>• A medium term financial strategy to ensure sustainable finances</li> </ul>
	<ul style="list-style-type: none"> <li>• A robust annual budget that ensures financial balance</li> </ul>
	<ul style="list-style-type: none"> <li>• A monitoring process that enables scrutiny of delivery and supports appropriate mitigation for estimates that may vary in year.</li> </ul>
	<ul style="list-style-type: none"> <li>• Ensure that these are subject to regular review to confirm the continuing relevance of assumptions used</li> </ul>
	<ul style="list-style-type: none"> <li>• When working in partnership, ensure that members are clear about their roles and responsibilities both individually and collectively in relation to the partnership and the authority</li> </ul>
	<ul style="list-style-type: none"> <li>• When working in partnership:             <ul style="list-style-type: none"> <li>○ Ensure that there is clarity about the legal status of the partnership</li> </ul> </li> </ul>

	<ul style="list-style-type: none"><li>○ Ensure that, when working in partnership, all parties understand and make clear the extent of the authority to bind their organisation to partner decisions</li></ul>
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**PRINCIPLE 3****Promoting the values of the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour**

- Ensuring authority members and officers exercise leadership by behaving in ways that exemplify high standards of conduct and effective governance
- Ensuring that organisational values are put into practice and are effective

Good governance flows from a shared ethos or culture. As well as from systems and structures. It cannot be reduced to a set of rules, or achieved fully by compliance with a set of requirements. This spirit or ethos of good governance can be expressed as values and demonstrated by behaviour.

Good governance builds on the seven principles for the conduct of people in public life that were established by the Committee on Standards in Public Life, known as the Nolan principles. In England the Local Government Act 2000 outlined ten principles of conduct – an additional three to those identified by Nolan – for use in local government bodies. The Nolan seven principles and additional three principles are included in the guidance notes accompanying this Framework.

A hallmark of good governance is the development of shared values, which become part of the organisation's culture, underpinning policy and behaviour throughout the organisation, from the governing body to all staff. These are in addition to compliance with legal requirements on, for example equal opportunities and anti-discrimination.

<b>Supporting Principles</b>	<b>To meet with the requirements of Principle 3, Cheshire East will:</b>
Ensuring authority members and officers exercise leadership by behaving in ways that exemplify high standards of conduct and effective governance	<ul style="list-style-type: none"> <li>• Ensure that the authority's leadership sets a tone for the organisation by creating a climate of openness, support and respect</li> </ul>
	<ul style="list-style-type: none"> <li>• Ensure that standards of conduct and personal behaviour expected of members and staff, of work between members and staff and between the authority, its partners and the community are defined and communicated through codes of conduct and protocols</li> </ul>
	<ul style="list-style-type: none"> <li>• Put in place arrangements to ensure that members and employees of the authority are not influenced by prejudice, bias or conflicts of interest in dealing with different stakeholders and put in place appropriate processes to ensure that they continue to operate in practice</li> </ul>
Ensuring that organisational values are put into practice	<ul style="list-style-type: none"> <li>• Develop and maintain shared values including leadership values for both the</li> </ul>

and are effective	organisation and staff reflecting public expectations, and communicate these with members, staff, the community and partners
	<ul style="list-style-type: none"> <li>Put in place arrangements to ensure that systems and processes are designed in conformity with appropriate ethical standards, and monitor their continuing effectiveness in practice</li> </ul>
	<ul style="list-style-type: none"> <li>Ensure that systems and processes for financial administration, financial control and protection of the authority's resources and assets are designed in conformity with appropriate ethical standards and monitor their continuing effectiveness in practice</li> </ul>
	<ul style="list-style-type: none"> <li>Develop and maintain an effective mechanism for dealing with standards issues</li> </ul>
	<ul style="list-style-type: none"> <li>Use the organisation's shared values to act as a guide for decision making and as a basis for developing positive and trusting relationships within the authority</li> </ul>
	<ul style="list-style-type: none"> <li>In pursuing the vision of a partnership, agree a set of values against which decision making and actions can be judged. Such values must be demonstrated by partners' behaviour both individually and collectively</li> </ul>

**PRINCIPLE 4****Taking informed and transparent decisions which are subject to effective scrutiny and managing risks**

- Being rigorous and transparent about how decisions are taken and listening and acting on the outcome of constructive scrutiny
- Having good quality information, advice and support to ensure that services are delivered effectively and are what the community wants/needs
- Ensuring that an effective risk management system is in place
- Using their legal powers to the full benefit of the citizens and communities in their area

Decision making within a good governance framework is complex and challenging. It must further the organisation's purpose and strategic direction and be robust in the medium and longer terms.

To make such decisions, authority members must be well informed.

Members making decisions need the support of appropriate systems, to help to ensure that decisions are implemented and that resources are used legally and efficiently.

Risk management is important to the successful delivery of public services. An effective risk management system identifies and assesses risks, decides on appropriate responses and then provides assurance that the chosen responses are effective.

**Supporting Principles****To meet with the requirements of Principle 4, Cheshire East will:**

Being rigorous and transparent about how decisions are taken and listening and acting on the outcome of constructive scrutiny

- Develop and maintain an effective scrutiny function which encourages constructive challenge and enhances the authority's performance overall and that of any organisation for which it is responsible.
- Ensure an effective internal audit function is resourced and maintained.
- Develop and maintain open and effective mechanisms for documenting evidence for decisions and recording the criteria, rationale and considerations on which decisions are based.
- Put in place arrangements to safeguard members and employees against conflicts of interest and put in place appropriate processes to ensure that they continue to operate in practice.
- Develop and maintain an effective audit committee (the Audit and Governance Committee) which is independent of the executive and scrutiny functions.

	<ul style="list-style-type: none"> <li>• Ensure that the authority's governance arrangements allow the CFO direct access to the Audit and Governance Committee and External Audit.</li> </ul>
	<ul style="list-style-type: none"> <li>• Ensure that effective, transparent and accessible arrangements are in place for dealing with complaints.</li> </ul>
Having good quality information, advice and support to ensure that services are delivered effectively and are what the community wants/needs	<ul style="list-style-type: none"> <li>• Ensure those making decisions, whether for the authority or partnership, are provided with information which is fit for purpose – clear, timely, relevant, accurate and complete, and gives clear explanations of issues and implications on both a financial and non-financial basis.</li> </ul>
	<ul style="list-style-type: none"> <li>• Ensure information provided on the financial performance of the organisation to budget managers and senior officers is well presented, timely, complete and accurate.</li> </ul>
	<ul style="list-style-type: none"> <li>• Ensure that timely professional advice on matters that have legal or financial implications is available and recorded in advance of decision making and used appropriately.</li> </ul>
	<ul style="list-style-type: none"> <li>• Ensure the authority's governance arrangements allow the CFO to bring influence to bear on all material decisions.</li> </ul>
	<ul style="list-style-type: none"> <li>• Ensure that advice is provided on the levels of reserves and balances in line with good practice guidance.</li> </ul>
Ensuring that an effective risk management system is in place	<ul style="list-style-type: none"> <li>• Ensure that risk management is embedded into the culture of the authority; with members and managers at all levels recognising that risk management is part of their job.</li> </ul>
	<ul style="list-style-type: none"> <li>• Ensure the authority's arrangements for financial and internal control and for managing risk are addressed in annual governance reports.</li> <li>• Ensure the authority puts in place effective internal financial controls covering codified guidance, budgetary systems, supervision, management review and monitoring, physical safeguards, segregation of duties, accounting procedures, information</li> </ul>

	systems and authorisation and approval processes.
	<ul style="list-style-type: none"> <li>• Ensure that effective arrangements for whistle-blowing are in place to which officers, staff and all those in contracting with or appointed by the authority have access.</li> </ul>
Using their legal powers to the full benefit of the citizens and communities in their area	<ul style="list-style-type: none"> <li>• Actively recognise the limits of lawful activity placed on them by, for example, the ultra vires doctrine but also strive to utilise their powers to the full benefit of their communities.</li> </ul>
	<ul style="list-style-type: none"> <li>• Recognise the limits of lawful action and observe both the specific requirements of legislation and the general responsibilities placed on authorities by public law.</li> </ul>
	<ul style="list-style-type: none"> <li>• Observe all specific legislative requirements placed upon them, as well as the requirement of general law, and in particular to integrate the key principles of good administrative law - rationality, legality and natural justice – into their procedures and decision making processes.</li> </ul>



**PRINCIPLE 5****Developing the capacity and capability of members and officers to be effective**

- Making sure that members and officers have their skills, knowledge, experience and resources they need to perform well in their roles
- Developing the capability of people with governance responsibilities and evaluating their performance as individuals and as a group
- Encouraging new talent for membership of the authority so that best use can be made of individual's skills and resources in balancing continuity and renewal

Effective local government relies on public confidence in authority members, whether elected or appointed, and in officers. Good governance strengthens credibility and confidence in our public services. Authorities need people with the right skills to direct and control them effectively. Governance roles and responsibilities are challenging and demanding, and authority members need the right skills for their roles. In addition, governance is strengthened by the participation of people with many different types of knowledge and experience.

Good governance means drawing on the largest possible pool of potential members to recruit people with the necessary skills. Encouraging a wide range of people to stand for election or apply for appointed positions will develop a membership that has a greater range of experience and knowledge. It will also help to increase the social class, life experience, gender and disability. This concept should also be borne in mind when members are appointed to the boards of other public service organisations.

**Supporting Principles****To meet the requirements of Principle 5, Cheshire East will:-**

Making sure that members and officers have their skills, knowledge, experience and resources they need to perform well in their roles

- Provide induction programmes tailored to individual needs and opportunities for members and officers to update their knowledge on a regular basis.
- Ensure that the statutory officers have the skills, resources and support necessary to perform effectively in their roles and that these roles are properly understood throughout the authority.

- Ensure the CFO has the skills, knowledge, experience and resources to perform effectively in both the financial and non financial areas of their role.
- Review the scope of the CFO's other management responsibilities to ensure financial matters are not compromised.
- Provide the finance function with the resources, expertise and systems necessary to perform its role effectively.

Developing the capability of people with governance responsibilities and evaluating their performance as individuals and as a group	<ul style="list-style-type: none"> <li>Assess the skills required by members and officers and make a commitment to develop those skills to enable roles to be carried out effectively.</li> </ul>
	<ul style="list-style-type: none"> <li>Embed financial competencies in person specifications and appraisals.</li> <li>Ensure that councillors' roles and responsibilities for monitoring financial performance are clear, that they have adequate access to financial skills and are provided with appropriate financial training on an ongoing basis to help them discharge their responsibilities.</li> </ul>
	<ul style="list-style-type: none"> <li>Develop skills on a continuing basis to improve performance, including the ability to scrutinise and challenge and to recognise when outside expert advice is needed.</li> </ul>
	<ul style="list-style-type: none"> <li>Ensure that effective arrangements are in place for reviewing the performance of the executive as a whole and of individual members and agreeing an action plan which might, for example, aim to address any training or development needs.</li> </ul>
Encouraging new talent for membership of the authority so that best use can be made of individuals' skills and resources in balancing continuity and renewal	<ul style="list-style-type: none"> <li>Ensure that effective arrangements are in place designed to encourage individuals from all sections of the community to engage with, contribute to and participate in the work of the authority.</li> </ul>
	<ul style="list-style-type: none"> <li>Ensure that career structures are in place for members and officers to encourage participation and development.</li> </ul>

**PRINCIPLE 6****Engaging with local people and other stakeholders to ensure robust public accountability**

- Exercising leadership through a robust scrutiny function which effectively engages local people and all local institutional stakeholders, including partnerships, and develops constructive accountable relationships
- Taking an active and planned approach to dialogue with and accountability to the public to ensure effective and appropriate service delivery whether directly by the authority, in partnership or by commissioning
- Making best use of human resources by taking an active and planned approach to meet responsibility to staff

Local government is accountable in a number of ways. Elected local authority members are democratically accountable to their local area and this gives a clear leadership role in building sustainable communities. All members must account to their communities for the decisions they have taken and the rationale behind those decisions. All authorities are subject to annual review through the external audit of their financial statements. They are required to publish their financial statements and are encouraged to prepare an annual report. Their budgets are effectively subject to significant influence and overview by government, which has powers to intervene. Both members and officers are subject to codes of conduct. Additionally, where maladministration may have occurred, an aggrieved person may appeal either through their local councillor or directly to the ombudsman.

**Supporting Principles****To meet the requirements of Principle 6, Cheshire East will:-**

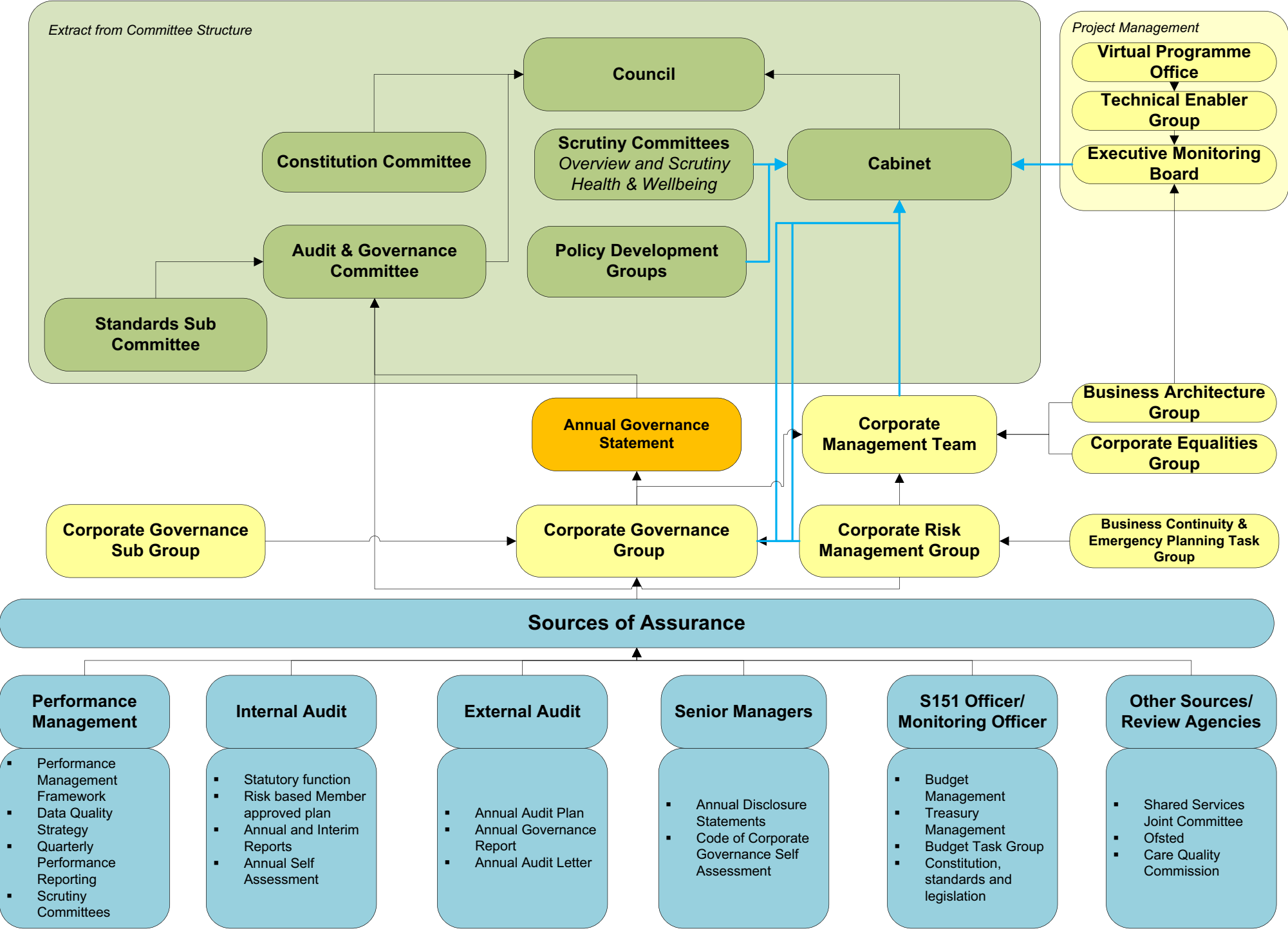
Exercising leadership through a robust scrutiny function which effectively engages local people and stakeholders, including partnerships, and develops constructive accountable relationships

- Make clear to all staff and the community to whom they are accountable and for what.
- Consider those institutional stakeholders to whom the authority is accountable and assess the effectiveness of the relationships and any changes required.
- Produce an annual report on the activity of the scrutiny function and promote a regular dialogue between executive and scrutiny functions.

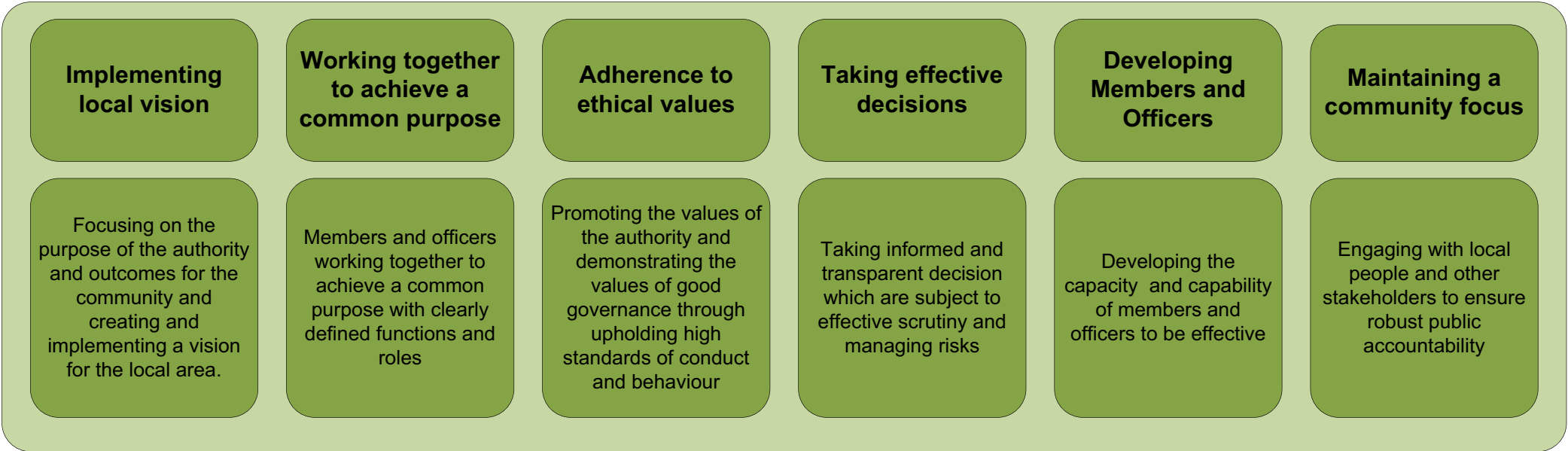
Taking an active and planned approach to dialogue with and accountability to the public to ensure effective and appropriate service delivery whether directly by the authority, in partnership or by commissioning

- Ensure clear channels of communication are in place with all sections of the community and other stakeholders, and put in place monitoring arrangements and ensure that they operate effectively.
- Hold meetings in public unless there are good reasons for confidentiality.
- Ensure that arrangements are in place to enable the authority to engage with all sections of the community effectively. These arrangements should recognise

	that sections of the community have different priorities and establish explicit processes for dealing with these competing demands.
	<ul style="list-style-type: none"> <li>Establish a clear policy on the types of issues they will meaningfully consult on or engage with the public and service users about including a feedback mechanism for those consultees to demonstrate what has changed as a result.</li> </ul>
	<ul style="list-style-type: none"> <li>On an annual basis, publish information on the authority's vision, strategy, plans and financial statements as well as information about its outcomes, achievements and the satisfaction of service users in the previous period.</li> </ul>
	<ul style="list-style-type: none"> <li>Ensure that the authority as a whole is open and accessible to the community, service users and its staff and ensure that it has made a commitment to openness and transparency in all its dealings, including partnership, subject only to those specific circumstances where it is proper and appropriate to do so.</li> </ul>
Ensure that our staff are engaged in the objectives and ethos of the organisation	<ul style="list-style-type: none"> <li>Ensure that staff are fully informed and have an opportunity to feedback with comments and suggestions.</li> </ul>



Six Core Principles



Policy & Constitution

Process

Compliance

### Core Policy List

#### Approval/Review

Fields to be completed in next stage of development

Review Date	Member	Officer	Policy Owner	Policy	Process Owner	Process (CEtranet link)	Compliance
Nov-13	Cabinet	TU/CMT	HR Policy & Strategy	Code of Conduct (staff)			
Apr-11	n/a	Corporate Governance Sub Group/ Corporate Governance Group	ICT Security Manager	ICT Code of Practice (staff)			
To be confirmed	n/a	Corporate Governance Sub Group/ Corporate Governance Group	Compliance Manager	Data Protection			
To be confirmed	Audit & Governance/ Constitution/Council	Corporate Governance Sub Group/ Corporate Governance Group	Monitoring Officer	Whistleblowing Policy			
2015	Consultation/Council	TU/CMT	CMT?	Business Plan			
To be confirmed	n/a	To be confirmed	Compliance & Customer Relations	Compliments, Suggestions and Complaints Policy			
Nov-13	Cabinet	TU/CMT	HR Policy & Strategy	Equality in Employment Policy			
Nov-13	Cabinet	TU/CMT	HR Policy & Strategy	Flexible and Mobile Working			
To be confirmed	Audit & Governance/ Constitution/Council	Corporate Governance Sub Group/ Corporate Governance Group	Internal Audit	Anti-fraud and Corruption Policy			
June-14	Consultation/Staffing Committee	Consultation/H&S Forum	Corporate H&S	Health and Safety Policy			
To be confirmed	Council/Constitution	To be confirmed	Borough Solicitor	Code of Conduct (Members)			
To be confirmed	To be confirmed	To be confirmed	ICT Security Manager	ICT Code of Practice (Members)			

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## CHESHIRE EAST COUNCIL

### Audit and Governance Committee

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**Date of meeting:** 27<sup>th</sup> September 2012  
**Report of:** Head of Internal Audit  
**Title:** Internal Audit Interim Report 2012/13  
**Portfolio Holder:** Councillor Peter Raynes

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#### **1.0 Report Summary**

- 1.1 The purpose of the report is to update the Audit and Governance Committee on progress against the Internal Audit Plan 2012/13, revisions to the plan and to summarise work during the first quarter of 2012/13 (see Appendix A).

#### **2.0 Recommendation**

- 2.1 That the Committee note the issues identified, endorse the approach to achieving adequate audit coverage in the remainder of 2012/13 and discuss future audit issues and ways of working as appropriate.

#### **3.0 Reasons for Recommendation**

- 3.1 This interim report addresses emerging issues in respect of the whole range of areas to be covered in the annual report.

#### **4.0 Wards Affected**

- 4.1 All wards.

#### **5.0 Local Wards Affected**

- 5.1 Not applicable.

#### **6.0 Policy Implications**

- 6.1 Not applicable.

#### **7.0 Financial Implications**

- 7.1 The internal audit team must be appropriately staffed and resourced to comply with statutory and best practice requirements. The Head of Internal Audit post is currently vacant, although action is underway to fill that vacancy. The budget for the internal audit function currently provides for sufficient staffing levels to fulfil this function.

## **8.0 Legal Implications**

- 8.1 The requirement for an internal audit function is either explicit or implied in legislation with s151 of the Local Government Act 1972 requiring Councils to “make arrangements for the proper administration of their financial affairs” and the Accounts and Audit Regulations 2011 requiring a relevant body to “undertake an adequate and effective internal audit ...”

## **9.0 Risk Assessment**

- 9.1 The Authority is required to maintain an adequate and effective system of internal audit in accordance with Regulation 6 of the Accounts and Audit Regulations 2011. Failure to consider the effectiveness of its system of internal audit, and the opinion on Council’s control environment, could result in non- compliance with the requirements of the Regulations.

## **10.0 Background and Options**

- 10.1 The Code of Practice for Internal Audit in Local Government in the United Kingdom states that, “in addition to the annual report”, the Head of Internal Audit “should make arrangements for interim reporting to the organisation in the course of the year. Such interim reports should address emerging issues in respect of the whole range of areas to be covered in the annual report”.
- 10.2 The Council is responsible for establishing and maintaining appropriate risk management processes, control systems, accounting records and governance arrangements. Internal Audit plays a vital part in advising the Council, via the Audit and Governance Committee, that these arrangements are in place and operating properly. The annual internal audit opinion informs the Annual Governance Statement. The Council’s response to internal audit activity should lead to the strengthening of the control environment and, therefore, contribute to the achievement of the Council’s objectives.

## **11.0 Access to information**

The background papers relating to this report can be inspected by contacting the report writer:

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Designation: Audit Manager

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**Internal Audit Interim Report 2012/13****1 Introduction**

- 1.1 In accordance with the Code of Practice for Internal Audit in Local Government in the United Kingdom, the first Internal Audit Interim Report 2012/13 for Cheshire East contains “emerging issues in respect of the whole range of areas to be covered in the annual report”.
- 1.2 Internal Audit is required, at the end of the year, to form an opinion on the overall adequacy and effectiveness of the organisation’s control environment, which includes consideration of any significant risk or governance issues and control failures that have been identified.
- 1.3 This interim report contains the following:
- a summary of the audit work in the first quarter (Section 2)
  - any issues judged particularly relevant to the preparation of the Annual Governance Statement (Section 3)
  - comparison of the work actually undertaken with the work that was planned and a summary of the performance of the internal audit function against its performance measures and targets (Section 4)
  - comments on compliance with these standards and communication of the results of the internal audit quality assurance programme (Section 5)
  - other developments (Section 6).

**2 Summary of Audit Work 2012/13**

- 2.1 This is the first 2012/13 interim report on progress against the Internal Audit Plan. A summary comparison of the 12/13 Audit Plan with Actuals for Quarter 1 is shown below (with comments on variances).

Summary Comparison of Audit Plan 2012/13 and Quarter 1 Actuals

Area of Plan	Plan	Actual	Comments on coverage
Corporate Governance	4%	7%	Production of AGS.
Key Financial Systems	6%	18%	Timing of Internal Audit key systems work is normally in first quarter so that External Audit can place reliance on work, if required, therefore higher percentage expected.
Shared Services	12%	7%	Key systems work undertaken. Planned work on move to Separate Legal Entity (SLE) far lower than expected, given delay in decision.
Corporate Cross-Service	12%	11%	Broadly as planned.
Children, Families & Adults	18%	13%	This is slightly lower than expected. This is a focus of work in Quarters 2 and 3.
Places & Organisational	9%	4%	This is lower than planned for first

## Internal Audit Interim Report 2012/13

Area of Plan	Plan	Actual	Comments on coverage
Capacity			quarter.
Partnerships	3%	0%	Work on Partnership Protocol has taken place in Quarter 2.
Anti Fraud and Corruption	12%	34%	Almost three times greater than planned. Of the 34%, 12% is proactive work and 22% is reactive (with 14% being time spent on Lyme Green).
Improvement & Compliance	3%	0%	No time specifically coded against this heading in first quarter.
Consultancy & Advice	6%	6%	Management requests in line with allocation.
Contingency	12%	0%	As at end of first quarter, approximately 65% of 12/13 contingency of 200 days already used.
Follow Up	3%	0%	Follow up work is charged against the project in question. Coverage is on schedule.
<b>Total</b>	<b>100%</b>	<b>100%</b>	

2.2 During the quarter, audit work was undertaken on the whole of the control environment comprising risk management, key control and governance processes. This work comprised a mix of risk based auditing, regularity, ICT audit, investigations and the provision of advice to officers.

2.3 There have been two major pieces of work during the first quarter:

- Lyme Green Report (as reported previously to Committee)
- Annual Governance Statement (see Section 3 & separate report to Committee)

#### 2012/13 Audits with formal reports

2.4 At the end of March 2012, Internal Audit introduced a formal opinion within a new report format. The first reports with the new assurance level have been produced in this first quarter of 2012/13:

Assurance Level	Audit Reports Issued 2012/13 – Quarter 1
Good	0
Satisfactory	4
Limited	4
No	0

2.5 Internal Audit are required to provide opinions as part of each individual report as well as on the overall adequacy of governance, risk management and control within the organisation (timed to support the Annual Governance Statement).

**Internal Audit Interim Report 2012/13**

2.6 The assurance levels reported in the table above include a combination of opinions at a broad level for the Council as a whole (macro-level opinion):

- Cash Receipting
- Payroll
- General Ledger
- Health & Safety

and opinions on individual business processes or activities within a single organisation, department or location (micro-level opinion):

- Knutsford Civic Hall
- Homecare
- Supporting People
- Emergency Duty Team

2.7 At the macro level, satisfactory assurance is given with regards to the risks identified within the terms of reference, except for client authority controls regarding Payroll which was limited, because certain policies and procedures governing client/shared service roles and responsibilities are either not evident, not up to date or applied consistently.

2.8 At the micro level, assurance for each location is limited because improvements are required in some or all of the following areas: cashing up procedures, authorisation of expenses, contract monitoring and payments and the review of purchase card transactions. This is not entirely unexpected given, in the majority of instances, management were aware of control issues prior to the audit commencing.

2.9 Management has responsibility for ensuring that the agreed actions for improvement are implemented. Internal Audit will obtain assurance that actions have been implemented, particularly with regard to those that are deemed high priority. Therefore, the matters discussed in this part of the report are not being escalated to Members for further action. Members' interest should be restricted to gaining an assurance that the organisation's system of internal control is adequate and that, where audit does not consider this to be the case, action is taken to ensure that any shortcomings are rectified promptly.

**Additional audit work**

2.10 Internal Audit assisted management in discharging their duties through the provision of support, advice and guidance in a number of areas throughout the quarter. Such work does not always result in a formal audit report although it does contribute to the overall audit opinion. Examples of this work include:

- National Fraud Initiative
- Oracle Access Rights Review
- Client Finance Review
- Empower Audit Task Team

**Internal Audit Interim Report 2012/13**

- School Financial Value Standard
- 'Think Twice' monitoring
- Consultancy and Advice on Policy, Procedures & Compliance

**Counter Fraud**

- 2.11 An exercise has been carried out to review the Council's anti fraud and corruption arrangements against the National Fraud Authority's document Fighting Fraud Locally: The Local Government Fraud Strategy. The outcomes of this review are described in detail in a separate report to this Committee.
- 2.12 Work is also ongoing in preparation for the 2012/13 National Fraud Initiative which is coordinated by Internal Audit and requires data extracts to be carried out on 8 October 2012 prior to their submission to the Audit Commission for analysis.
- 2.13 Internal Audit has also assisted management in carrying out a small number of investigations into potential financial irregularities, further details of which will be discussed at the next Member/Officer Fraud Sub Group.

**Reliance placed on work by other assurance bodies**

- 2.14 Assurance is placed on the work of the Audit Commission, OFSTED, and other external bodies where appropriate. Work is planned in 2012/13 by Internal Audit to further map the assurance framework of the Council as a whole, and in certain specific areas such as Education/Schools.

**3 Annual Governance Statement 2011/12 & 2012/13**

- 3.1 In compiling the AGS, significant issues that are considered to fall short of the expected standards are commented on in the Statement. Management has identified the following significant governance issues, further detail of which can be found in the 11/12 AGS:
- Awareness and compliance with Council processes/procedures
  - Issues and actions arising from Lyme Green
  - Empower Card Review
  - Care Provider Failure
  - Judicial Review
  - Financial Management
  - Shared Services SLE
  - Data Protection breach
- 3.2 The AGS has an action plan to address these issues which includes actions already in place along with other planned actions. In a number of these areas, Internal Audit is already involved in ensuring that improvements are being implemented and time has been allocated in the 12/13 Audit Plan to review the other areas. Progress against the 11/12 AGS Action Plan will be monitored by Internal Audit and reported back to this Committee at the next meeting.

**Internal Audit Interim Report 2012/13**

- 3.3 There are no significant control issues identified through the work of Internal Audit in the first quarter of 2012/13 that require disclosure in the Council's 2011/12 Annual Governance Statement.

**4 Internal Audit Performance**

- 4.1 The Internal Audit establishment was significantly reduced to reflect the savings required as part of the 2011/12 budget settlement. The current team is particularly lean and the Head of Internal Audit post is currently vacant.

Performance Indicators

- 4.2 Internal Audit has a number of Performance Indicators that are measured and reported on:

Performance Indicator	2012/13 Target	2012/13 Qtr 1 Actual	2011/12 Actual	Comments
Percentage of Audits completed to user's satisfaction	90%	100%	90%	All are ahead or on target; however, figures are for the first quarter only and the number of reports, recommendations and questionnaires at this stage of the year is relatively low.
Percentage of significant recommendations agreed	85%	100%	98%	
Productive Time (of Chargeable Days)	80%	87%	86%	
Draft report produced promptly (per Client Satisfaction)	90%	90%	85%	

- 4.3 As reported to the Committee in June 2012, a lot of work has gone on in recent months by Internal Audit to measure recommendations implemented. At the last Committee, it was reported that there was a large proportion of Actions recorded as implementation 'in progress'. At that meeting, Members requested that a measure of the number of recommendations implemented within agreed timescale be provided.

**4.4 Implementation of Recommendations (as at September 2012)**

Recommendations	%
Recommendations implemented within original agreed timescale	34%
Recommendations agreed – timescale renegotiated/being renegotiated	65%
Recommendations not implemented	1%
<b>Total</b>	<b>100%</b>

- 4.5 As can be seen from the table in 4.4, approximately two thirds of recommendations have not been implemented within the agreed timescale.

**Internal Audit Interim Report 2012/13**

Feedback from Managers for reasons on these slippages fall under a number of different headings, including:

- Resource issues – lack of staff/‘day job’ has taken priority etc.
- Change in Manager/Service restructure since original audit
- Implementation of recommendations is dependant on other factors, outside Manager’s direct control e.g. Shared Services/new system etc.

- 4.6 Internal Audit will now do further work in escalating those recommendations not yet implemented through relevant Service and Directorate Management Teams and on to Corporate Management Team, and this Committee, if necessary.
- 4.7 Internal Audit are also currently further developing the follow up procedure for audits, based on a manager self assessment of recommendations implemented. Internal Audit would then periodically sample check, using a risk based approach on the original assurance level, for evidence of implementation.
- 4.8 For 12/13, there are new indicators, reported half yearly, relating specifically to investigations and also follow up audits. Progress against these indicators will be reported in the next interim Internal Audit report in January 2013.

**5 Compliance with Code of Practice for Internal Audit**

- 5.1 In accordance with the Regulations the performance of Internal Audit has been measured using the checklist appended to the Code of Practice for Internal Audit in Local Government in the United Kingdom 2006. The review, completed by Audit Managers concluded that, although there are areas for improvement (as detailed in the Annual Report to Committee in June 2012), the internal audit service is being delivered to the required standard. This contributes to the assurances received for the AGS and has been shared with Committee Members as part of the training workshop in September 2012.

**6 Other Developments**

- 6.1 The Chartered Institute of Public Finance and Accountancy (CIPFA) and the Institute of Internal Auditors (IIA) recently launched a public consultation on the first unified set of public sector internal audit standards. It is currently proposed that the PSIAS (Public Sector Internal Audit Standards) will come into force from 1 April 2013. Further updates will be provided to the Committee, when more information becomes available.
- 6.2 Cheshire East is currently exploring opportunities around regional collaboration and Internal Audit has been involved in discussions in the last few months with its partners within the Cheshire and Warrington Sub Region around working together and how best to share information and pool limited resources, where possible.



## **CHESHIRE EAST COUNCIL**

### **Audit and Governance Committee**

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**Date of meeting:** 27<sup>th</sup> September 2012  
**Report of:** Head of Internal Audit  
**Title:** Anti-Fraud and Corruption Arrangements  
**Portfolio Holder:** Councillor Peter Raynes

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#### **1.0 Report Summary**

- 1.1 As part of the Council's ongoing efforts to ensure that the systems and procedures in place within the Council remain relevant and meet best practice the anti-fraud and corruption arrangements have been reviewed against the National Fraud Authority (NFA) document 'Fighting Fraud Locally: The Local Government Fraud Strategy (FFL)'. This report advises the Committee on the findings of the review.

#### **2.0 Recommendation**

- 2.1 The Audit and Governance Committee is asked to note this report.

#### **3.0 Reasons for Recommendation**

- 3.1 In order to ensure that the Council has robust arrangements to counter the threat of loss through fraud and corruption it is essential that the relevant systems and procedures are subject to regular review against best practice and that identified weaknesses are managed.
- 3.2 The Audit and Governance Committee's role in overseeing the Council's Counter Fraud arrangements is crucial for the Council to achieve its anti fraud and corruption objectives.

#### **4.0 Wards Affected**

- 4.1 All wards

#### **5.0 Local Wards Affected**

- 5.1 Not applicable

## **6.0 Policy Implications**

- 6.1 The existence of anti-fraud arrangements, in line with the Fighting Fraud Locally Strategy will contribute towards good governance.

## **7.0 Financial Implications**

- 7.1 An overriding responsibility of the Council is the provision of effective and efficient services in a manner that seeks to ensure the best possible protection of the public purse in its delivery arrangements. Hence the Council must have appropriate policies and mechanisms to safeguard the Council's resources and reduce losses to fraud and corruption in all areas to an absolute minimum.

## **8.0 Legal Implications**

- 8.1 The responsibilities of public sector entities in relation to the prevention and detection of fraud and error are set out in statute, standards and other guidance. Local Government entities have a statutory duty to make arrangements for the proper administration of their financial affairs and appoint an officer to have responsibility for the administration of these arrangements.

## **9.0 Risk Assessment**

- 9.1 The Council as a large organisation is at risk of loss due to fraud and corruption both from within the Council and outside it. The impact of fraud on the Council can have consequences that are serious and often far reaching. Financial loss is the obvious key risk but the undermining of public confidence that can result from the discovery of a fraudulent or corrupt act can inflict a much greater damage than the act itself. In order to mitigate this risk the Council needs to be explicit about the way fraud will be regarded and dealt with.

## **10.0 Background and Options**

- 10.1 The Fighting Fraud Locally Local Government Fraud Strategy sets out a three part strategic approach to tackling fraud:

- **Acknowledge** – acknowledging and understanding fraud risks and committing support and resource to tackling fraud in order to maintain a robust anti-fraud response.

- **Prevent** – preventing and detecting more fraud by making better use of information and technology, enhancing fraud controls and processes and developing a more effective anti-fraud culture.
- **Pursue** – punishing fraudsters and recovering losses by prioritising the use of civil sanctions, developing capability and capacity to investigate fraudsters and developing a more collaborative and supportive law enforcement response.

10.2 Each of the three elements detailed above are discussed in detail and a number of areas for consideration are provided. In order to identify gaps in our current arrangements they have been reviewed against these areas of consideration and the outcomes detailed below:

**Review of Compliance with Best Practice as Detailed in Fighting Fraud Locally**

10.3 **Acknowledge**

Conduct a fraud risk assessment to identify the threat of fraud and use the fraud loss tool to determine the likely risk exposure.

- 10.3.1 An effective counter fraud strategy needs to be informed by a good understanding of the fraud threat, emerging risks and the savings that can be made from investing in countering fraud. The best local authorities know how fraud affects them and what they can do about it.
- 10.3.2 The Council’s risk management process has identified the “Risk that the Council fails to manage expenditure within budget and maintain an adequate level of reserves, thereby threatening financial stability and service continuity and preventing the achievement of corporate objectives” as a Strategic Risk.
- 10.3.3 This risk recognises that the Council could be exposed to losses or unplanned expenditure, as a result of the misappropriation of assets and/or fraudulent financial reporting as well as other causes/triggers.
- 10.3.4 Following the identification and assessment of mitigating controls and future planned actions/contingency, the risk has been measured as high in recognition of the fact that although a number of controls have been

strengthened, the overall economic situation and scale of organisational change continues to present a challenging climate.

- 10.3.5 This risk has been reviewed during the year through one to one discussions with the manager of this risk, which is the Finance Manager. The review date for this risk is decided at each review meeting and the risk has been revisited during the year accordingly and at least quarterly.
- 10.3.6 At each risk review the risk stewardship template is forwarded for discussion and comment by the risk owner, the Director of Finance and Business Services, with the risk strategic lead which is the Finance Portfolio Holder. Any comments received from the risk owner and strategic risk lead are updated on the risk stewardship template and risk register accordingly.
- 10.3.7 This risk is a key corporate risk and as such is reviewed by the Corporate Risk Management Group and included in the risk update reports to the Corporate Management Team, Cabinet and the Audit and Governance Committee. Details of this risk are also held on the key corporate risk register which is available to view by all Members on the Centranet and has recently been communicated to all Scrutiny Committee Chairs.
- 10.3.8 Members are asked to note that the strategic risk will be revisited in order to take account of the outcomes of this review including:
- the Fraud Loss Profile Tool
  - the National Anti Fraud Network (NAFN) resilience tool
- as well as the outcomes from the National Fraud Initiative (NFI).
- 10.3.9 The Fraud Loss Profile Tool is produced by the National Fraud Authority (NFA) and provides Local Authorities with an indication of their likely financial loss to fraud in Council Tax, Housing Tenancy and Procurement and Payroll.
- 10.3.10 The figures provided are based upon expenditure figures provided to the Department for Communities and Local Government (DCLG) and makes an assumption that a percentage of all expenditure in each area

may be fraudulent. This does not therefore take into account the effectiveness of controls already in place to mitigate the risk of fraud.

10.3.11 It does however provide an indication to the potential losses in these areas should the controls that are currently in place not be operating effectively.

10.3.12 A summary of the results are as follows:

	Lower Estimate	Upper Estimate
Council Tax Fraud	£ 740,000	£ 1,230,000
Housing Tenancy Fraud	-	-
Procurement Fraud	£ 3,160,000	£ 5,270,000
Payroll Fraud	£ 540,000	£ 900,000
<b>Total Estimated Fraud</b>	<b>£ 4,440,000</b>	<b>£ 7,400,000</b>

10.3.13 As previously stated, it is important to note that these figures represent an estimate of the potential value of fraud against the Authority should it not have effective controls in place to mitigate the risk of loss in these areas.

Perform a resilience check of the current capabilities making use of the free resilience tool which is available via the National Anti Fraud Network (NAFN) website.

- 10.3.14 The resilience tool consists of 29 questions designed to provide a score out of 50 for the Council's resilience to fraud. This has not been completed as yet but is planned to be carried out during September 2012.

Keeping records of all suspected and confirmed fraud cases and reporting annually at an Audit Committee level, or equivalent, on all matters relating to fraud, including an assessment of the effectiveness of the authority's fraud response.

- 10.3.15 Whilst records are maintained of all fraud cases and periodic updates on the effectiveness of the authority's fraud response are provided to Members, it is acknowledged that this is not currently presented to Audit and Governance Committee in the form of an annual report. In order to address this it is proposed that the format and timing of such a report is discussed and agreed at the next Member/Officer Fraud Sub Group.

Reviewing key systems that may be vulnerable to fraud and ensuring that key fraud risks are managed effectively.

- 10.3.16 Internal Audit considers the risk of fraud in compiling the annual audit plan and as such these areas are subject to review and reporting as part of the normal programme of Internal Audit work. Key financial systems are reviewed annually as part of the internal and external audit process. In order to comply with International Standards on Auditing (UK and Ireland) the Council's External Auditors require an understanding of how those charged with governance exercise oversight of management's processes for identifying and responding to the risk of fraud and the internal control that management has established to mitigate the risk (ISA 240). The response to the External Auditors is reported to the Audit and Governance Committee annually.

Developing a response plan aligned with the fraud risk and this strategy, accompanying guidance documents and checklist and reporting on this to senior management and relevant committees.

10.3.17 The current Anti Fraud and Corruption Strategy has been reviewed and updated in order to incorporate the requirements of the Bribery Act 2010 but it was felt appropriate to delay the submission of the updated strategy to both senior managers and Members until it was possible to carry out a further review to take into account the recommendations of FFL. This piece of work is ongoing and will involve the production of a Fraud Response Plan (the current strategy provides a high level description of how the Authority responds to fraud but this should be expanded upon in order to meet best practice).

10.3.18 Once the updated policy has been completed it will be submitted to the Corporate Governance Group for consideration before being presented to both Corporate Management Team and the Audit and Governance Committee for approval and adoption.

#### 10.4 **Prevent**

Deploying data analytic tools in their areas of risk for the purpose of data matching fraud prevention services across councils.
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10.4.1 Cheshire East Council currently utilises the findings from data matching to investigate potential frauds through its involvement in the National Fraud Initiative (NFI) and this is an area of pro active work that we are looking to extend.

10.4.2 Internal Audit has recently utilised the data analysis tool IDEA to identify duplicate payments processed via the Accounts Payable system for 2010/11 and 2011/12. In addition, Cheshire Shared Services have commissioned a company to carry out a similar exercise for the period April 2009 to March 2012.

10.4.3 The results will be reported to a future meeting following completion of the exercises.

10.4.4 During 2010/11, a successful exercise was commissioned by the Revenues team in order to identify claims for Single Persons Discount where there was evidence to suggest that another adult was resident at the address. The work was carried out by Northgate and cost around

£80,000 but realised an estimated increase in income of £500,000 per annum.

- 10.4.5 Discussions have recently been held between the Principal Auditor (Fraud) and the Service Manager – Revenues to identify other areas where data matching could be utilised to identify potential fraudulent applications for discount.

Collaborating with NFI and NAFN to develop data warehouses for the purpose of data matching fraud prevention across councils.

- 10.4.6 As part of FFL there is a commitment for the NFI and NAFN to work with local government to develop the capability and capacity to enable real-time or near real-time data matching checks and better use of intelligence relating to known fraud and fraudsters.

- 10.4.7 Cheshire East Council complies fully with the requirements of the biannual NFI data matching exercise and is a member of NAFN with officers including Housing Benefits, Trading Standards and Internal Audit utilising its services and responding to requests for information.

Developing a programme of activity to embed a strong anti-fraud culture across departments and delivery agents.

- 10.4.8 In addition to the Anti Fraud and Corruption Strategy and Fraud Response Plan that are currently being updated and developed to meet best practice and comply with the spirit and recommendations of FFL, it is proposed that an E-Learning module on Fraud Awareness will be rolled out to all staff.

- 10.4.9 Internal Audit are currently reviewing two possible modules to determine the most appropriate product and will make a recommendation to the Corporate Governance Group prior to the module being added to the current E-Learning suite. This will increase awareness of the risk of fraud across the Authority and impress upon staff the zero tolerance approach to fraudulent activity that Cheshire East Council employs.



Using the Changing Organisational Cultures Toolkit.

- 10.4.10 Upon completion of the Fraud Resilience Toolkit exercise consideration will be given as to whether it would be beneficial to carry out a further review of the arrangements against this toolkit which was produced by the Audit Commission several years ago.

Ensuring that staff and the public have access to a fraud and corruption whistleblowing helpline, and assure themselves that it conforms to the British Standards for whistleblowing arrangements.

- 10.4.11 Cheshire East Council's whistleblowing arrangements were updated and reviewed in line with the Whistleblowing Arrangements Code of Practice Publicly Available Specification (PAS) 1998:2008 which was issued by the British Standards Institute. A staff survey will be used to gauge awareness of the Council's whistleblowing arrangements as previously discussed by the Audit and Governance Committee.
- 10.4.12 Contrary to the suggested consideration in FFL, the PAS recommends that whistleblowing arrangements should not cover members of the public and the existing policy is consistent with this.
- 10.4.13 Currently, a member of the public would be able to raise a suspicion of fraudulent activity via the Corporate, Suggestions and Complaints arrangements but consideration will be given as to whether a dedicated means of reporting concerns around fraud and corruption for both members of the public and staff should be established.

## **10.5 Pursue**

Ensuring that the local authority has access to appropriate specialist investigative resource, including financial investigators, and explore options on whether access to these services can be shared across local authorities.

- 10.5.1 Cheshire East currently has access to a dedicated fraud resource in the Benefits Fraud Team although consideration will need to be given as to the impact the establishment of the Single Investigatory Service will have upon areas such as Council Tax fraud investigations.

10.5.2 In addition, a Financial Investigator is employed within the Consumer Protection and Investigations Team who is trained to pursue prosecutions under the Proceeds of Crime Act.

10.5.3 Whilst Internal Audit has staff that are professionally qualified and experienced at carrying out investigations into suspected fraud, none of the auditors currently hold any specialist qualifications in this area which is a matter that should be subject to further consideration.

Making arrangements with other authorities or partners to ensure access to a financial investigator.
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10.5.4 The availability of appropriate investigative resource is an area that has been subject to discussion at the Cheshire and Warrington Internal Audit Group and will be discussed in greater detail as the group establishes itself further.

Adopting a parallel sanctions policy for the purpose of taking disciplinary, civil and criminal action against fraudsters and consider the use of fraud recovery for all instances of fraud.
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10.5.5 Parallel sanctions refer to the process whereby two or more potential sanctions are pursued at the same time in order to maximise the potential of a successful outcome.

10.5.6 Cheshire East does not currently have a corporate sanctions policy that covers all areas that may be required to pursue a prosecution although the Housing Benefit Fraud Team operates under a service specific policy and Trading Standards follow an Enforcement Policy both of which set out the sanctions available and circumstances under which they will be applied.

10.5.7 In developing a Fraud Response Plan, consideration will be given to the production of a Parallel Sanctions Policy which covers the prosecution and recovery of all fraud losses perpetrated against the Council. This work will take account of the National Fraud Authority's:

- compendium of powers and penalties which has recently been developed to assist local authorities in their law enforcement response
- best practice on the use of fraud recovery processes and case building which is, as yet to be disseminated

Securing appropriate training for fraud practitioners in line with agreed professional standards for all types of investigation

Only employing staff to undertake investigations that are suitably qualified and trained and adhere to a professional code.

Adopting a professional code using the codes held by the Counter Fraud Specialists as a basis.

- 10.5.8 Investigators within both the Consumer Protection and Investigations team and the Housing Benefits fraud team are appropriately qualified to carry out investigations and pursue prosecutions on behalf of the Council. However, whilst Internal Audit includes staff with professional qualifications and significant experience of carrying out fraud investigations, none have specialist qualifications in this area. Consideration should therefore be given as to whether it would be beneficial for appropriate Internal Audit staff to undertake Counter Fraud Specialist training.

Working closely with local law enforcement agencies and putting in place locally agreed service level agreements where appropriate.

- 10.5.9 To be effective and consistently tackle fraud, local authorities need a consistent response from government and law enforcement. In order to facilitate this, the National Fraud Authority has committed to working with other enforcement agencies to develop a template for local authorities to set up agreements with local law enforcement agencies.

- 10.5.10 Internal Audit have established good working relationships with Cheshire Police Fraud Unit who provide support and guidance with regards to suspected frauds and the most appropriate way in which they should be investigated.

**11.0 Access to information**

The background papers relating to this report can be inspected by contacting the report writer:

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Designation: Audit Manager

Tel No: 01270 685864

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## CHESHIRE EAST COUNCIL

### Audit and Governance Report

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**Date of Meeting:** 27<sup>th</sup> September 2012  
**Report of:** Director of Finance & Business Services  
**Subject/Title:** Treasury Management Update  
**Portfolio Holder:** Councillor Peter Raynes (Finance)

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#### 1.0 Report Summary

- 1.1 The Treasury Management Policy requires regular reporting on the performance of the Council's treasury management operation. This report contains details of the activities undertaken in 2011/12 and the first quarter of 2012/13.
- 1.2 The Treasury Management Annual Report was reported to Cabinet on 23<sup>rd</sup> July 2012. In accordance with best practice the Audit and Governance Committee will also receive regular reports on Treasury Management activity and will consider the 2013/14 Treasury Management Strategy report at the January Committee prior to its approval at Full Council.
- 1.3 A training session was held for members on Monday, 21<sup>st</sup> May led by the Council's treasury management advisers, Arlingclose.

#### 2.0 Recommendations

That the Committee

- (1) note the treasury management activity for the year 2011/12 as detailed in Appendix A; and
- (2) note the treasury management activity for the first quarter of 2012/13 as detailed in Appendix B.

#### 3.0 Reasons for Recommendations

- 3.1 To meet the requirements of the CIPFA Code of Practice for Treasury Management in the Public Services and the Prudential Code for Capital Finance in Local Authorities.

#### 4.0 Wards Affected

- 4.1 Not applicable

**5.0 Local Ward Members**

5.1 Not applicable

**6.0 Policy Implications including carbon reduction and health**

6.1 None

**7.0 Financial Implications (Authorised by the Director of Finance & Business Services)**

7.1 Contained within the report.

**8.0 Legal Implications (Authorised by the Borough Solicitor)**

8.1 As noted in paragraph C47 of the Finance and Contract Procedure Rules in the Council's Constitution, the Council has adopted CIPFA's *Code of Practice for Treasury Management in Local Authorities* as this is recognised as the accepted standard for this area. C47 to C52 provide further information relating to treasury management practice, and the Code itself will have been developed and based upon relevant legislation and best practice.

**9.0 Risk Management**

9.1 The Council regards the successful identification, monitoring and control of risk to be the prime criteria by which the effectiveness of its treasury management function will be measured.

**10.0 Background and Options**

10.1 The 2011/12 annual treasury report, detailed in Appendix A covers:

- the Council's treasury year end position;
- forecast prospects for interest rates for 2011/12;
- interest rate outturn for 2011/12;
- compliance with treasury limits;
- investment strategy for 2011/12;
- borrowing strategy for 2011/12;
- economic events of 2011/12;
- Prudential indicators 2011/12.

10.2 The 2012/13 quarterly update, as at 30<sup>th</sup> June 2012 is provided in Appendix B.

**11.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer:

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Designation:	Director of Finance & Business Services
Tel No:	01270 686628
Email:	<a href="mailto:lisa.quinn@cheshireeast.gov.uk">lisa.quinn@cheshireeast.gov.uk</a>

**Appendix A****Treasury Management Annual Report 2011/12****Introduction and Background**

The Council's treasury management activity is underpinned by CIPFA's Code of Practice on Treasury Management ("the Code"), which requires local authorities to produce annually Prudential Indicators and a Treasury Management Strategy Statement on the likely financing and investment activity. The Code also recommends that members are informed of treasury management activities at least twice a year. The Cabinet receive an annual report and regular updates through the Quarterly Financial and Performance Reports. The scrutiny of treasury policy, strategy and activity is delegated to the Audit and Governance Committee.

Treasury management is defined as: "The management of the local authority's investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks."

Overall responsibility for treasury management remains with the Council. No treasury management activity is without risk; the effective identification and management of risk are integral to the Council's treasury management objectives.

This report:

- a) is prepared in accordance with the revised CIPFA Treasury Management Code and the revised Prudential Code;
- b) presents details of capital financing, borrowing, debt rescheduling and investment transactions;
- c) reports on the risk implications of treasury decisions and transactions;
- d) gives details of the outturn position on treasury management transactions in 2011/12;
- e) confirms compliance with treasury limits and Prudential Indicators.

## 1. Treasury Year End Position

The amount of investments outstanding at 31<sup>st</sup> March 2012 was £50.1m as follows:

	31/03/11	31/03/12
	£m	£m
<b>BANKS (Fixed Deposits)</b>		
Lloyds TSB	8.0	3.1
Barclays Bank	15.0	-
Santander (UK)	5.0	-
<b>BUILDING SOCIETIES</b>		
Nationwide	10.0	-
<b>MONEY MARKET FUNDS</b>		
Prime Rate	8.0	5.0
Ignis	-	4.5
Deutsche	-	4.0
Scottish Widows	6.3	3.5
Standard Life	4.8	-
<b>INSTANT ACCESS ACCOUNTS</b>		
Royal Bank of Scotland	-	5.0
Santander (UK)	7.4	5.0
Co-op Reserve	1.8	-
<b>MANAGED FUNDS</b>		
Investec – Pooled Funds	-	20.0
<b>TOTAL</b>	<b>66.3</b>	<b>50.1</b>

Despite interest rates remaining at 0.5% during 2011/12, the total investment income was £816,000 which exceeded the budgeted target of £800,000. The overall average rate of interest on all investments in 2011/12 was 1.05% compared to the benchmark 7 day LIBID return of 0.52%. The investment income includes £63,000 relating to deposits made by the former Cheshire County Council with the Icelandic Heritable Bank which were received in 2011/12.

We will continue to monitor performance during 2012/13 through the benchmarking service provided by the Council's Treasury Management Advisors, Arlingclose. The current position for Cheshire East indicates that interest achieved on investments is slightly below average compared to other local authorities but has a lower exposure to credit risk.



## 2. Icelandic Bank Deposits

On the date Heritable Bank (Heritable) was placed into administration Cheshire County Council had £8.5 million deposited with the bank of which £4.6m is the Cheshire East share. These deposits were immediately frozen. This meant that such monies would not be returned to the Council until such time as the work of the administrator, to ascertain the assets and liabilities of Heritable and to make dividend payments to the bank's creditors (of which the Council is one), has been completed.

Repayment of monies due from Heritable Bank has been continuing and in August 2011 the administrators announced that we are likely to receive around 88% of the original claim, an increase from the original estimate of 85%.

From the total claim of £4.62m we have now received £3.14m (68%).

Further repayments are forecast as follows:

2012/2013	-	£1.15m (11% of the original claim)
2013/2014	-	£0.46m (9% of the original claim)

## 3. Interest Rates and Prospects for 2011/12

The Councils' treasury advisors, as part of their service assisted in formulating a view on interest rates. However, there has been no change to the bank base rate since March 2009.

	Q1 2011	Q2 2011	Q3 2011	Q4 2011	Q1 2012
<b>Base Rate</b>	<b>0.50%</b>	<b>0.50%</b>	<b>0.50%</b>	<b>0.50%</b>	<b>0.50%</b>

## 4. Compliance with Treasury Limits

During the financial year the Councils' operated within the treasury limits and Prudential Indicators set out in the Councils' Treasury Policy Statement and annual Treasury Strategy Statement (see section 8).

## 5. Investment Strategy for 2011/12

The Council had regard to the DCLG Guidance on Local Government Investments ("the Guidance") issued in March 2004 (revised in 2010) and the revised CIPFA Treasury Management Code and the revised Prudential Code ("the CIPFA TM Code").

Investment instruments identified for use in the financial year are listed under the 'Specified' and 'Non-Specified' Investments categories. Counterparty limits were set through the Councils' Treasury Management Strategy Statement and Investment Strategy.

## **Investment Objectives**

All investments were in sterling. The general policy objective of the Council was the prudent investment of its treasury balances. The Councils' investment priorities are the security of capital and liquidity of its investments.

The Council aimed to achieve the optimum return on its investments commensurate with the proper levels of security and liquidity. The DCLG maintains that the borrowing of monies purely to invest or on-lend and make a return is unlawful and this Council will not engage in such activity.

## **Credit Risk**

Counterparty credit quality was assessed and monitored with reference to credit ratings; credit default swaps; GDP of the country in which the institution operates; the country's net debt as a percentage of GDP; any potential support mechanisms and share price. The minimum long-term counterparty credit rating determined for the 2011/12 treasury strategy was A+/A1 across rating agencies Fitch, S&P and Moody's.

Downgrades in the autumn 2011 to the long-term ratings of several counterparties resulted in their ratings falling below the Authority's minimum threshold of A+/A3. The downgrades were driven principally by the agencies' view the extent of future government support (flowing from the recommendations to the government from the Independent Commission on Banking) rather than a deterioration in the institutions' creditworthiness. Further use of these counterparties was suspended until a revised criteria was approved for use from 1<sup>st</sup> April 2012.

## **Liquidity**

In keeping with the CLG's Guidance on Investments, the Council maintained a sufficient level of liquidity through the use of Money Market Funds / overnight deposits/ the use of call accounts.

## **Yield**

The Council sought to optimise returns commensurate with its objectives of security and liquidity. The UK Bank Rate was maintained at 0.5% through the year.

The Council considered an appropriate risk management response to uncertain and deteriorating credit conditions in Europe was to shorten maturities for new investments. Short term money market rates also remained at very low levels which had a significant impact on investment income.

## **Use of External Fund Managers**

In May 2011 the Council placed £20m with Investec in pooled funds, for which the aim is to generate higher returns in a low interest rate environment through investment in a diverse range of instruments. Since joining the fund market conditions have been challenging predominantly caused by problems in the Greek and Spanish economies which affects the whole Eurozone markets. The return on these funds in 2011/12, after allowing for fees, was 0.56%.

Whilst the performance of the fund since we joined is not as good as we originally hoped, these investments should be seen as a longer term investment so true performance can only be judged over a longer period of time.

## **6. Borrowing strategy**

At the end of the year 2011/12 the Council had debt outstanding of £132.3m. Of this £17m represented loans raised from commercial banks whilst £115.3m represented loans from the PWLB. The only borrowing activity which took place in 2011/12 was to refinance £5m maturing PWLB debt with a new 10 year PWLB Equal Instalments of Principal (EIP) loan at a rate of 2.09%. Whilst there is a short term cost of carrying this loan (compared to investment rates) this does offset the interest risk inherent in waiting until liquidity issues force new borrowing.

The maturing debt arose out of a £50m debt restructuring exercise in July 2010 which assumed savings of £4.47m over 10 years based on refinancing the debt at 4.22%. As the refinancing in 2011/12 did not take place until March and was at the lower rate of 2.09% then savings are forecast to be higher. Budgeted savings from debt restructuring up to 31/03/12 were £1.4m, actual savings are £1.6m. .

The Council has been able to internally borrow to fund the capital programme in 2011/12. This has been due to delays in capital expenditure, the current availability of cash resources and the interest rate environment. This strategy has resulted in a saving of interest charges in 2011/12 (interest payable £5.3m compared to budget of £6.1m), but the longer term approach will be to take advantage of short and long term borrowing opportunities with advice from Arlingclose.

## **7. Economic events of 2011/12**

At the time of determining the 2011/12 strategy in February 2011, there were tentative signs that the UK was emerging from recession with the worst of the financial crisis behind it. Recovery in growth was expected to be slow and uneven as the austerity measures announced in the 2010 Comprehensive Spending Review were implemented in order to bring down the budget deficit and government borrowing and rebalance the economy and public sector finances. Inflation measured by the Consumer Price Index (CPI) had remained stubbornly above 3%. Unemployment was at a 16-year high at 2.5 million and was expected to rise further as the public and private sector contracted. There

was also a high degree of uncertainty surrounding Eurozone sovereign debt sustainability.

**Inflation:** During 2011-12 inflation remained high with CPI (the official measure) and RPI rising in September to 5.2% and 5.6% respectively primarily due to escalating utility prices and the January 2011 increase in VAT to 20%. Inflation eased slowly as reductions in transport costs, food prices, intensifying competition amongst retailers and supermarkets and the VAT effect falling out in 2012, pushed February 2012's CPI down to 3.4% and RPI to 3.7%. This, however, was not enough to offset low wage growth and, as a result, Britons suffered the biggest drop in disposable income in more than three decades.

**Growth, Employment, House Prices:** Growth, on the other hand, remained elusive. The Bank's Quarterly Inflation Reports painted a bleak picture as the outlook was downgraded to around 1% in 2011 and 2012 alongside. The unresolved problems in the Eurozone weighed negatively on global economic prospects. UK GDP was positive in only the first and third calendar quarters of 2011; annual GDP to December 2011 registered just 0.5%. Unemployment rose to 2.68 million and, worryingly, youth unemployment broke through the 1 million barrier. House prices struggled to show sustained growth and consumer confidence remained fragile.

**Monetary Policy:** It was not surprising that the Bank of England's Monetary Policy Committee maintained the status quo on the Bank Rate which has now been held at 0.5% since March 2009, but increased asset purchases by £75bn in October 2011 and another £50bn in February 2012 taking the Quantitative Easing (QE) total to £325bn.

The policy measures announced in the March 2012 Budget statement were judged to be neutral. The government stuck broadly to its austerity plans as the economy was rebalancing slowly. The opinion of independent Office for Budget Responsibility (OBR) was that the government was on track to meet its fiscal targets; the OBR identified oil price shocks and a further deterioration in Europe as the main risks to the outlook for growth and in meeting the fiscal target.

## US

The US economy continued to show tentative, positive signs of growth alongside a gradual decline in the unemployment rate. The US Federal Reserve (the Fed) committed to keeping policy rates low until 2014, although a modest shift in the Fed's language in March, alongside an improvement in economic activity, cast doubts about the permanence of the Fed's policy commitment.

## Europe

In Europe, sovereign debt problems for some peripheral countries became critical. Several policy initiatives were largely ineffectual; two bailout packages were required for Greece and one for Portugal, and the contagion spread to Spain and Italy whose sovereign bonds came under increased stress in November. Standard & Poor's downgraded nine European sovereigns and the

EFSF bailout fund. The successful Greek sovereign bond swap in March 2012 shortly after its second bailout package allowed it to avoid bankruptcy later that month, but it was not a long-term solution. The ECB's €1.3 trillion Long-Term refinancing Operations (LTROs) flooded the financial markets with ultra-cheap 3-year liquidity and relieved much of the immediate funding pressure facing European banks in 2012, but markets ultimately took the view the LTROs simply served to delay a resolution of, rather than addressed, the fundamental issues underpinning Euroland's problems.

Markets sentiment oscillated between 'risk on'/'risk off' modes, this swing becoming the norm for much of 2011/12 as investors shifted between riskier assets and the relative safety of higher quality government bonds. Gilts, however, were a principal beneficiary of the 'risk-off' theme which helped push yields lower. There was little market reaction to or impact on gilts by the decision by Fitch and Moody's to change the outlook on the UK's triple-A rating from stable to negative. Over the 12-month period from April 2011 to March 2012, 5-year gilt yields more than halved from 2.40% to 1.06%; 10-year gilt yields fell from 3.67% to 2.25%; 20-year yields fell from 4.30% to 3.20% and 50-year yields from 4.20% to 3.35%. PWLB borrowing rates fell commensurately, but the cost of carry associated with borrowing longer-term loans whilst investing the monies temporarily until required for capital financing remained high, in excess of 4.1 % for 20-year PWLB Maturity borrowing.

### **Credit**

Europe's banking sector was inextricably linked with the sovereign sector. Sharp moves in sovereign CDS and bond yields were fairly correlated with the countries' banking sector performance. The deterioration in the prospects for real growth had implications for earnings and profit growth and banks' creditworthiness. The European Banking Authority's banking stress tests of 70 EU banks undertaken in October 2011 identified a collective €106 billion shortfall to banks' Core Tier 1 ratio of 9%. The slowdown in debt and equity capital market activity also had implications for banks' funding and liquidity. These principal factors, as well as a reassessment by the rating agencies of future sovereign support for banks, resulted in downgrades to the long-term ratings of several UK and non-UK financial institutions in autumn 2011.

## **8. Prudential Indicators 2011/12**

The Council can confirm that it has complied with its Prudential Indicators for 2011/12, which were approved on 24<sup>th</sup> February 2011 as part of the Council's Treasury Management Strategy Statement. Details can be found in Annex 1.

In compliance with the requirements of the CIPFA Code of Practice this report provides members with a summary report of the treasury management activity during 2011/12. None of the Prudential Indicators have been breached and a prudent approach has been taken in relation to investment activity with priority being given to security and liquidity over yield.

## **9. Other Items**

### **Potential for reduced PWLB borrowing rates**

A brief paragraph in the 2012 Budget Report (March 2012) contained HM Treasury's intention to offer a 20 basis points discount on loans from the PWLB "for those principal local authorities providing improved information and transparency on their locally-determined long-term borrowing and associated capital spending plans" and the potential of an independent body to facilitate the provision of "a further reduced rate for authorities demonstrating best quality and value for money". More detail is awaited and, given that discussion with relevant bodies will be required, it could be some months before either of these measures is implemented.

**Annex 1****Capital Financing Requirement (CFR)**

Estimates of the Council's cumulative maximum external borrowing requirement for 2011/12 to 2013/14 are shown in the table below:

	31/3/2012 Estimate £m	31/3/2012 Actual £m	31/3/2013 Estimate £m	31/3/2014 Estimate £m
Gross CFR	211	209	234	253
<b>Less:</b> Other Long Term Liabilities	25	25	24	22
<b>Borrowing CFR</b>	<b>186</b>	<b>184</b>	<b>210</b>	<b>231</b>
<b>Less:</b> Existing Profile of borrowing	134	134	128	122
<b>Cumulative Maximum External Borrowing Requirement</b>	<b>52</b>	<b>50</b>	<b>82</b>	<b>109</b>

**Usable Reserves**

Estimates of the Council's level of Balances and Reserves for 2011/12 to 2013/14 are as follows:

	31/3/2012 Estimate £m	31/3/2012 Actual £m	31/3/2013 Estimate £m	31/3/2014 Estimate £m
Usable Reserves	59	61	58	55

**Prudential Indicator Compliance****(a) Authorised Limit and Operational Boundary for External Debt**

- The Local Government Act 2003 requires the Council to set an Affordable Borrowing Limit, irrespective of their indebted status. This is a statutory limit which should not be breached.
- The Council's Affordable Borrowing Limit was set at £235m for 2011/12.
- The Operational Boundary is based on the same estimates as the Authorised Limit but reflects the most likely, prudent but not worst case scenario without the additional headroom included within the Authorised Limit.
- The Operational Boundary for 2011/12 was set at £225m.
- The Director of Finance & Business Services confirms that there were no breaches to the Authorised Limit and the Operational Boundary during the year; borrowing at its peak was £134m.

**(b) Upper Limits for Fixed Interest Rate Exposure and Variable Interest Rate Exposure**

- These indicators allow the Council to manage the extent to which it is exposed to changes in interest rates.
- The upper limit for variable rate exposure allows for the use of variable rate debt to offset exposure to changes in short-term rates on our portfolio of investments.

	<b>Limits for 2011/12 %</b>	<b>Maximum during 2011/12 %</b>
<b>Upper Limit for Fixed Rate Exposure</b>	100%	100%
Compliance with Limits:	Yes	Yes
<b>Upper Limit for Variable Rate Exposure</b>	100%	0%
Compliance with Limits:	Yes	Yes

**(c) Maturity Structure of Fixed Rate Borrowing**

- This indicator is to limit large concentrations of fixed rate debt needing to be replaced at times of uncertainty over interest rates.

<b>Maturity Structure of Fixed Rate Borrowing</b>	<b>Upper Limit %</b>	<b>Lower Limit %</b>	<b>Actual Fixed Rate Borrowing as at 31/03/2012 £m</b>	<b>% Fixed Rate Borrowing as at 31/03/2012</b>	<b>Compliance with Set Limits?</b>
under 12 months	25%	0%	17.5	13%	Yes
12 months and within 24 months	25%	0%	10.5	8%	Yes
24 months and within 5 years	35%	0%	24.1	19%	Yes
5 years and within 10 years	50%	0%	20.0	15%	Yes
10 years and within 20 years	100%	0%	17.3	13%	Yes
20 years and within 30 years	100%	0%	16.2	12%	Yes
30 years and within 40 years	100%	0%	8.8	7%	Yes
40 years and within 50 years	100%	0%	17.8	13%	Yes
50 years and above	100%	0%	0	0%	Yes



(The 2011 revision to the CIPFA Treasury Management Code now requires the prudential indicator relating to Maturity of Fixed Rate Borrowing to reference the maturity of LOBO loans to the earliest date on which the lender can require payment, i.e. the next call date<sup>1</sup>)

**(d) Actual External Debt**

- This indicator is obtained directly from the Authority's balance sheet. It is the closing balance for actual gross borrowing (short and long-term) plus other deferred liabilities.
- The indicator is measured in a manner consistent for comparison with the Operational Boundary and Authorised Limit.

<b>Actual External Debt as at 31/03/2012</b>	<b>£m</b>
Borrowing	134
Other Long-term Liabilities	25
<b>Total</b>	<b>159</b>

**(e) Total principal sums invested for periods longer than 364 days**

- This indicator allows the Council to manage the risk inherent in investments longer than 364 days.
- The limit for 2011/12 was set at 40% of total investments.
- One investment of £5m was made in 2011/12 for a period of 365 days which represented a maximum of 11.4% of investments at any one time.

**(f) Capital Expenditure**

- This indicator is set to ensure that the level of proposed capital expenditure remains within sustainable limits, and, in particular, to consider the impact on Council tax and in the case of the HRA, housing rent levels.

<b>Capital Expenditure</b>	<b>2011/12 Estimate £m</b>	<b>2011/12 Actual £m</b>	<b>2012/13 Estimate £m</b>	<b>2013/14 Estimate £m</b>
<b>Total</b>	<b>77</b>	<b>50</b>	<b>102</b>	<b>53</b>

- Capital expenditure has been and will be financed or funded as follows:

<b>Capital Financing</b>	<b>2011/12 Estimate £m</b>	<b>2011/12 Actual £m</b>	<b>2012/13 Estimate £m</b>	<b>2013/14 Estimate £m</b>
Capital receipts	16	11	18	7
Government Grants	35	26	46	14
External contributions	1	2	1	0
Revenue contributions	1	0	1	0
Supported borrowing	4	4	3	1
Unsupported borrowing	20	7	33	31
<b>Total Financing and Funding</b>	<b>77</b>	<b>50</b>	<b>102</b>	<b>53</b>

(g) **Ratio of Financing Costs to Net Revenue Stream**

- This is an indicator of affordability and highlights the revenue implications of existing and proposed capital expenditure by identifying the proportion of the revenue budget required to meet financing costs.
- The ratio is based on costs net of investment income.

<b>Ratio of Financing Costs to Net Revenue Stream</b>	<b>2011/12 Estimate %</b>	<b>2011/12 Actual %</b>	<b>2012/13 Estimate %</b>	<b>2013/14 Estimate %</b>
<b>Total</b>	5.59	4.98	6.01	7.15

(h) **Incremental Impact of Capital Investment Decisions**

- This is an indicator of affordability that shows the impact of capital investment decisions on Council Tax and Housing Rent levels. The incremental impact is calculated by comparing the total revenue budget requirement of the current approved capital programme with an equivalent calculation of the revenue budget requirement arising from the proposed capital programme.

<b>Incremental Impact of Capital Investment Decisions</b>	<b>2011/12 Approved £</b>	<b>2012/13 Estimate £</b>	<b>2013/14 Estimate £</b>
Increase in Band D Council Tax	2.33	16.35	19.05

(i) **Adoption of the CIPFA Treasury Management Code**

- This indicator demonstrates that the Authority adopted the principles of best practice.

<b>Adoption of the CIPFA Code of Practice in Treasury Management</b>
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The Council approved the adoption of the CIPFA Treasury Management Code at its meeting on 24 <sup>th</sup> February 2011
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(j) **Gross and Net Debt**

- The purpose of this treasury indicator is to highlight a situation where the Authority is planning to borrow in advance of need.

<b>Upper Limit on Net Debt compared to Gross Debt</b>	<b>2011/12 Actual £m</b>	<b>2012/13 Estimate £m</b>	<b>2013/14 Estimate £m</b>
Outstanding Borrowing (at nominal value)	132	210	231
Other Long-term Liabilities (at nominal value)	25	24	22
<b>Gross Debt</b>	<b>157</b>	<b>234</b>	<b>253</b>
<b>Less: Investments</b>	<b>(50)</b>	<b>(34)</b>	<b>(29)</b>
<b>Net Debt</b>	<b>107</b>	<b>200</b>	<b>224</b>

*N.B. CIPFA has acknowledged that the upper limit does not work as was intended and is working on a revised indicator. This indicator will be amended once revised guidance has been received from CIPFA.*

(k) **Upper Limit for Total Principal Sums Invested Over 364 Days**

- The purpose of this limit is to contain exposure to the possibility of loss that may arise as a result of the Authority having to seek early repayment of the sums invested.

<b>Upper Limit for total principal sums invested over 364 days</b>	<b>2011/12 Approved £m</b>	<b>2011/12 Revised £m</b>	<b>2012/13 Estimate £m</b>	<b>2013/14 Estimate £m</b>	<b>2014/15 Estimate £m</b>
	40%	40%	40%	40%	40%

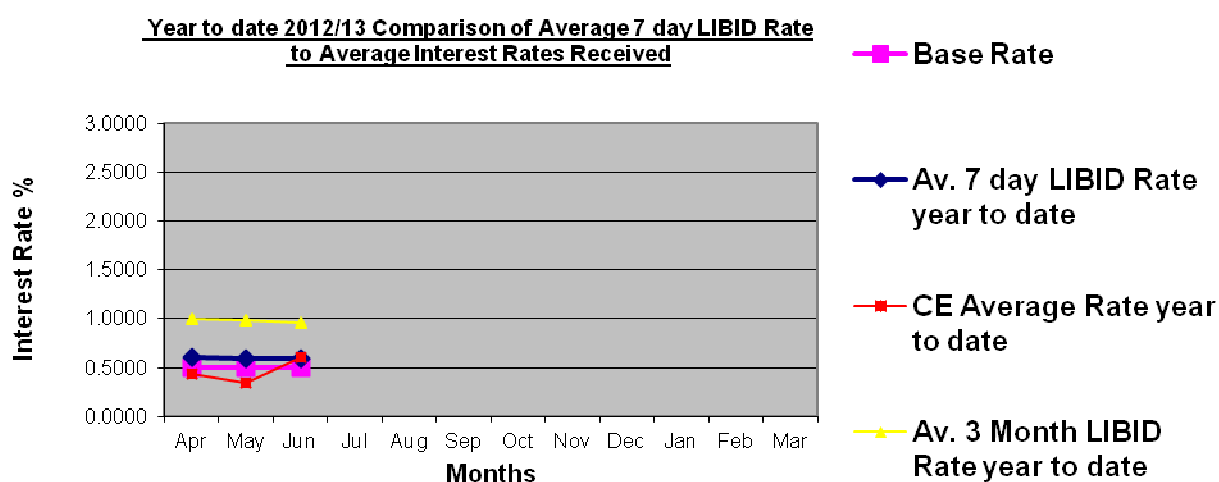
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## Appendix B

**Treasury Management Update 2012-13 as at 30<sup>th</sup> June 2012**

- 1.1 Investment income is currently £5,000 lower than budgeted caused primarily by weak performance by the managed pooled funds in the first 2 months of the year. The original budget of £0.3m is based on falling balances available for investment and interest rates remaining unchanged through 2012/13. Based upon the current economic forecasts, investment interest rates are not expected to increase and credit quality and liquidity of investments will continue to take priority over yield. Any budget shortfall on investment interest should be compensated by savings on external interest payments.
- The average lend position (the 'cash balance') including fund manager and legacy balances up to the end of the first quarter was £67.3m.
  - The average annualised interest rate received on in house investments up to the end of the first quarter was 0.81%
  - The average annualised interest rate received on the externally managed Investec fund up to the end of the first quarter was 0.08%.
- 1.2 The Council's total average interest rate up to the end of quarter 1 in 2012-13 was 0.60%. This is on a par with the London Inter-bank Bid Rate for 7 days at 0.59%. The base rate remained at 0.50% for the quarter.

Comparator	Average Rate Q1
<b>Cheshire East</b>	<b>0.60%</b>
<b>LIBID 7 Day Rate</b>	<b>0.59%</b>
<b>LIBID 3 Month Rate</b>	<b>0.96%</b>
<b>Base Rate</b>	<b>0.50%</b>



Counterparty Limits and Investment Strategy

- 1.3 The maximum amount that can be invested with any one organisation is set in the Treasury Management Strategy Report. For named UK banks and building societies this has been set at 15% of our total investments subject to a maximum value of £15m. These limits apply to the banking group that each bank belongs to. Limits for Money Market funds have been set at 25% of total investments subject to a maximum value of £20m. There is also a maximum that can be invested in all Money Market Funds at any one time of 50% of the value of all investments.
- 1.4 Our approved counterparties list also includes a number of foreign banks although, to date, none have been used. Due to the on-going problems in the Eurozone and consistent with advice from our Treasury Management advisors, direct investments in other European countries are not currently being considered. The limits applicable to foreign banks are the same as those applied to UK banks..
- 1.5 During the last 3 months all UK banks have had their credit ratings reviewed mainly as a response to the continued debt crisis in the Eurozone. In response the Council has limited the duration of investments in most banks to overnight only; the exceptions being Barclays Bank and Nationwide Building Society to which a 100 day limit applies, and HSBC and Standard Chartered to which a 6 month limit applies. The short term ratings of Royal Bank of Scotland (RBS) have been reduced below that specified in our Treasury Management Strategy so no further investments are currently being made until either the rating is improved or the Treasury Management Strategy is reviewed. Investments with RBS at 30/06/12 were repaid on 04/07/12.
- 1.6 In the last quarter a new 100 day notice account has been opened with Barclays Bank in order to take advantage, where possible, of higher returns set at a margin above the 3 month LIBOR rate. Cash flow forecasts are continually monitored and where appropriate opportunities will be taken to fix investments for short periods.
- 1.7 The table below shows the current investments and limits with each counterparty.

Counterparties	Limits		Investments as at 30/06/12	
<b>UK BANKS</b>				
Barclays Bank	15%	£15m	11%	£9m
Co-operative Bank:	15%	£15m	2%	£1.7m
HSBC Bank	15%	£15m	-	-
Lloyds TSB	15%	£15m	4%	£3m
Royal Bank of Scotland	-	-	4%	£3.4m
Santander (UK) plc	15%	£15m	11%	£9m
Standard Chartered Bank	15%	£15m	-	-
<b>BUILDING SOCIETIES</b>				
Nationwide Building Society	15%	£15m	10%	£8m
<b>Money Market Funds</b>	50%		33%	
Deutsche	25%	£20m	7%	£6m
Ignis	25%	£20m	10%	£8m
Federated Prime Rate	25%	£20m	11%	£8.5m
Scottish Widows	25%	£20m	5%	£4.3m
Pooled Funds - External Fund Manager	50%		25%	£20.1m
				<b>£81.0m</b>

#### Types of Investments and Current Interest Ratios

<b>Instant Access Accounts</b>	<b>Avg rate %</b>	<b>£'000's</b>
Instant Access Accounts	0.76%	10,730
Money Market Funds	0.66%	26,800

<b>Notice Accounts</b>	<b>Avg rate %</b>	<b>£'000's</b>
Notice Accounts (up to 100 days)	1.08%	9,400

<b>Fixed Term Deposits</b>	<b>Start</b>	<b>Maturity</b>	<b>Rate %</b>	<b>£'000's</b>
Lloyds TSB	27/04/2012	27/07/2012	1.40	3,000
Nationwide BS	15/05/2012	15/08/2012	0.93	5,000
Nationwide BS	18/05/2012	17/08/2012	0.93	3,000
Barclays TD	07/06/2012	07/09/2012	0.93	3,000

<b>Externally Managed Funds</b>	<b>£'000's</b>
Pooled Investments	20,138

<b>Maturity Profile</b>	<b>£'000's</b>
Instant Access	37,530
Maturing < 1 month	3,400
Maturing within 1 - 6 months	20,000
Maturing within 6 – 12 months	0

Externally Managed Funds	20,138
<b>Total</b>	<b>81,068</b>

Performance of Fund Manager

- 1.8 The table below shows the performance of the funds (net of fees) since the initial investment of £20m (£10m in each model) on 27<sup>th</sup> May 2011.

	<b>STANDARD MODEL</b>	<b>DYNAMIC MODEL</b>
<b>April 2012</b>	0.00%	-0.06%
<b>May 2012</b>	-0.04%	-0.13%
<b>June 2012</b>	0.10%	0.17%
<b>Cumulative 2012/13</b>	0.05%	-0.01%
<b>Value of Investment at 30/06/12</b>	£10,096,564	£10,060,000
<b>Fees (Total since start)</b>	£27,706	£29,817
<b>Average Annual Rate as at 30/06/12</b>	0.64%	0.28%

- 1.9 Performance of the funds in April and May has been poor influenced primarily by the continued debt crisis in Europe, particularly with the uncertainties over the Greek economy leading to fresh elections in Greece. Fortunately, although close, the elections did not result in a rejection of the terms of the European bailout of their economy but the problems may persist and an exit from the Euro is still a real possibility.
- 1.10 Corporate Bonds and emerging market debt were all affected by the European debt issues but improved greatly in June once the markets settled down. Most good credit quality Government stocks continue to offer very low yields but the funds have focused on other AAA rated stocks (such as Norway and Australia) which have helped the performance of the Short dated bonds element of the funds.
- 1.11 Whilst the performance of the fund since we joined is not encouraging (particularly the dynamic model) these investments should be seen as a longer term investment so true performance can only be judged over a longer period of time. Regular meetings are being held with the fund managers to assess the on-going suitability of these funds.



# CHESHIRE EAST COUNCIL

## Audit and Governance Committee

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<b>Date of meeting:</b>	27 <sup>th</sup> September 2012
<b>Report of:</b>	Corporate Risk Management Group
<b>Title:</b>	Update Report on Risk Management
<b>Portfolio Holder:</b>	Councillor David Brown, Strategic Communities

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### 1.0 Report Summary

- 1.1 This is an update report from the Corporate Risk Management Group to the Audit and Governance Committee. The Audit and Governance Committee has a key role in providing an oversight of the effectiveness and 'embedding' of risk management processes, and in testing and seeking assurance about the effectiveness of control and governance arrangements. In order to form an opinion on these arrangements, it needs to establish how key risks are identified, evaluated and managed, and the rigour and comprehensiveness of the review process. The purpose of this report is to provide the Audit and Governance Committee with a summary of the key corporate risks and risk management work undertaken since the last report so that it may undertake this oversight.

### 2.0 Recommendation

- 2.1 The Audit and Governance Committee is requested to consider and review the update report on risk management which is for information.

### 3.0 Reasons for Recommendations

- 3.1 The recession, economic environment and ongoing changes in the public sector bring about a heightened expectation in relation to the Council's risk management and corporate governance framework. Cheshire East Council is publicly accountable and must be able to demonstrate effective management of the kinds of risks which threaten the achievement of its strategic objectives, the effectiveness of its operations, the reliability of its financial reporting and the security and value of its assets.
- 3.2 Being able to demonstrate effective systems for managing risks is a critical step in producing supportable statements of internal control for annual reporting purposes. The benefit of a strong risk management framework from a governance viewpoint is that it gives a greater level of confidence that management have properly and adequately fulfilled their responsibility in operating an effective system of internal control. In order to form an opinion on the effective operation of the Council's risk management arrangements, the Audit and Governance Committee

needs to establish how key risks are identified, what the key risks are and how they are evaluated, managed and reviewed.

**4.0 Wards Affected**

4.1 All

**5.0 Local Ward Members**

5.1 N/A

**6.0 Policy Implications including carbon reduction and health**

6.1 Risk management is integral to the overall management of the authority and, therefore, considerations regarding key policy implications and their effective implementation are considered within departmental risk registers and as part of the risk management framework. A risk around carbon management and climate change has been included on the Council's significant risk register as a cross-cutting risk. A specific risk around health partnerships is included as a key corporate risk on the Council's corporate risk register.

**7.0 Financial Implications (Authorised by the Director of Finance and Business Services)**

7.1 None in relation to this report, a risk around financial control is included as a key corporate risk on the corporate risk register.

**8.0 Legal Implications**

8.1 As well as the need to protect the Council's ability to achieve its strategic aims and to operate its business, general principles of good governance require that it should also identify risks which threaten its ability to be legally compliant and operate within the confines of the legislative framework, and this report is aimed at addressing that requirement.

**9.0 Risk Management**

9.1 This report relates to overall risk management; the Audit and Governance Committee should know about the most significant risks facing the Council and be assured that the risk management framework (which includes the role and work of the Corporate Risk Management Group) is operating effectively. The content of this report aims to mitigate the following risks:

Key Risks
That Cheshire East Council fails to properly develop, implement and demonstrate an effective risk management framework
That Cheshire East Council fails to apply its risk management policy consistently across the Council
That Cheshire East Council fails to recognise risk or make correct decisions to tolerate, treat, transfer or terminate risk due to poor risk management

## 10.0 Background

### 10.1 Risk Management Policy

The updated Risk Management Policy was approved by Cabinet at its meeting on 20 August 2012.

### 10.2 Key Corporate Risks

It has been agreed that a risk and opportunity workshop be undertaken with Cabinet and the Corporate Management Team in October/November to review the key corporate risks to achieving the Council's objectives and to update the key corporate risk register. Further work will then be undertaken to determine the Council's risk appetite so that qualitative high level statement of risk preferences can then be defined for business areas.

The Audit & Governance Committee requested that it receive a short briefing at each meeting from the Risk Owners / Managers of the highest key corporate risks. At the previous meeting of the Audit & Governance Committee the key corporate risk around financial control was discussed. The definition of this risk has since been updated and a copy of the updated risk stewardship template for this risk is attached at **Appendix A** to this report.

For this meeting the Committee requested a briefing on key corporate risk 15 – Reputation, the most up to date version of the risk stewardship template for this risk will be available for discussion with the Risk Owner during the meeting.

### 10.3 Risk Management Framework Improvements

Guidance on risk management for policy writers has been drafted and is available on the Centranet. A copy of this guidance is attached for comment at **Appendix B** to this update report.

### 10.4 Operational Risks

Operational risks are captured at directorate and service level, in some areas risks are identified and monitored through risk registers at team level. The most up to date overview of risk register development across service areas will be available at the meeting. Similar themed operational risks identified for mitigation so far appear to be around:

- staff capacity and competency, skills and knowledge gaps
- reduction in funding and budget pressures impacting upon ability to deliver objectives/plans/projects
- interdependencies on other services to meet challenging timescales
- changes in political priorities / strategic decisions contra to aim of objectives
- supply chain instability

## **11.0 Access to Information**

- 11.1 The background papers relating to this report can be inspected by contacting the report writer:

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<b>Risk Ref: Key Corporate Risk 2</b>		<b>Date template updated: 18 July 2012</b>	
Cross reference the risk to the Corporate and Service Delivery Plan Objective to which it relates, only key risks that require monitoring will be recorded in the Corporate / Significant Risk Register.			
<b>Corporate Objectives / Service Delivery Objective / Project Objective :</b>		<b>Risk to all 7 Sustainable Community Strategy Priorities –</b> <ol style="list-style-type: none"> <li>1. Nurture strong communities</li> <li>2. Create conditions for business growth</li> <li>3. Unlock the potential of our towns</li> <li>4. Support our children and young people</li> <li>5. Ensure a sustainable future</li> <li>6. Prepare for an increasingly older population</li> <li>7. Drive out the causes of poor health</li> </ol>	
Risk description should include the <b>cause</b> of the impact and the <b>consequence</b> to the objective which might arise.			
<b>Identified Risk Description:</b> <b>Financial Control:</b> Risk that the Council fails to manage expenditure within budget, due to inaccurate financial planning in both the short term and longer term and/or ineffective financial control leading to a failure to maintain an adequate level of reserves, thereby threatening financial stability and service continuity and preventing the achievement of Cheshire East's 7 priorities.			
<b>Risk Comments:</b> Causes of inaccurate financial planning would be:- <ul style="list-style-type: none"> <li>• an inability to fully anticipate and respond to changes made by central government to funding and the economic situation,</li> <li>• failure of internal processes to focus decision making to ensure we are confident in making realistic decisions</li> </ul> Causes of ineffective financial control would be:- <ul style="list-style-type: none"> <li>• weaknesses in the corporate governance framework</li> <li>• culture, skills and competences</li> <li>• non-compliance</li> <li>• breakdown of key systems and processes</li> <li>• weaknesses in the anti-fraud and corruption mechanisms</li> </ul>			
Who owns and is accountable for the risk? <b>Risk Owner:</b> Lisa Quinn, Director of Finance and Business Services		Who is responsible for taking forward the actions? <b>Risk Managed by:</b> Christine Mann, Finance Manager	
		Is the risk new, enduring, dying or re-emerging? <b>Risk Status:</b> Enduring	
Assess the combined risk of the likelihood and impact of the risk being realised before taking account of any controls in place to manage the risk. This is the gross risk score.		<b>Likelihood</b> <b>4</b>	<b>x Impact</b> <b>4</b>
		<b>= Gross Risk Score</b> <b>16</b>	
What controls are already in place to mitigate the risk? Controls could consist of authorisation and approval processes, governance arrangements and monitoring processes, physical controls, segregation of duties, organisational, personnel, management and supervisory controls or arithmetic and accounting controls. Where is the evidence for these controls kept?			
<b>Existing Controls and Evidence:</b> <b>Role of the Chief Financial Officer (CFO)</b> <ul style="list-style-type: none"> <li>• CFO is professionally qualified, reports directly to the Chief Executive and as a member of Corporate Management Team is able to influence decision making.</li> <li>• CFO attends Cabinet and Council to provide direct input on all key decisions and is consulted on/signs off financial input to all Committee reports.</li> <li>• CFO directly involved in Budget scrutiny/challenge process through attendance at Cabinet/CMT Away-Days.</li> <li>• CFO plays a key role in the Business Planning process, providing regular updates to Cabinet and Scrutiny Committees on the financial scenario and Budget position, including the Capital Programme and</li> </ul>			

Treasury Management.

- The CFO reviews the robustness of budget estimates as part of the Business Planning process.

#### **Finance Team**

- The Finance Manager (Deputy CFO) is professionally qualified, reports directly to the CFO and is a member of the Extended Management Team.
- Experienced, dedicated Finance Team with significant complement of professionally qualified and part qualified staff.
- Finance Leads/Service Accountants attend all DMT/SMT meetings and provide regular advice to Budget managers on a one-to-one basis.
- Restructure of the Finance organisational structure has been undertaken to align better with the new management structure and Business Planning process.
- The Finance Service Plan sets out the Teams' commitment to supporting Services in applying financial control.

#### **Constitution and Schemes of Delegation**

- Clearly defined financial roles, responsibilities and decision making processes, set out in the Council's Constitution, Finance & Contract Procedure Rules, Local Schemes of Delegation and Financial Schemes of Delegation.
- The Finance Procedure Rules have been updated to reflect the CIPFA Statement on the Role of the Chief Financial Officer.
- Standard templates for Member level decisions require financial implications and risks to be clearly set out.

#### **Business Planning Process**

- Robust and fully integrated Business Planning process based on the Sustainable Community Strategy priorities and delivered through Service Plans and Personal Development Plans.
- Permanent impact of outturn issues addressed as part of Budget setting and forward financial planning.
- Comprehensive financial scenario applied through five measures as set out in Section 1 of the Business Plan.
- The Business Planning Process was significantly improved and strengthened for the 2012/15 process, which was commented upon in the Annual Governance Report.

#### **Reserves Strategy**

- Reserves Strategy incorporating specific analysis of financial risks, forward forecasting and assessment of the adequacy of general reserves.
- The level of balances is reviewed annually and a detailed risk assessment is undertaken to ensure adequacy of reserves relative to potential commitments.
- Quarterly financial updates, incorporating variance analysis and outturn projections at service level and overall assessment of impact on general reserves.

#### **Financial Management System**

- Fully integrated financial management system (Oracle), with comprehensive system access and security controls.
- Well developed suite of financial reporting tools providing scheduled and ad-hoc reports for management and monitoring purposes.
- Oracle R12 upgrade has been undertaken, including financial reporting enhancements.
- Financial Reporting Centre developed for roll-out to all budget managers during 2012/13 including standard suite of monthly monitoring reports in user-friendly format.

#### **Internal Control**

- Corporate Governance Group meet on a regular basis, key responsibilities include the co-ordination of the development of the Annual Governance Statement and the delivery of the Corporate Governance framework.
- On-going review by Internal and External Audit teams, of the adequacy and effectiveness of financial and management controls.
- Robust anti-fraud and corruption framework comprising : Anti Fraud & Corruption Strategy, Benefits Anti- Fraud and Corruption Strategy, Member and officer Codes of Conduct, Confidential Reporting Procedure, Anti-Money Laundering Policy, Customer Compliments, Comments and Complaints process, Benefit Fraud hot-line and participation in National Fraud Initiative.

- The Council has a Fidelity Guarantee insurance policy in place to mitigate against losses arising from theft and misappropriation.

#### Training & Development

- Some financial training undertaken – ‘Understanding Local Government Finance’ module delivered as part of the Corporate Management Training Programme.
- Individual one to one training/coaching with Budget managers and targeted service training e.g. accounts closure.
- Training for Audit & Governance Committee members.
- Specific areas of specialism have been identified and Audit & Governance Committee Members have been nominated to each specialism to improve knowledge and expertise.
- Financial Reporting Centre training for Budget managers as part of a pilot roll-out, including the Financial Management context.

#### Business Management

- Business Management delivery model now embedded and the Business Management Programme delivered through the Business Architecture Group.
- Work on developing supporting back-office processes, with a view to improving transactional compliance and the accuracy, timeliness and completeness of financial information is underway.
- Compliance reports developed to highlight areas of ‘off-vision’ or sub-optimal financial processing.
- ‘No PO, No pay’ and ‘Think Twice’ initiatives implemented to improve control over purchasing.
- Finance Team working in partnership with HR to improve the HR and Finance reporting hierarchies in Oracle.

#### Value for Money

- Value for Money Strategy in place to underpin the 2012/15 Business Planning process.
- Charging and Trading Strategy in place for Service Managers to develop their income strategies as part of the Business Planning process.

#### Annual Audit

- Clean audit opinion year on year.
- Positive VFM conclusion in the 2010/11 Financial Statements and Annual Governance Statement agreed.
- Produced a plan to respond to specific audit findings coming out of statutory audit of 10/11 accounts.

#### Benchmarking

- Benchmarking analysis undertaken as part of CIPFA Benchmarking Club and action planning taken as required.
- Significant benchmarking and customer satisfaction exercises conducted for the major Shared Services.

Assess the combined risk of the likelihood and impact of the risk being realised after taking account of the existing controls in place to manage the risk. This is the net risk score – as it is now.

**Likelihood**

**3**

**x Impact**

**4**

**= Net Risk Score**

**12**

Is the net risk now acceptable or not? Are there further reasonable controls or planned actions you can take to manage the risk down to an acceptable level? If not, consider the need for a contingency plan for what will happen

n if the risk is realised. Members of the Corporate Risk Management Group are responsible for ensuring that actions proposed to mitigate corporate and significant operational risks are sufficient and proportional to the risk identified.

#### **Future Planned Actions / Contingency:**

##### **Business Planning Process**

Further significant improvement in the Business Planning process, including five-year visioning and capital planning.

Early development of policies and service delivery options through officer and Member task groups (could be through the new Member Policy Groups).

Review of changes in the national funding regimes (including Welfare Reform and Local Gov Finance Bill and Localisation of Council Tax and Business Rates)

More sophisticated financial model leading to a three-year balanced Budget position.

##### **Financial Management System**

Continued development of the Oracle system through the joint Oracle Programme Board with Cheshire West and Chester.

Continued development of the Financial Reporting Centre to include payroll forecasting, capital monitoring

and improved commitment reporting.

Improvement in the integration of Service systems that feed commitment information to the monthly and quarterly financial forecasts.

#### Internal Control

Further work planned through the Corporate Governance Group to improve compliance with Finance and Contract Procedure Rules.

#### Training & Development

Further develop financial training programme to ensure clear understanding of roles and responsibilities and promote financial literacy at officer and member level.

Complete the roll out of the Financial Reporting Centre to all identified Budget managers.

#### Business Management

Continued delivery of the Business Management Programme through the Business Architecture Group.

#### Value for Money

Strengthening of the application of the Value for Money Strategy and the Income and Trading Strategy as part of the 2013/16 Business Planning Process.

#### Benchmarking

Ongoing work on identifying key cost drivers for significant service activities and the development of appropriate monitoring arrangements to allow for early identification of outturn issues.

#### Next Review Date:

October 2012

*Some risks require weekly or monthly monitoring, others will only need to be revisited following the proposed date for the completion of the planned action.*

*The reason for monitoring key risks is to create an early warning system; risk registers should be regularly reviewed and amended. Questions asked during monitoring are: Is the risk still relevant? Is there any movement in the net risk score? Are the controls still in place and operating effectively? Has anything occurred which may change its impact and/or likelihood? Have any significant control failures or weaknesses occurred since the risk was last monitored? Is the risk increasing - do I need to devise more controls? Is the risk decreasing - can I relax existing controls?*

#### Monitoring Arrangements:

Business Planning process reported to Cabinet and reviewed through the Budget Task Group.

CMT and Cabinet review through quarterly financial updates, with comments from Corporate Scrutiny Committee.

Monthly reporting to CMT and Cabinet as part of the Monthly Performance report produced via CorVu.

Capital Programme monitored and reviewed through the Capital Asset Group.

Weekly Finance Management Team meetings and fortnightly meetings with Director of Finance and Business Services.

Finance Team member attends Directorate Management Team and Service Management Team meetings.

Ongoing internal and external audit reviews reporting on issues.

Complaints procedure and Whistle blowing Procedures to alert to any irregularities.

Finance Service Plan with built in monitoring & KPIs.

Benchmarking analysis undertaken as part of CIPFA Benchmarking Club

#### Future Issues:

Further changes in local government funding regime.

Failings of other providers, financial collapse leaving Cheshire East to deal with the economic impact etc.

New service responsibilities – e.g. Public Health will need to be balanced against resources made available through funding transfers.

Changes to service delivery models nationally and locally e.g. welfare reform, outsourcing, shared services, will require significant changes to operational and budget management arrangements.

Fresh concerns about the present economic climate and this may work against us.

Impact of funding on the back of Academy Transfers (claw back and recoupment of formula grant)

Volatility in budgets due to various changes and may make budget forecasting more difficult.

*Predict the combined risk of the likelihood and impact of the risk being realised after taking account of the existing and planned controls in place to manage the risk. This is the target*

**Likelihood**

**3**

**x Impact**

**4**

**= Target Score**

**12**



risk score.			
<p><b>Comments</b></p> <p>13 Oct 2011: The net score remains 12 which is high risk, although a number of controls have been strengthened, the overall economic situation and scale of organisational change continues to present a challenging climate.</p> <p>2 Feb 2012: The likelihood of this risk materialising remains high due to general economic uncertainties and risks associated with proposed changes in national funding arrangements and new legislation. This is therefore at the top end of 3 very likely. The impact on the corporate objectives if this risk materialised will always be a 4 critical.</p> <p>18 Jul 2012: No change to previous update, the likelihood of this risk materialising remains high due to general economic uncertainties and risks associated with proposed changes in national funding arrangements and new legislation. This is therefore at the top end of 3 very likely. The impact on the SCS priorities if this risk materialised will always be a 4 critical.</p>			

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## Risk Management Guidance for Policymakers

### Why do you need to include a risk assessment of the policy?

Policies form part of the Council's internal control framework and may be implemented as mitigation to control a significant risk or risks. (A copy of the key corporate risk register can be found on Centranet). When considering why a policy is needed, policymakers should consider if the policy is aimed at controlling specific risks and ensure that the policy responds to the things that matter to the Council.

The Council needs to be open and transparent and be able to justify its decisions. It is necessary to understand the degree of risk to which we are permitted to expose the Council to before defining the policy.

To make informed decisions to develop a robust policy, full consideration should be given to the cause and effect of risks. To ensure that the policy is successful and effective, the policy maker needs to have a good understanding of the risks and associated costs to achieving the policy objectives. Evaluating the associated costs of each risk and its associated mitigation actions will ensure that a decision to implement a policy is proportionate to the Council's objectives and priorities.

An effective risk management process:

- increases the probability of success of achieving objectives
- helps to avoid or minimise damaging actions or events
- maximises opportunities (events that may have a positive effect on the achievement of objectives)

### What defines a risk?

When defining a risk, the description must include the **cause of the risk** and the **consequence to the objective/s** that may arise.

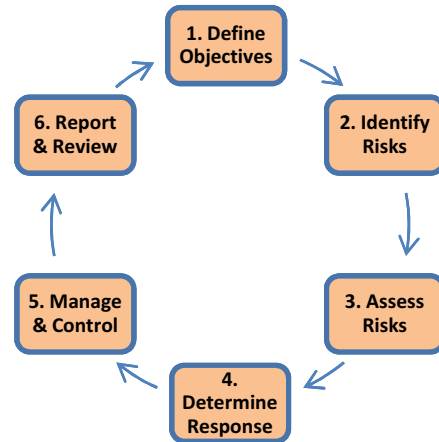
Things to note when defining risk:

- Think about what could prevent you from being successful in achieving objectives and what the cause of this threat is and how it impacts upon the objective. The risk definition should not merely record the converse of the objective such as "Risk that we fail to achieve 'objective'".
- Make sure that the risk is relevant. Does it impact on the Council's objectives? If it isn't relevant don't include it.
- It is important to identify the cause of the risk so that we are able to see if we can tackle the cause to prevent the risk from actually occurring and consider mitigation options if required.
- You should include the consequences to the objective to fully understand the risk and assess whether you are prepared to accept that level of risk or otherwise.

## Risk Management Lifecycle - How should risk identification and assessment be undertaken?

The key stages and processes for effective risk management are as follows:

1. Defining the objectives of the policy and options
2. Identifying the risks for each objective
3. Assessing the risks for each objective – understanding the significance of each risk
4. Determining the appropriate response to the risks
5. Managing and controlling the risks
6. Reporting and reviewing the risks



### 1. Defining the objectives of the policy and options

Once the risk appetite has been defined, the **policy options** (how the policy's objectives can be achieved) form the main part of any risk assessment.

### 2. Identifying the risks for each objective

Each option needs to have **clear aims and objectives** in order to identify risk, and respond to the rationale of the policy. It is important to have clear objectives and continually refer back to them to determine which risks are relevant and the level of impact associated with each risk.

### 3. Assessing the risks for each objective - understanding the significance of risks

The risk assessment should **consider who and what will be affected** by the policy and assess the range of possible risks both internally, to the achievement of the Council's aims and objectives, and externally, to the public and other stakeholders.

You should consider risks both in the **short-term and in the long-term**. In the current environment, with a need to balance the books, gain efficiencies and meet new demands, decision making may be for short-term solutions that increase long-term risks.

The **costs associated with risks** can be challenging to identify, particularly where risks have other implications that are non-financial or reputational. An approximate quantification is better than making no attempt to cost the risk associated with alternate decisions. The Council needs to be able to justify its decisions and an analysis of the options and associated costs and potential impacts should support the choices it makes.

When risks have been identified, it is important to understand the **potential significance (impact) of those risks internally, externally and the Council's aims and objectives**. To help identify the most significant risks it may be best to think about the risks from the following perspectives:

- a. What is the overall aim you are trying to achieve and what may prevent you from achieving this?
- b. What may prevent you from achieving each of the different policy options?
- c. In relation to the options you are assessing, what are the risks and implications of these to the achievement of the [corporate objectives](#)?
- d. What opportunities may be available that you can take advantage of?

Examples of this could be:

- i) *as a result of the planned reorganisation of the Council it may be possible to combine some infrastructure projects with a consequent reduction in costs*
- ii) *because of the improved availability of lottery funding, private investors may offer to partner with the Council to build additional local youth amenities with a consequent reduction in youth crime*

#### 4. Determining the appropriate response to the risks - how can the policy respond to identified risk?

Risk management is not about eliminating or avoiding risk but knowing the level of risk the Council is prepared to take. To do this you need to understand the level of risk by assessing both the likelihood and impact of the risk occurring.

When assessing risk, the following categories can be helpful:

- a. **Primary:** these risks are both high in impact and in likelihood, the 'show stoppers'
- b. **Contingency:** these risks have high impact but are unlikely to happen. Such potentially catastrophic events are generally approached through a mix of insurance and business continuity planning.
- c. **Housekeeping:** these risks are likely to happen but do not have a high impact. They require routine management and auditing to ensure that planned actions occurs.
- d. **Negligible:** these can probably be dealt with through standardised administrative action, and need only to be monitored to ensure that they are not becoming more regular

The Council can respond to risk in one of four different ways:

- **tolerate** the risk - risks are accepted and built into operational management
- **treat** the risk - risks are reduced by management action such as implementing controls or tackling the cause
- **transfer** the risk - risks are passed onto someone else by other means, e.g. insurance, sub-contracting, and outsourcing
- **terminate** the risk - these risks are avoided by doing something else, changing the service, or withdrawing from the activity

You may want to look at and take into account previous policies in this area – did they succeed in mitigating any of the risks you have identified?

#### 5. Managing and controlling the risks

If you decide to reduce the risk, you will need to identify what actions and controls are already in place to mitigate the risk. Consider the level of risk as it is now, is it an acceptable level and within risk appetite or not? Are there further reasonable controls or planned actions that you can take to manage the risk down to an acceptable level? If not, consider

the need for a contingency plan for what will happen if the risk is realised. Be realistic as to what you can achieve and ensure that the cost of risk mitigation does not outweigh the cost of tolerating the risk. It can be difficult to reduce both the likelihood and impact of a risk so think carefully as to which of these the control actions will affect. Control actions could consist of authorisation and approval processes, governance arrangements and monitoring processes, physical controls, segregation of duties, organisational, personnel, management and supervisory controls or arithmetic and accounting controls. You need to be able to identify and record where the evidence for these controls is kept.

### **6. Reporting and reviewing the risks**

The usual management tool used for monitoring risks is the risk register. If the risk is significant enough that it may impact on the achievement of Service objectives, Directorate objectives or even Corporate objectives it should be captured on the relevant level risk register.

The reason for monitoring key risks is to create an early warning system; risk registers should be regularly reviewed and amended. You need to record how the management of the risk will be monitored and when. Some risks require weekly or monthly monitoring, others will only need to be revisited following the proposed date for the completion of the planned action.

Questions to ask during monitoring are: Is the risk still relevant? Is there any movement in the net risk score? Are the controls still in place and operating effectively? Has anything occurred which may change its impact and/or likelihood? Have any significant control failures or weaknesses occurred since the risk was last monitored? Is the risk increasing - do I need to devise more controls? Is the risk decreasing – can I relax existing controls?

## Policymaker Self Challenge Questions:

Once you have completed the risk assessment for the policy, use these questions to challenge its robustness for risk:

1. Do you have a good understanding of the key risks facing the Council and the likely implications for service delivery to the public and achievement of outcomes?
2. Do you understand the risks and associated costs to achieving the policy objectives?
3. Are you clear about what level of risk the Council is prepared to accept in relation to the risk/s that the policy is aimed at controlling?
4. Have you attempted to quantify the risks?
5. Have you ensured that the policy focus is on managing the things that matter?
6. Have you taken account of previous successes and failures within the Council or by other Council's in relation to this area?
7. Does the policy enable the Council to react quickly to the challenges and opportunities presented during the current economic climate?

As a quick reference guide, the risk assessment should consider the following for each option:

- the risk appetite for the policy
- the options for achieving the policy objective
- what could prevent the successful achievement of objectives
- the causes of any risks and the associated consequences for achieving the policy objectives
- the likelihood and the impacts of any risks if they occur
- opportunities and benefits to the Council and the public
- the associated costs of the risks and controls

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## **CHESHIRE EAST COUNCIL**

### **Audit and Governance Committee**

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**Date of Meeting:** 27<sup>th</sup> September 2012  
**Report of:** Borough Solicitor  
**Subject/Title:** Standards Issues and Planning Protocol

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#### **1.0 Report Summary**

- 1.1 This report advises Members on a number of issues in relation to the new Code of Conduct adopted by Cheshire East Council in July 2012, including the possibility of an Appeals Procedure, the need to review the Council's existing Planning Protocol and the necessity to have in place a number of dispensations under the Code.

#### **2.0 Recommendations**

That the Committee

- (1) approve the proposed amendments to the Council's Planning Protocol and recommend its adoption by full Council;
- (2) determine the appropriate Procedure for an Appeal as set out at paragraph 11.0 of the report; and
- (3) approve the general dispensations for all Members of Cheshire East Council as set out at paragraph 12.3 of the report.

#### **3.0 Reasons for Recommendations**

- 3.1 In order to ensure that the Council's procedures following the adoption of the new Member Code of Conduct in July 2012 are robust and comply with best practice. It is also essential that the Council's existing practice and procedures are not inconsistent with any of the provisions in the new Code.

#### **4.0 Wards Affected**

- 4.1 All

#### **5.0 Local Ward Members**

- 5.1 All

## **6.0 Policy Implications**

- 6.1 Strong Ethical Governance, including clear policies and protocols supporting and underpinning the Code of Conduct, are critical for the corporate governance of the Council and for public confidence in the Council's decision making processes.

## **7.0 Financial Implications (Authorised by the Director of Finance and Business Services)**

- 7.1 Costs in relation to any Appeal Process are dependent upon the number of complaints received, however at the moment it is anticipated that these costs and for the other aspects mentioned in the report will be met from existing resources.

## **8.0 Legal Implications (Authorised by the Borough Solicitor)**

- 8.1 The Localism Act 2011 is being implemented over a phased period of time. The provisions in relation to the replacement of the current Standards regime were brought into effect from 01 July 2012. The Act requires that the Council not only adopts a Code of Conduct but has in place effective procedures to enable the investigation of any complaints or allegations that a Member has been in breach of the Code of Conduct. The Borough Council remains responsible for investigating any allegations that a Town or Parish Councillor is in breach of their adopted Code of Conduct.

## **9.0 Risk Management**

- 9.1 The Council must have robust processes in place both from a reputational management viewpoint and to safeguard the integrity of the Councils Corporate Governance and Decision making processes as whole.

## **10.0 Background and Options**

- 10.1 Under the Localism Act 2011 the Council has a statutory duty to promote and maintain high standards of conduct by both its Elected Members and co-opted Members. The Council must adopt a Code of Conduct which sets out the conduct expected of Members whenever they act in their capacity as an Elected Member and must also have in place a suitable procedure at a local level to investigate complaints that a Member is in breach of the new Code of Conduct.
- 10.2 At its meeting on 19 July 2012 Full Council approved the adoption of a new Code of Conduct for Elected Members of Cheshire East Council together with a procedure relating to the investigation of complaints under the new Code. It was further agreed that a right of appeal should be built into the process for the subject member following the decision of the Standards Hearing sub-committee that a Member has been in breach of the Code of Conduct.

## **11.0 Right of Appeal**

11.1 The procedure for the determination and investigation of complaints is set out in the attached flow chart at Appendix 1 and under the Procedure at Appendix 2 of the report. The original intention was that there would be no appeal at any point in the procedure for complaints for either the subject member or the complainant in order to facilitate a more light touch and streamlined approach. Members have however now agreed that it is appropriate to incorporate the right of appeal for the subject member from the decision of the Standards Hearing sub-committee following an external investigation and Hearing into a complaint under the Member Code of Conduct.

11.2 In accordance with the Council's own assessment criteria only those matters considered to be serious allegations will be referred for formal investigation by an external investigator. In the majority of cases the investigator will be expected to complete his investigation and produce a written report within 8 weeks of the referral. If the report concludes that there has been evidence of failure to comply with the provisions of the Code of Conduct then the matter will be referred to the Standards Hearing sub-committee who will conduct a Hearing to determine if the subject member has failed to comply with the Code and, if so, what sanction is appropriate. The matter will be considered afresh having regard to the investigator's findings and all relevant evidence presented by the complainant and subject member. As required by the legislation the Independent Person will be present at the Hearing and will be consulted and his/her views taken into account before any decision is reached.

### **11.3 Appeal Hearing - format**

An Appeal could either be by way of a further oral hearing of the relevant issues or alternatively could be by way of written representations from all parties. During the consultation in relation to the initial procedure to be adopted Members from all parties tended, on balance, not to favour the idea of written representations and it is therefore suggested that a further oral Appeal Hearing would be more appropriate.

### **11.4 Composition of Appeal Body**

There are a number of options in relation to the composition of the Appeal Body itself:-

**Audit and Governance Members** – The Appeal Body could comprise 3 different Members from the Audit and Governance pool of 15 Members sitting with an Independent Person. Neither the Members nor the Independent Person should have previously been involved in the particular case. This has merits since these will be Members who have had training in the Code and the procedure for Appeals and will therefore have the requisite expertise and experience.

**Independent Persons** - The Council has appointed 4 Independent Persons who will be consulted at the Initial Assessment Stage and also at the Hearing

sub-committee prior to any formal decision being reached. The subject member has also the opportunity to consult an Independent Person at any stage in the investigative process prior to the final determination. It would be an option to set up an appeal panel consisting of those Independent Persons who have not previously been involved in the matter to objectively determine the outcome.

**Fire Authority** - It may be possible to establish arrangements with the Cheshire Fire Authority to hear any Appeals. The panel would be ring fenced to those Fire Authority Members who were not Cheshire East Council Members. This would have the advantage of ensuring that any Appeal would be external to the Authority and therefore considered objectively but by elected Members with a general understanding of the requirements of the Code, although the Cheshire East Code might vary slightly from others in the locality. An informal approach has been made to the Fire Authority to explore this option.

#### **11.5 Timescales and Sanctions**

It is suggested that any Appeal by the subject member must be lodged within 14 days of the decision of the Hearings sub committee and that an Appeal Panel will be convened within 21 days. Any appeal would be by way of a complete re hearing of the issues and would not be confined to new evidence or only on specified grounds. It is proposed that any appeal panel would be able to dismiss or uphold the Appeal and reconsider the range of sanctions available to the original Hearing sub-committee

#### **12.0 Dispensations**

12.1 The Localism Act prevents Members from participating in any business of the Council where they have a Disclosable Pecuniary Interest unless they have sought a dispensation under Section 33 of the Act. Applications must be made in writing and dispensations may be sought for a period of up to four years. Dispensations may be sought on the following grounds:

- That so many Members of the decision making body have a disclosable pecuniary interest in a matter that the business of the meeting would be impeded
- Without a dispensation the representation of different political groups on the body would be so upset as to alter the outcome of any vote
- The dispensation is in the interests of persons living in the area
- No Member of Cabinet would be able to participate on the matter without a dispensation
- It is otherwise appropriate to grant a dispensation

12.2 Under the former Model Code of Conduct Members were granted general dispensations in relation to a number of matters:

- Housing, where the Member was a tenant of the authority providing the matter did not relate particularly to the Members own tenancy or lease
- School meals or school transport or travelling expenses where they were a parent or guardian of a child in full time education or a parent governor unless the matter related specifically to the school the child attended
- Statutory sick pay under Part X1 of the Social Security Contributions and Benefits Act 1992 where they were in receipt of or entitled to receive such pay
- An allowance, payment or indemnity given to Members
- Any ceremonial honour given to Members
- Setting Council tax or a precept under the Local Government Finance Act 1992

12.3 At the full Council meeting of the 19 July 2012 the Terms of Reference of the Audit and Governance Committee were amended to include “ *Granting Dispensations under the provisions of the Localism Act 2011 to enable a Member or co opted Member to participate in the meeting of an Authority* “ Past experience has been that applications for Dispensation by individual Members have been infrequent however given the fact that there are now no general dispensations in place it is recommended that Members approve the following general dispensations to speak and vote on the following items to all Cheshire East Council Members and co opted Members for a period of four years:

- Any allowance, payment or indemnity given to Members
- Any Ceremonial Honours given to Members
- Statutory sick pay under Part X1 of the Social Security Contributions and Benefits Act 1992 where they were in receipt of or entitled to receive such pay
- Setting the Council Tax or a precept under the Local Government and Finance Act 1992 ( or any subsequent legislation)
- Setting a Local Council Tax Reduction Scheme or Local scheme for the payment of business rates ( Including eligibility for rebates and reductions) for the purposes of the Local Government Finance Act 2012 ( or any subsequent legislation)
- School Meals or School Transport or Travelling expenses where the Member is a parent / guardian of a child in full time education or a parent

governor (unless the matter relates specifically to the school the child attends)

### **13.0 Planning Protocol**

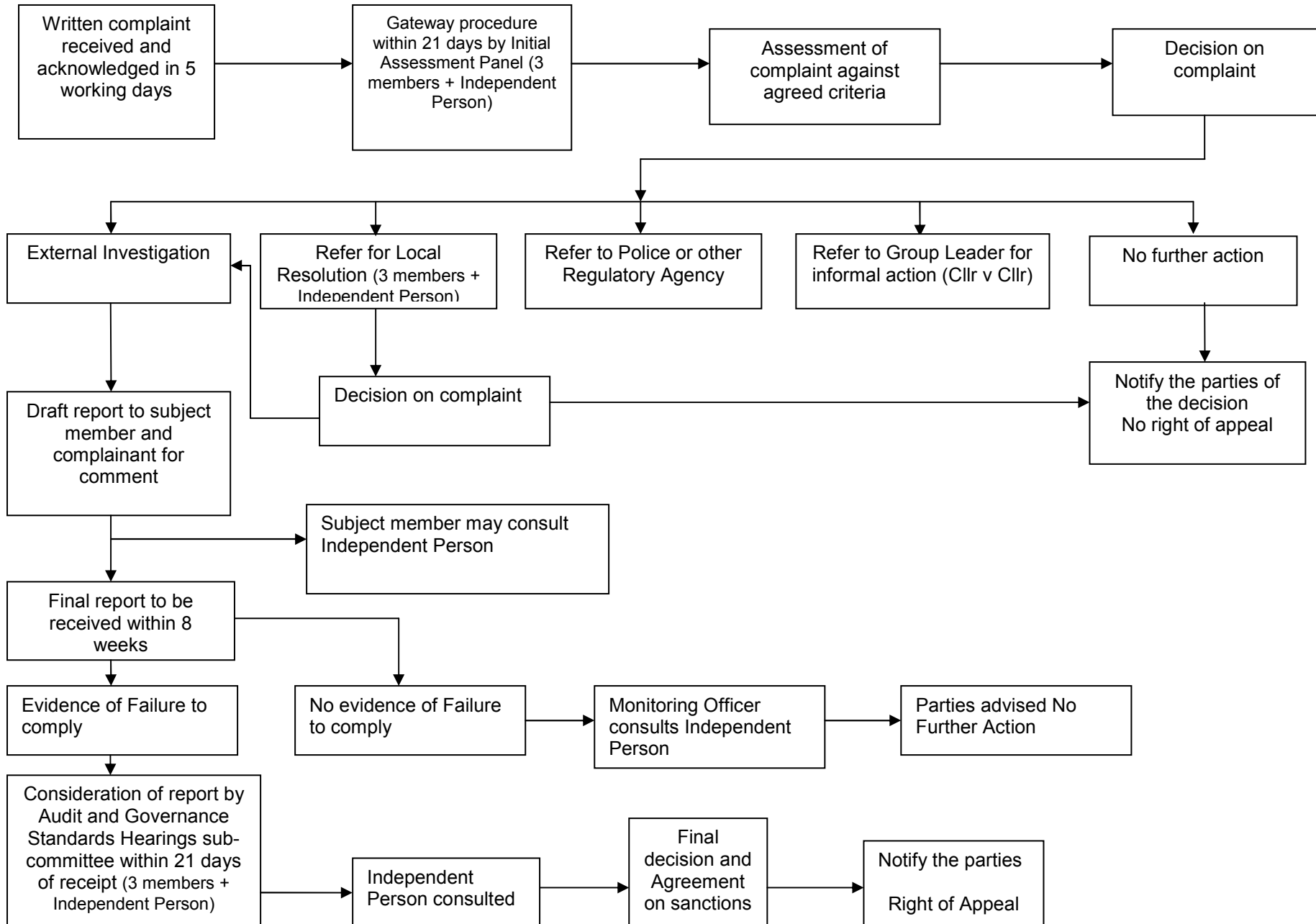
- 13.1 Members will be aware that the Council has approved a Planning Protocol which supplements the Member Code of Conduct and sets out guidance and best practice in terms of dealing with Planning issues both as a Member of the Strategic Planning Board and Northern and Southern Planning Committees and as a Ward Member. The Protocol needs to be updated to bring the guidance in line with the new Code of Conduct and to incorporate the provisions in relation to pre-determination as enacted earlier in the year under the Localism Act.
- 13.2 The amended Protocol is set out at Appendix 3. It has been considered by the Strategic Planning Board at its meeting on 12<sup>th</sup> September 2012 and the Constitution Committee on 20<sup>th</sup> September 2012. The minute of the Strategic Planning Board is attached at Appendix 4. The comments of the Constitution Committee will be reported at the meeting. Members are requested to recommend to Council the adoption of the amended Planning Protocol.

### **14.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer:

Name: Caroline Elwood  
Designation: Borough Solicitor  
Tel No: 01270 685882  
Email: [caroline.elwood@cheshireeast.gov.uk](mailto:caroline.elwood@cheshireeast.gov.uk)

## Procedure for Complaints



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## COMPLAINTS UNDER THE NEW CODE – PROCEDURE

### Making a Complaint

1. Complaints must be submitted to Cheshire East Council's Monitoring Officer using the Council's standard Complaint Form setting out in sufficient detail why the Complainant considers there has been a failure to comply with the relevant Code of Conduct.
2. The Monitoring Officer will acknowledge receipt within 5 working days
3. The Subject Member will be advised that there has been a complaint and will be provided with a copy of the complaint form, unless, in exceptional circumstances, where the Monitoring Officer, in consultation with the Independent Person has granted the Complainant's request for confidentiality. Under no circumstances must the Subject Member contact the Complainant direct regarding any issues raised in the complaint.

### Initial Assessment / Gateway Procedure

4. The Monitoring Officer will refer the complaint to the Audit and Governance Initial Assessment Panel within 21 days of receipt for an initial assessment.
5. After consulting the Independent Person, the Panel will determine whether to;
  - **Take no action**
  - **Refer the matter to the relevant Group Leader for informal action** ( NB for complaints against Cheshire East Councillors only and not generally an appropriate option if the complaint is from a member of the public)
  - **Refer the matter for Local Resolution**
  - **Refer the matter for formal investigation by an external investigator**
  - **Refer the matter to the Police or other relevant Regulatory Agency**
6. The Initial Assessment Panel's Decision on what action to take on a complaint is final. There is no right to have the decision reviewed.
7. The Complainant, Subject Member and Parish Clerk, as appropriate, will be informed of the outcome of the decision.
8. Meetings of the Panel will not be open to the public.

### **Local Resolution**

9. The Complainant and Subject Member will be advised that the Initial Assessment Panel has concluded that the complaint is suitable for Local Resolution without the need for a formal investigation and full hearing and will be invited to submit written representations outlining the nature of the dispute using a standard template to ensure consistency.
10. Both the Complainant and Subject Member will be able to bring a Supporter and up to three witnesses each to accompany them before an ad hoc panel of three elected members together with the Independent Person. The Supporter will not represent the Subject Member but will be able to confer with him or her.
11. The Panel will consider the written representations and hear any relevant evidence before reaching a determination and considering whether any sanction is appropriate.
12. The Panel may refer the matter for a formal investigation should it become apparent that the issues are more complex or serious than was originally anticipated.
13. Local Resolution Panels will normally meet in public and will be convened within 28 days of the decision of the Initial Assessment Panel subject to availability of the relevant parties.
14. Both the Complainant and Subject Member will receive copies of each others written statements and details of any witness to be called 5 working days before the Panel meets. Copies will be made available to three Panel members and Independent Person at the same time.
15. The Panel will announce its decision at the end of the hearing and a formal Decision Notice will be prepared and sent to all relevant parties within 5 working days. The Decision Notice will be published on the Council's website and reported to the next meeting of the Audit and Governance Committee.
16. There is no right of Appeal from the decision of the Local Resolution Panel which is intended to resolve less serious complaints speedily and cost effectively.

### **External Investigation**

17. The matter will be referred for an independent investigation by a suitably experienced investigative officer. In most cases the investigation is expected to be completed within 8 weeks of the referral.
18. The report of the independent investigator should incorporate the following:-

- **Executive Summary** - An outline of the allegation, who made it, the relevant provisions of the Code and whether there has been a breach.
- **Member's official details** - A brief outline of when the Member was elected, term of office, details of committees served on and any relevant training.
- **Complainants details and any relevant background**
- **Summary of facts and evidence gathered**- A summary of the facts and evidence gathered highlighting facts which are in dispute and setting out the investigating officer's conclusions based on the balance of probabilities.
- **Reasoning as to whether there has been a failure to comply with the Code and investigator's findings** – Dealing with each allegation in turn an outline of whether the investigating officer considers there has been a breach and any aggravating or mitigating facts.
- **Schedule** - a list of witnesses interviewed and copies of relevant documents.

19. A copy of the draft report will be circulated to the Subject Member and Complainant to check for factual accuracy.

20. The Investigating Officer will take into account any comments received before sending the final report to the Monitoring Officer.

#### **External Investigation – No Evidence of Failure to Comply**

21. Where the report concludes that there is no evidence of failure to comply with the Code of Conduct, the Monitoring Officer will review the report in consultation with the Independent Person.

22. If satisfied with the conclusions, the Complainant, Subject Member and the Town or Parish Clerk ( if appropriate) will be notified within 15 working days that no further action will be taken and will be given a copy of the final report.

23. If after consultation with the Independent Person the Monitoring Officer is not satisfied that the investigation has been concluded properly she may ask the Independent Investigator to reconsider the report and / or refer the matter to the Standards Hearings sub committee for a formal hearing of the issues.

### **External Investigation – Evidence of Failure to Comply**

24. Where the report concludes that there has been a failure to comply with the provisions of the Code of Conduct the matter will be referred to the Standards Hearings sub committee who will conduct a hearing to determine if the Subject Member has failed to comply with the provisions of the Code and if so what sanction is appropriate.
25. The Hearings sub committee will consider the matter afresh having regard to the Investigators findings and all relevant evidence presented by the Complainant and Subject Member.
26. The Independent Person will be present at the hearing and will be consulted and his/ her views taken into account before any decision is reached.
27. The Hearings sub committee will announce its decision at the end of the hearing and a formal Decision Notice will be prepared and sent to all relevant parties within 5 working days. The Decision Notice will be published on the Council's website and reported to the next meeting of the Audit and Governance Committee.
28. Meetings of the Hearings sub committee will be subject to the normal rules for publication of agendas and access to information.
29. There will be a right of appeal from the decision of the Standards Hearings sub committee. (Note: the exact procedure is still to be determined)

### **Independent Person**

30. The Subject Member has the opportunity to consult the Independent Person at any stage in the investigation process and prior to the final determination.

### **Membership of Panels / sub committees**

31. If a Member has sat on a Local Resolution Panel which refers a matter for external investigation then he or she may not subsequently sit on any Hearings sub committee.

### **Vexatious Complaints**

32. The Council will maintain a list of vexatious or repeated complaints and will report any concerns regarding abuse of the process to the Audit and Governance Committee.

**August 2012**

## **PLANNING PROTOCOL OF CONDUCT IN RELATION TO THE DETERMINATION OF PLANNING MATTERS**

Section	Subject	Page Number
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2	Pre-determination (fettering discretion) in the planning process	4
3	Membership of Parish Councils and outside bodies	5
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5	Contact with Applicants, Developers, Objectors	7
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15	Monitoring and review	16

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The aim of this Planning Protocol is to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well-founded in any way and **applies to members of the Strategic Planning Board and Northern and Southern Planning Committees when they are involved in the planning process.**

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The Council was required under section 27 of the Localism Act 2011 to adopt a new code of conduct from July 2012 based on the core principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty, respect for others and leadership. The new code of conduct is entitled 'Cheshire East Council Code of Conduct for Members – 2012' and this Planning Protocol (and the Public Speaking Protocol mentioned in it) has been reviewed and amended in light of it. It is referred to as the Code of Conduct for Members throughout this Planning Protocol.

The Code of Conduct for Members should be applied throughout the decision making process and this Planning Protocol seeks to explain and supplement the Code of Conduct for Members in relation to planning control. If you do not follow this Planning Protocol you may put the Council and yourself at risk of proceedings on the legality or maladministration of the related decision. Furthermore section 34 of the Localism Act 2011 introduced new criminal

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offences of failing to declare or register certain interests and debating or voting whilst having such an interest.

The Code of Conduct for Members requires Disclosable Pecuniary Interests (which are specified and defined in it) to be notified to the Monitoring Officer. Non Pecuniary Interests may be required to be notified but none have yet been specified.

**If you have any doubts about the application of this Planning Protocol to your own circumstances you should seek advice early, from the Monitoring Officer, and preferably well before any planning meeting takes place.**

In this Planning Protocol "planning meeting" covers all meetings of the Strategic Planning Board and the Northern and Southern Planning Committees.

## **SUMMARY**

Important things to remember –

1. apply the rules in the Code of Conduct for Members first, and continue to comply with them throughout the decision making process, and disclose the existence and nature of any interest set out in the Code at the relevant planning meeting unless you have already registered it.
2. understand what Disclosable Pecuniary Interests as referred to in the Code of Conduct for Members are, and the implications of such interests arising. If you have a Disclosable Pecuniary Interest in a matter you must not speak or vote on it.
3. If you have a non-pecuniary private interest in a planning matter, declare it and leave the room, although you may exercise public speaking rights before you go.
4. don't make your mind up on how you will vote on a matter before the formal consideration of the matter at the planning meeting
5. be aware that if you do lobby or campaign on a particular issue it may mean you can't take part in the decision making process
6. if you are a cabinet member, don't take part in a planning meeting in a matter where you appear to be the advocate of a proposal
7. if you are approached for technical planning advice or receive any materials relating to an application (other than those circulated by an Officer), refer the person who approached you or the material to Officers

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8. if you attend meetings individually with developers or lobby groups be careful not to put yourself in a position where you appear to favour a person or a group over another
9. if you do attend a meeting with a developer or lobby group make sure it is clear that you do not bind the authority to a particular course of action, or views, and that the meeting is noted in your diary
10. you can ask that Officers attend and/or organise meetings
11. avoid accepting gifts, benefits or hospitality from anyone involved in a planning proposal
12. it is not advisable to become a member of a group or organisation whose primary purpose is to promote or oppose specific planning proposals in your area
13. a site inspection is the opportunity to seek information and observe the site, not to start the debate into the merits of the application.
14. you can call-in an application to be determined by Committee that would otherwise be delegated to Officers, and can seek advice from Officers over the wording. Take care that the wording of your call-in does not give the impression of bias for or against an application
15. you can discuss applications with Officers but the Officer must be able to reach their own conclusion
16. make sure you are present at the planning meeting for the entire item, including the Officers introduction and update, otherwise you cannot take part in the debate or vote on that item
17. do not allow members of the public to communicate with you during planning meetings
18. you must not exercise your public speaking rights on a matter at a planning meeting if you have a Disclosable Pecuniary Interest in that matter
19. make sure your decisions at a planning meeting take into account the development plan and other relevant material planning considerations
20. put your and your local community concerns forward at the planning meeting, and consider whether planning gain requirements under s106 could help make acceptable development that would otherwise be unacceptable in planning terms

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21. include the content of s106 agreements in the debate at a planning meeting

21. if you are proposing or seconding a decision that is contrary to Officer recommendation, you need to identify the planning reasons for doing so, if necessary with the assistance of the the Officers at the planning meeting

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22. you must attend mandatory training and should try to attend all training sessions arranged by the Council

This summary provides a list of the main points to remember while the body of the Protocol provides more detailed information, explanation and assistance.

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## 1 DEVELOPMENT PROPOSALS AND INTERESTS UNDER THE CODE OF CONDUCT FOR MEMBERS

### 1.1 DISCLOSABLE PECUNIARY INTERESTS

It is your responsibility to register Disclosable Pecuniary Interests and where such an interest has not been registered to declare its existence at the relevant planning meeting, and any informal meetings or discussions with Officers and other Councillors. Preferably, disclose any Disclosable Pecuniary Interest that you have not already registered, at the beginning of the planning (or other) meeting and not just at the commencement of discussion on that particular matter. The requirements for you to declare any Disclosable Pecuniary Interest that you have not already registered apply whenever you are in attendance at a planning (or other) meeting, regardless of whether you are a member of the Committee.

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- 1.2 Where you have a Disclosable Pecuniary Interest: You must register it in the register of interests held by the Monitoring Officer
- If a matter related to it is on the agenda of a planning meeting, you must not participate in, or give the appearance of trying to participate in, the making of any decision on the matter by the planning authority, including the processing of the application. You must withdraw from the planning meeting room when the matter is



announced and you must not exercise public speaking rights in respect of it.

- You shouldn't try to represent local, Ward or Area views, get another Member to do so instead.
- Be careful not to seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a Councillor. This would include, where you have a Disclosable Pecuniary Interest in a proposal, using your position to discuss that proposal with Officers or Councillors when other members of the public would not be able to do the same.
- Whilst you are not prevented from seeking to explain and justify a proposal in which you have a Disclosable Pecuniary Interest to an appropriate Officer, in person or in writing, be aware that the Code of Conduct for Members places greater limitations on you than would apply to a normal member of the public.

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1.3 You do need to notify the Monitoring Officer and Development Management and Building Control Manager ("DMBCM") in writing if you are submitting your own application, or if you are employed as an agent and:-

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- The notification to the Monitoring Officer and the DMBCM should be made no later than submission of the application;
- the proposal will always be reported to a planning meeting and not dealt with by Officers under the scheme of delegation; and
- it is advisable that you employ an agent to act on your behalf on the proposal in dealing with Officers and any public speaking at the planning meeting (where appropriate) to avoid public criticism

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you can make written representations to Officers about the proposal but may not address the planning meeting pursuant to the Public Speaking Protocol.

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#### 1.4 NON PECUNIARY INTERESTS

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The Code of Conduct for Members has not specified any Disclosable Non Pecuniary Interests. However, the general obligation of honesty requires you to declare any non-pecuniary private interests relating to your public duties and to resolve any conflicts arising, in a way which protects the public interest. In practice this will mean declaring a non-pecuniary interest at the Planning Meeting and leaving the room for the duration of the item, although you may exercise public speaking rights before you go. So, if you attend a planning meeting at which a proposal is to be considered and you have some close association or connection with the site or applicant or objector by reason of, for example, a friendship or membership of a body or organisation then you should not take part in the debate or vote and should leave the planning meeting room prior to consideration of the proposal. In the interest of openness you should declare the nature of your interest.



If you have an association or connection with the site, applicant consultee or objector which is not close enough to affect your judgment but which it would be advisable to declare in the interests of openness, do this but then stay to take part in the debate and vote. This is likely to happen where you are a member of a consultee body which has expressed an opinion regarding an application

## **2 PRE-DETERMINATION (FETTERING DISCRETION) IN THE PLANNING PROCESS**

- 2.1 Councillors making decisions in planning meetings should exercise an independent mind and decide proposals in accordance with the relevant planning considerations, so must not favour any person, company, group or locality or commit themselves to a particular point of view on a planning application prior to its full consideration at the Council's planning meetings. Not to do so puts the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a danger of bias or pre-determination.

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- 2.2 S25 Localism Act 2011 provides that previous acts shall not be taken by themselves as proof of predetermination. However, predetermination is still unlawful: this intention of this provision is just to make it easier for members to form legitimate predispositions and to discuss planning matters in the community before they make up their minds and come to a final decision at the Planning Meeting. Prior involvement with an application could still justify a challenge on grounds other than predetermination, for example on grounds of bias or of taking an immaterial consideration into account and should be approached with caution. In the rest of this Protocol references to bias include these other grounds of challenge.

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- 2.2 In order to avoid allegations of bias, and therefore jeopardising your ability to participate in planning decision-making, wait until the formal planning meeting to hear the Officers' presentation, any public speakers and arguments on both sides before expressing your view on an application.

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- 2.3 Take care in the wording of your planning reasons on a call-in that you do not suggest that you have already formed a view on the application, if you have not done so, and that you are biased for or against it. Seek advice on this from Officers if necessary prior to completion of your form. Wording such as "I consider that this application may raise issues of ..." will help avoid claims of pre-determination if you have not done so.

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- 2.4 If the Council is the landowner, developer or applicant and you have acted as, or could be viewed as being, a chief advocate for the proposal then you may appear biased in its favour. This is more than a matter of dual membership: it arises where significant personal

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involvement in preparing or advocating the proposal means that you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)

- 2.5 You are always free to listen to a person's point of view about a planning proposal, give basic procedural advice and can agree to forward any comments, but beyond this you should refer the person to the appropriate planning Officer.
- 2.6 If there are other ward Councillors available that do not sit as a member of the same planning meeting then they will not be subject to the same restrictions regarding pre-determination and can therefore be an alternative contact for members of the public or lobby groups.
- 2.7 Political group meetings prior to the planning meeting should not determine how you or other Councillors should vote. There is no objection to a political group having a predisposition, short of predetermination, for a particular outcome or for you to begin to form a view as more information and opinions become available but you should not make up your mind until you have read the planning Officer's report and update and heard any further representations and the debate at the planning meeting.
- 2.8 You should not speak and vote on a proposal as a member of the planning meeting where you have pre-determined an application. You are not legally obliged to withdraw from the room but in most circumstances doing so will counter any suggestion that you influenced the remaining members by your continued presence. If in any doubt you should seek advice from the Monitoring Officer. If you do not withdraw, as a minimum you must withdraw to the public area of the meeting room for the whole of the consideration of the matter, whether or not you are also exercising your right to speak.
- 2.9 If you have pre-determined an application you should explain that you have, or could reasonably be perceived as having already made up your mind on an application so that this can be recorded in the minutes. You may then exercise separate speaking rights, where you do wish to speak:
  - advise the democratic services Officer or Chairman that you wish to speak in this capacity before the planning meeting;
  - remove yourself from the member seating area to the public gallery for all of that item and consider whether you need to leave the room; and
  - ensure that your actions are recorded in the minutes.

If you foresee that prior involvement in a planning matter could give you an appearance of bias (to a fair-minded and informed observer), make it plain beforehand and again at the Planning Meeting that you

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will retain and have retained an open mind throughout. If the appearance of bias is so strong, in the circumstances, that an assurance will not be sufficient to rebut it, then you should declare an appearance of bias or predetermination and, unless you want to exercise public speaking rights, you should take no part in the item and, ideally, leave the room.

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### 3 MEMBERSHIP OF PARISH COUNCILS AND OUTSIDE BODIES

3.1 The Code of Conduct for Members that you are bound by because you are a member of Cheshire East Council may be the same as or different from the one you are bound by because you are also a member of a town or parish council. Nonetheless, all Member Codes are based on the same principles including selflessness, integrity, objectivity, accountability, openness, honesty, respect for others and leadership. If you are bound by different Codes, you need to be aware of this, and if necessary you may want to seek advice on any issues you are not clear about.

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3.2 You need to exercise discretion in deciding whether or not to participate where you have been significantly involved in the preparation, submission or advancement of a planning proposal on behalf of :  
 (a) another local or public authority of which you are a member; or  
 (b) a body to which you have been appointed or nominated by the Council as its representative; or  
 (c) you are a trustee or company director of the body submitting the proposal and were appointed by the Council

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In such cases, whilst no Disclosable Pecuniary Interest arises, an issue of lack of impartiality arises, and you should withdraw from the planning meeting.

3.3 You can take part in the debate on a proposal when acting as part of a consultee body for a planning application (where you are a member of the Parish Council, for example), provided:

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- the proposal does not relate to any Disclosable Pecuniary Interest you may have

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- you make it clear to the consultee body at the time they consider the matter that:

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- (a) your views are expressed on the limited information before you only;

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- (b) you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that area, ward or parish, as and when it comes before the Planning meetings and you hear all of the relevant information; and

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- (c) you will not in any way commit yourself as to how you or others may vote when the proposal comes before the planning meeting.

It is also advisable in the interests of openness to mention your membership or role when the planning meeting ultimately comes to consider the proposal.

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## 4 CABINET MEMBERS

- 4.1 There is no Constitutional or legal reason why a Cabinet member should not also be a member of the planning meeting and take part in the decision-making processes which are not part of the executive function.

- 4.2 You should not speak or vote as a member of any planning meeting on any matter which you have discussed at Cabinet unless you have declared in both meetings that you will approach the planning decision afresh, taking material planning considerations into account at the Planning Meeting. Again, if the assurance will not rebut appearances, declare an appearance of bias and, unless you want to exercise public speaking rights, take no part in the matter: ideally, leave the room.

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- 4.3 Where you do wish to speak :

- advise the democratic services Officer or Chairman that you wish to speak in this capacity before commencement of the item;
- remove yourself from the member seating area to the public gallery for the duration of that item and consider leaving the room after you have spoken; and
- ensure that your actions are recorded in the minutes

Deleted: At a planning meeting on a matter in which you may have been seen as advocating a proposal as a Cabinet Member, and so predetermined the matter, do you should not not take part in the debate, but you can exercise separate speaking rights and the Public Speaking Protocol provided you do not have a personal and prejudicial interestDisclosable Pecuniary Interest.

## 5 CONTACT WITH APPLICANTS, DEVELOPERS AND OBJECTORS

- 5.1 If you are approached for technical planning advice you should refer the person to Officers, and can always refer a person to Officers if you are uncomfortable giving procedural or other advice.

- 5.2 Where you feel that a formal meeting would be useful in clarifying issues, you should request the DMBCM to organise this. The Officer will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action and that views expressed are provisional, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the planning meeting.

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- 5.3 If you are invited to attend a meeting with applicants, developers or groups of objectors you should exercise care particularly between the submission of an application and the planning meeting where it is to be



determined. You can attend meetings but, **to avoid complaints of bias,** you need to be careful not to express views or opinions on the application if you are intending to take part in the planning meeting.

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5.4 In addition you should consider:

- the advice on lobbying;
- whether or not it would be prudent in the circumstances to make notes when contacted;
- notifying the **DMBCM** of any significant contact with the applicant and other interested parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file;
- asking relevant questions for the purpose of clarifying your understanding of the proposals but do not express any strong view or state how you or other Councillors might vote.

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5.5 Don't attend a planning presentation unless an Officer is present and/or it has been organised by Officers, as it is a form of lobbying and you need to be careful not to express any views on the application or give the impression you have made up your mind.

5.6 Remember that a presentation is not part of the formal process of debate and determination of any application, this will be carried out by the appropriate planning meeting of the planning authority, but you are able to ask relevant questions for the purposes of clarifying your understanding of the proposals.

## 6 PRE-APPLICATION DISCUSSIONS

6.1 It is recognised that pre-application discussions can be of great benefit to the planning process, however, this may create some risks for Councillors and for the integrity of the decision making process and therefore they should only take place within clear parameters and governance arrangements and always with Officers present and a written record of the discussions made and kept.

6.2 If you are involved by an Officer in pre-application discussions ensure that it is made clear that the discussions will not bind the Council to making a particular decision and that any views expressed are personal and provisional, as by their very nature not all relevant information will be available and no formal consultation will have taken place.

6.3 Officers should deal with any queries or give advice in pre-application discussions upon policies within the Development Plan and other material considerations that may be relevant to a particular proposal or be drawn into negotiations. This ensures a consistent and co-ordinated approach from the Council.

6.4 Where there is a legitimate reason justifying non-disclosure respect a request for confidentiality. Seek advice from the Officers present if you are unsure.

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6.5 Make sure you provide information on matters of fact, local knowledge and geography to any pre-application meeting rather than dealing with the merits of any proposed application.

6.6 Make sure you do not use your position to improperly influence decisions in pre-application meetings.

6.7 You can ask an Officer for a briefing or update on the content of pre-application meetings if you are uncomfortable about attending those meetings yourself.

## 7 LOBBYING OF PLANNING COMMITTEE MEMBERS

7.1 While you can listen to those lobbying or attempting to lobby you, you should explain that it prejudices your impartiality and therefore your ability to participate in the planning meetings decision-making to form an intention to vote one way or another or express such a firm point of view that you could appear biased.

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7.2 As a member of the planning meeting your overriding duty is to the whole community not just to the people in your ward and, taking account of the need to make decisions impartially, you should not improperly favour, or appear to improperly favour, any person, company, group or locality.

7.3 You should not accept any gifts, benefits or hospitality from a person involved in or affected by a planning proposal. Where a degree of hospitality is entirely unavoidable, you must ensure it is of a minimum level, its acceptance is declared as soon as possible and remember the Code of Conduct for Members requires that you register any gift, benefit or hospitality which you have accepted where its value is over £100.

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7.4 Remember you can copy or pass on lobbying correspondence you receive to the DMBCM, if relevant or raising new issues, or declare the receipt of lobbying information at the planning meeting.

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7.5 If you receive any offer of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise, refer the offer to the DMBCM.

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7.6 If you feel that you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts, benefits or



hospitality), notify the Monitoring Officer who will in turn advise the appropriate Officers to follow the matter up.

- 7.7 Unless you have a Disclosable Pecuniary Interest, you will not have fettered your discretion or breached this Planning Protocol through:
- listening to or receiving viewpoints from residents or other interested parties;
  - making comments to residents, interested parties, other Councillors or appropriate Officers, provided they do not consist of or amount to pre-judging the issue and you make clear you are keeping an open mind;
  - seeking information through appropriate channels; or
  - being a vehicle for the expression of opinion or speaking at the meeting as a Ward Member, provided you explain your actions at the start of the meeting or item and make it clear that, having expressed the opinion or ward/local view, you have not committed yourself to vote in accordance with those views and will make up your own mind having heard all the facts and listened to the debate.

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## 8 MEMBERSHIP OF LOBBY OR GENERAL INTEREST GROUPS

- 8.1 Avoid becoming a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals or those within a limited geographical area, as if you do, you are likely to have fettered your discretion and have to withdraw from the planning meeting.
- 8.2 Depending on your degree of involvement with a group and its purpose, you can sometimes continue to participate but note that if it could realistically lead to allegations of bias, you should withdraw from the meeting.
- 8.3 If a matter relates directly to the lobby group of which you are a member rather than to the views it holds, or is submitted by the group you should ordinarily withdraw from considering the matter.
- 8.4 Where your lobby group has expressed a public view on a matter you need to consider whether a reasonable member of the public, knowing the relevant facts, would think that you appear biased. The factors you should consider are:
- the nature of the matter to be discussed
  - the nature of your involvement with the lobby group
  - the publicly expressed views of the lobby group
  - what you have said or done in relation to the particular issue
- 8.5 If the local branch of a general interest group has been vociferous or active on a particular issue or you are closely associated with the

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management or decision making process of that organisation such as its Chairperson or a member of the planning meeting, it will become increasingly difficult to demonstrate your ability to judge the matter with an open mind and you may appear biased and therefore you should consider whether it is appropriate for you to take part in the decision making process.

- 8.6 Remember that if you publicly support a particular outcome on a proposal within your Ward or actively campaign for it, you will not be able to take part in the decision making process. It would be very difficult for you to demonstrate that you had the necessary degree of impartiality to properly weigh the arguments presented and the decision would be open to challenge, particularly where the campaign included factors or expressed viewpoints which were not material planning considerations. This would, however, not prevent you from expressing the views of your constituents provided you are capable of determining any application in accordance with the law.

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- 8.7 You are able to join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals, such as the Victorian Society, CPRE, Ramblers Association or a local civic society, but it is sensible at a planning meeting to refer to your membership where that organisation has made representations on a particular proposal; you should also make it clear to that organisation and the planning meeting that you have reserved judgement and the independence to make up your own mind on each separate proposal.

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- 8.8 Don't excessively lobby fellow councillors regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken. It is difficult to define "excessively" but you need to consider whether a member of the public, knowing the facts, would think that, through your representations, the lobbied member was no longer able to take a view on the matter in the public interest.

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- 8.9 You should not ever decide or discuss how to vote on any application at any sort of political group meeting, or lobby any other Member to do so. Political Group Meetings should never dictate how Councillors should vote on a planning issue.

## 9 SITE INSPECTIONS

The Council has a separate protocol that deals with Site Inspections in more detail.

- 9.1 Site Inspections can play a legitimate part in the decision making exercise but must be limited to inspections by viewing and as a fact

finding exercise. They are not to be used to determine a proposal prior to the meeting of the Planning meetings. It should be noted that this Section applies to both Councillors requests for a Site Inspection and those the ~~DMBCM~~ may arrange without prior discussion where, in his professional opinion, there is a real benefit from viewing the site.

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- 9.2 It is important to ensure that Councillors taking planning decisions are in possession of all the facts, including matters that may have been pointed out or come to light during a site visit. Attendance of Councillors at site visits will not only demonstrate that Councillors are fully informed but will also ensure that high quality consistent and sound decisions are made, and that the risks of legal challenge are minimised. The expectation is that all planning meeting members will attend all formal site inspections and a record of attendance will be maintained and monitored.
- 9.3 You should try to attend site inspections organised by the Council.
- 9.4 You can request a site inspection if you feel it is strictly necessary because:
  - particular site factors are significant in terms of the weight attached to them relative to other factors or the difficulty of their assessment in the absence of a site inspection; or
  - there are significant policy or precedent implications and specific site factors need to be carefully addressed; or
  - details of the proposed development cannot be ascertained from plans and any supporting information to Councillors satisfaction at the planning meeting; or
  - where design considerations are of the highest importance particularly in relation to the surrounding locality.
- 9.5 The site inspection is an opportunity for you to seek information and to observe the site, and therefore you can ask the Officers at the site inspection questions or seek clarification from them on matters which are relevant to the site inspection. Officers may seek clarification from the applicant or an objector on your question, but you should not do this directly.
- 9.6 Be careful not to be drawn into arguments or detailed discussions on the individual merits of an application or give the impression that you have made up your mind while on a site inspection by expressing opinions or views to anyone. The decision can only be made at the planning meeting and you should make this clear to any applicant or other party who approaches you and suggest that they make written representations or use of the Public Speaking arrangements and direct them to, or inform, the Officer present.



- 9.7 Information that you gain from the site inspection should be reported back to the planning meetings, so that all Councillors have the same information.
- 9.8 You should not enter a site, which is subject to a proposal other than as part of an official site inspection, even in response to an invitation, as this may give the impression of bias. If you feel it is essential for you to visit the site other than through attending the official site inspection you should speak to the DMBCM about your intention to do so and give him the opportunity of an Officer accompanying you. If you do attend site on your own ensure you comply with these good practice rules on site inspections.

## 10 PUBLIC SPEAKING AT MEETINGS

The Council has a separate protocol that deals with the procedure for Public Speaking at meetings in more detail.

- 10.1 Members of the public and non-committee members should not communicate with you during the planning meeting (orally or in writing) other than through the scheme for public speaking, as this may give the appearance of bias.
- 10.2 Make sure that you comply with the Council's Protocol for Public Speaking at planning meetings if you are attending the planning meeting other than as a member.
- 10.3 Councillors are entitled to speak at a planning meeting in accordance with the Public Speaking Protocol either as an individual, representative or ward member.
- 10.4 Where you have a Disclosable Pecuniary Interest in an application then you must as soon as the item is announced leave the planning meeting room whilst the meeting considers the proposal.
- 10.5 Where you have a non-pecuniary interest in an application then you may exercise public speaking rights but leave the room immediately afterwards to counter any potential suggestion that the remaining members were influenced by your continued presence.
- 10.6 Planning Councillors who have pre-determined a matter may also exercise public speaking rights and should consider withdrawing from the meeting room having spoken on a matter to counter any potential suggestion that the remaining members were influenced by your continued presence.

## 11 OFFICERS

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11.1 Councillors and Officers have different but complementary roles. Both serve the public but Councillors are responsible to the electorate whilst Officers are responsible to the Council as a whole. Their relationship is based upon mutual trust and understanding and this must never be abused or compromised. Instructions to Officers can only be given through a decision of the Council, the Cabinet, Board or Committee or under delegated powers and not by individual Councillors acting outside those powers.

11.2 You can submit views on current applications to the DMBCM, which can be incorporated into any committee report.

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11.3 Officers are part of a management structure and you can discuss a proposal, outside of any arranged meeting, with those Officers who are authorised by the DMBCM to deal with the proposal at a Member level or the DMBCM. However, you should not seek to do anything that would compromise, or is likely to compromise, the impartiality of Officers who must be free to reach their own conclusion.

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11.4 Officers who are involved in the processing and determination of planning matters must act in accordance with the Council's Code of Conduct for Officers and their professional codes of conduct, primarily the Royal Town Planning Institute's Code of Professional Conduct. As a result, planning Officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the planning meeting or its Councillors.

11.5 Remember the Council's Member/Officer Relations Protocol.

## 12 DECISION MAKING

The Council has adopted a separate protocol that deals with the Call in of planning applications in more detail.

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12.1 Ensure that the planning reasons in your request for a proposal to go before the planning meeting rather than be determined through Officer delegation are recorded and repeated correctly in the report to the planning meeting.

12.2 Comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless other material considerations indicate otherwise.

12.3 It is important that you reach your decision only after due consideration of all of the information reasonably required upon which to base a decision. You should come to meetings with an open mind and if you feel there is insufficient time to digest new information or



that there is simply insufficient information before you, request that further information, and if necessary, defer or refuse the application.

12.4 It is vital that you have been present to hear the entire item, including the Officers' introduction to the matter before you vote or take part in the planning meeting's discussion on a proposal.

12.5 Check that the minutes of the meeting record correctly the reasons for the planning meeting's decision to grant, refuse or defer any proposal.

12.6 The planning meeting can delegate to the DMBCM in conjunction with the Chairman, if necessary, the specific wording of conditions that the planning meeting may wish to add or amend when they are considering an application for approval. An explanation of why the change or addition is required should be given to the planning meeting.

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12.7 Be aware that if you are proposing, seconding or supporting a decision contrary to Officer recommendations or the development plan that you need to clearly identify and explain the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and will be recorded and Officers will be able to assist with formal wording. Be aware that you may have to assist in defending a resulting decision by giving evidence in the event of any challenge.

12.8 Where necessary, you can consider deferring the determination of sensitive applications that the planning meeting wish to approve against Officer recommendation to the next meeting of the planning meeting to allow Officers to formulate appropriate conditions and provide the planning meeting with any relevant further new information.

12.9 Where necessary, you can consider deferring the determination of an application to another meeting if there is a very strong objection from Officers on the validity of reasons for refusal against Officer recommendation, to allow the proposed reasons to be further investigated and form the basis of an updated report to a future meeting.

12.10 You should ensure that you are aware of, and comply with the Protocols adopted by the Council.

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### 13 TRAINING

13.1 You must attend the mandatory planning training prescribed by the Council before you participate in decision-making at planning meetings.

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- 13.2 ~~You should try~~ to attend any other specialised training sessions provided, as these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plans beyond the minimum referred to above and assist you in carrying out your role properly and effectively.

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## 14 INVOLVEMENT IN SECTION 106 AGREEMENTS

- 14.1 The guidance in respect of planning obligations is similar to that of planning conditions in that they must be relevant to planning and directly related to the proposed development if they are to be taken into account in making a decision on a planning application. Local Planning Authorities should not grant planning permission for unacceptable development because of unrelated benefits offered by the applicant and should not be unduly influenced by such benefits offered.
- 14.2 Remember that the purpose of Section 106 Agreements is to help make acceptable, development which would otherwise be unacceptable in planning terms, by prescribing the nature of the development, or compensating for loss or damage created by the development, or to mitigate a developments impact. They must therefore be relevant to planning and relate fairly and reasonably to the development.
- 14.3 Requirements of Section 106 Agreements should be considered and discussed at pre-application stage. The Officers will provide advice on general requirements, but if you are aware of any additional potential requirements please refer these to the ~~DMBCM~~ as soon as you become aware of them.
- 14.4 The content of Section 106 Agreements needs to be discussed at planning meetings, whether you are a member of the planning meeting or a visiting Member who wishes to speak on the application.
- 14.5 If you feel that a meeting would be useful to clarify issues of content of potential Section 106 agreements, you should ask the ~~DMBCM~~ to arrange a meeting with relevant Officers. Participants can be made aware that the discussions will not bind the authority, and that the meeting can be properly recorded on the application file and the record of the meeting disclosed when the application is considered.
- 14.6 Do remember **that it is imperative that** a Ward Councillor's role continues after the completion of the Section 106 Agreement, by assisting Officers in ensuring that the Agreements are complied with. This includes noting when development is being undertaken and assisting Officers in ensuring triggers within Section 106 Agreements are complied with. Ward Councillors can contact Officers for any information required on completed Section 106 Agreements.

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## 15 MONITORING AND REVIEW

- | 15.1 The DMBCM will report annually to the Portfolio Holder regarding compliance with the arrangements set out in this Planning Protocol and will identify any proposals for amendment in light of issues that have arisen, although any amendments would be required to go through the Council's formal process.

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- | 15.2 In particular, the DMBCM shall monitor the following:-
- (a) the number of complaints made about breaches of the Planning Protocol and the outcome of those complaints;
  - (b) the number of appeals upheld;
  - (c) any external inspection reports in respect of relevant issues;
  - (d) the level of awareness of the Planning Protocol among Councillors and Officers; and
  - (e) the number of Ombudsman reports finding maladministration by Councillors in the conduct of planning issues.

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## PROTOCOL ON PUBLIC SPEAKING RIGHTS AT STRATEGIC PLANNING BOARD AND PLANNING COMMITTEES

- a) The Strategic Planning Board and Planning Committees have to make decisions on the merits of each individual application, upon the basis of what is in the Development Plan and other material considerations. All written representations made to the Council will be taken into account in the Officers' written report to Committee, but this procedure allows members of the public and Councillors who are not members of the Strategic Planning Board or Committees to attend a Strategic Planning Board or Planning Committee meeting and speak for or against an application prior to the Strategic Planning Board or Planning Committees making a decision about a planning application or other item on their public agenda.

- b) The Strategic Planning Board usually meets at Macclesfield at 10.30 am every 3 weeks.

- c) The Planning Committees usually meet at the Crewe Municipal Buildings, Earle Street, Crewe, CW1 2BJ (Southern) and at the Macclesfield Town Hall, Market Place, Macclesfield, SK10 1DX (Northern) every 3 weeks.

NB. As both venues and start times of meetings are subject to change, it is important that members of the public check details on the relevant agenda (available a week before the meeting) or contact Democratic Services for confirmation.

- d) The agenda for each Strategic Planning Board or Planning Committee meeting is available five clear working days before the meeting and is available via the Council's website. Interested groups and individuals should keep themselves informed about when a planning application will come to the Strategic Planning Board or Planning Committees. A list of meetings can be obtained from the Council Offices and officers will be able to advise on the progress of applications.

- e) This protocol has been amended in light of the Code of Conduct for Members – 2012

### PROCEDURE:

#### 1. WHO CAN SPEAK AND FOR HOW LONG

##### 1.1 The following individuals/groups are eligible to speak

- Objectors
- Applicants or their agents
- Supporters
- The relevant Parish or Town Council

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- Local representative groups/Civic Society (where not covered by any of the above categories)  
NB. In order to be treated separately to individual objectors and entitled to a separate speaking slot, local groups are expected to have a formal Constitution.
- Ward Members if they are not on the Board/Committee provided that they do not have a Disclosable Pecuniary Interest
- Members who are not on the Board/Committee and are not Ward Members provided that they do not have a Disclosable Pecuniary Interest

1.2 Each person or group identified shall be entitled to speak for a period of up to three minutes. If there is more than one person wishing to speak from a particular group e.g. objectors, people are encouraged to consult each other and agree how to share their 3 minute slot. The Chairman has a general discretion which may be exercised to extend time limits, but this will normally only be exercised in exceptional cases. Where a listed building or conservation area application is involved, no extra time will normally be provided.

1.3 The site plan will be shown and may be referred to throughout the consideration of the application. In order to be fair to all parties, no other presentation aids will be permitted. Similarly, the circulation of information, photographs and/or plans at the meeting will not be allowed.

## 2 HOW TO SPEAK AT STRATEGIC PLANNING BOARD AND PLANNING COMMITTEES

2.1 It is necessary to inform, in writing (email, fax or letter), the Democratic Services Section of an intention to speak at a Strategic Planning Board or Planning Committee meeting no later than 12.00 noon the day before the day of the planning meeting. Any emails should be sent to [Speakingatplanning@cheshireeast.gov.uk](mailto:Speakingatplanning@cheshireeast.gov.uk) Members should note that they still need to register their intention to speak even if they have called in an application.

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2.2 Speakers are advised to arrive for meetings approximately 10-15 minutes prior to the start of the meeting in order to register with the Democratic Services Officer.

2.3 A statement to the Strategic Planning Board or Planning Committee should only refer to planning issues, for example:

- exterior design, size, appearance, layout, etc
- residential amenity
- highway safety
- character of the area
- trees and historic buildings

- planning policy (Local Plan/Structure Plan)
- Government guidance

2.4 The Strategic Planning Board or Planning Committee cannot take into account non-planning issues, for example:

- boundary disputes/property rights
- personal comments about any individual
- loss of property value or loss of view
- matters covered in other laws

2.5 Speakers are reminded of the law relating to slander. If, at the meeting, they say something which is not true about another person, they could be at risk of legal action. Further, Race Relations and Human Rights legislation will not allow any discriminatory comments, for example race, religious beliefs or disability.

2.6 The order of speaking at the meetings of the Strategic Planning Board and Planning Committees is as follows -

- Announcement of the item by the Chairman
- Introduction and description of the application by the Planning Officer, including any update of the Committee report and an oral report of any site visit and highlighting of the key issues
- Ward Councillor(s) (3 mins) (NB. In single Member Wards, the Ward Member may at his or her discretion delegate the right to speak to an alternative Member.)
- Members who are not on the Board/Committee and are also non-Ward Members (3 mins)
- Parish/Town Council representations (3 mins)
- Civic Society/Local Representative Groups (3 mins)
- Objectors' representations (3 mins)
- Supporters' representations (3 mins)
- Applicants' representations (3 mins)
- Further comments by Planning Officer
- Ward Councillor if a Member of the Board/Committee
- Board/Committee Members debate and decision taken

2.7 At the Chairman's discretion, members of the Strategic Planning Board or Planning Committee may ask, through the Chairman, any of the speakers listed above to clarify an issue of fact after their statement is concluded. The Chairman may also ask that questions of fact are answered by any speakers during the Members' discussion to clarify matters. Speakers will not be permitted to ask questions of the Strategic Planning Board or Planning Committee or other speakers or to interrupt the Members' discussion on an individual planning application. The Constitution (Paragraph 58 of the General Procedure Rules) provides Chairmen with powers to ensure good order during meetings.

- 2.8 In exceptional circumstances, the Chairman may (with the approval of the Board or Committee) extend the speaking period for some or all speakers or allow more speakers if appropriate. This power will be treated with caution for controversial or complex schemes and if additional time is granted to objectors, a similar allowance will be given to supporters and/or the applicant.

2.9 Members who have a Disclosable Pecuniary Interest in an application must not speak on it and must leave the planning meeting room as soon as the application is introduced. If a member has a non pecuniary private interest they should declare it and leave the planning meeting room but may exercise public speaking rights before doing so. If a member of the committee has pre determined an application they may exercise public speaking rights and then, ideally, leave the planning meeting room.

### 3 AFTER THE DECISION

- 3.1 Speakers are asked to respect the decision made by the Strategic Planning Board or Planning Committee during the course of the meeting. The Strategic Planning Board's or Planning Committee's decision is final, but the applicants do have the right to appeal to the Secretary of State if their application is refused or if conditions are attached which they do not like. Objectors do not have the right to appeal a decision to the Secretary of State but they can seek to have a decision quashed by an application to the High Court by way of judicial review.

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- 3.2 If an application is deferred to a future meeting for consideration, speakers will be required to register to speak for that meeting in accordance with this protocol.

Deleted: procedure note

- 3.3 This scheme will be monitored and reviewed by the Strategic Planning Board annually.

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**APPENDIX 4**

**AUDIT AND GOVERNANCE COMMITTEE – 27<sup>TH</sup> SEPTEMBER 2012**

**Extract from the minutes of the Strategic Planning Board meeting on 12<sup>th</sup> September 2012**

**59 REVIEW OF THE PLANNING PROTOCOL AND THE PUBLIC SPEAKING PROTOCOL**

(During consideration of the report, Councillors Mrs R Bailey and G Walton left the meeting and did not return).

Consideration was given to the above report.

Mrs S Dillon, the Council's Legal Officer reported the following amendments to the report:-

1) That the reference to Audit and Governance Committee in paragraph 2.1 of the covering report be replaced with 'Constitution Committee'.

2) That the words in paragraph 2.9 of the Planning Protocol 'or could reasonably be perceived as having' be deleted because perception would be dealt with in paragraph 2.10.

3) That following paragraph 2.9 a new paragraph be created as follows:-

2.10 If you foresee that prior involvement in a planning matter could give you an appearance of bias (to a fair-minded and informed observer), make it plain beforehand and again at the Planning Meeting that you will retain and have retained an open mind throughout and are going to take the final decision on planning merit. If the appearance of bias is so strong, in the circumstances, that an assurance will not be sufficient to rebut it, then you should declare an appearance of bias or predetermination and, unless you want to exercise public speaking rights, you should take no part in the item and, ideally, leave the room.

4) That the addition of the words 'visiting Councillors to any of the three Planning Committees' be inserted after the words 'Southern Planning Committees' in the first paragraph of the start of the Planning Protocol.

5) That in relation to the Public Speaking Protocol reference to Ward Councillors being allowed 3 minutes to speak should have been tracked in red.

Members made comments in respect of the following:-

- 1) Whether the reminder to pass on lobbying correspondence should be strengthened.
- 2) Whether the Members' current discretion to stay in the public gallery or leave the room when they have pre determined an application should be strengthened so that all Members leave the room as a matter of course.
- 3) Whether Members who have not attended the site visit should declare at the meeting that they know the application sufficiently well to take part in the decision.
- 4) Whether or not the Ward Councillor time should be restricted to 3 or 5 minutes and whether or not visiting Councillors should be questioned by Members on either the Board or the two Planning Committees.
- 5) Whether evidence should be presented to prove the existence of Local Representative Groups/Civic Societies.
- 6) Whether or not paragraph 9.5 of the covering report should be worded in a stronger manner.
- 7) In relation to paragraph 8.9 of the covering report the word 'ever' be replaced with the words 'to never'.

#### RESOLVED

That the report be recommended for approval to the Constitution Committee subject to the amendments put forward by the Legal Officer as outlined above and subject to the following amendments suggested by Members of the Board:-

- 1) That in relation to the Public Speaking Protocol the provision requiring a copy of a Constitution outlined in paragraph 1.1 to be produced by a Local Representative Group should be deleted.
- 2) That the final sentence in paragraph 1.2 of the Public Speaking Protocol be deleted.
- 3) That the third bullet point in paragraph 2.6 of the Public Speaking Protocol be amended so that all visiting Cheshire East Councillors (including Ward Councillors) have 3 minutes to speak and may be questioned by Members on the Strategic Planning Board/Northern or Southern Planning Committee for a maximum of 5 minutes, or longer at the Chairman's' discretion.
- 4) In relation to paragraph 8.9 of the covering report the word 'ever' be replaced with the words 'to never'.

## **CHESHIRE EAST COUNCIL**

### **Audit and Governance Committee**

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**Date of meeting:** 27<sup>th</sup> September 2012  
**Report of:** Chairman of the Audit and Governance Committee  
**Title:** Audit and Governance Committee Annual Report 2011/12  
**Portfolio Holder:** Councillor Peter Raynes

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#### **1.0 Report Summary**

- 1.1 The purpose of the report is for the Committee to consider the draft 2011/12 Annual Report of the Audit and Governance Committee and agree the final version of the report that will go to Council in October 2012.

#### **2.0 Recommendation**

- 2.1 That the Committee consider the draft Annual Report 2011/12 as attached (Appendix A) and agree the final version that will go to Council in October 2012.

#### **3.0 Reasons for Recommendation**

- 3.1 In accordance with the Council's Constitution, the Audit and Governance Committee shall submit an annual report to Council.

#### **4.0 Wards Affected**

- 4.1 All wards

#### **5.0 Local Wards Affected**

- 5.1 Not applicable

#### **6.0 Policy Implications**

- 6.1 Not applicable

#### **7.0 Financial Implications**

- 7.1 None

#### **8.0 Legal Implications**

- 8.1 None

## **9.0 Risk Assessment**

- 9.1 There is a requirement within the Council's Constitution for the Audit and Governance Committee to submit an annual report to Council. Failure to submit the record would be a breach of the Constitution.

## **10.0 Background and Options**

- 10.1 Many Audit Committees prepare an annual report to demonstrate how they have fulfilled their terms of reference and to account for their performance. CIPFA guidance states key aspects to consider including in such a report are:

- Committee membership
- Summary of activity, including key topics, decisions and recommendations.
- Review of the committee's effectiveness, including any external assessment results.
- Development activity undertaken. For example training, networking with other audit committees or peer reviews.

It also states that annual reports should be publically available and care should be taken to make them readable and accessible.

- 10.2 The requirement to submit an annual report is now included within Cheshire East Council's Constitution and the 2011/12 report is the first annual report of this Committee.

## **11.0 Access to information**

The background papers relating to this report can be inspected by contacting the report writer:

Name: Councillor John Hammond

Designation: Chair of the Audit and Governance Committee

Tel No: 01270 753205

Email: [john.hammond@cheshireeast.gov.uk](mailto:john.hammond@cheshireeast.gov.uk)





**Cheshire East Council  
Audit and Governance Committee  
Annual Report 2011/12**

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## Introduction by the Chair of the Audit and Governance Committee



I am pleased to present the first Annual Report of the Audit and Governance Committee which describes the Committee's activity over the municipal year to May 2012.

The reduction in resources available to local government makes the importance of effective governance and accountability greater than ever. The past year has seen the Audit and Governance Committee exercise robust challenge across its entire remit through the questions raised and the requests made for additional information.

During the year the Committee has considered the key issues affecting the Council's governance framework. Apart from the substantial work plan, the Committee has also shown that it can be proactive in seeking to understand and review emerging areas of risk and concern. A particular example being the early request for a thorough and robust investigation of all issues surrounding the expenditure incurred on the proposed waste transfer station at Lyme Green.

In my opinion, a key strength of the Committee is that it operates in an open, honest and impartial fashion which, in turn, should promote confidence in the Council's governance processes.

I hope that this Annual Report helps to demonstrate both to the Council and the wider community in general, the important role that is performed by the Audit and Governance Committee and the particular contribution that it makes to the Council's overall governance and control arrangements.

On a final note, following the recent abolition of the Standards Committee, the Audit and Governance Committee, through ad-hoc Bodies, has now assumed responsibility for dealing with complaints relating to the new Code of Conduct. As Chairman, you have my assurance that we will do our utmost to carry on the excellent work of the previous Standards Committee in taking this important role forward during 2012/13.

**Councillor John Hammond**

**Chair of the Audit and Governance Committee**

**September 2012**

DRAFT

## Audit and Governance Committee Background and Review of 2011/12

### Background

#### ***Why do we have an Audit and Governance Committee?***

Audit Committees are an essential element of good governance. Good corporate governance requires independent, effective assurance about the adequacy of financial management and reporting. These functions are best delivered by an Audit Committee, independent from the executive and scrutiny functions.

Effective Audit Committees help raise the profile of internal control, risk management and financial reporting issues within an organisation, as well as providing a forum for the discussion of issues raised by internal and external auditors. They enhance public trust and confidence in the financial governance of an authority.

#### ***When does it normally meet?***

It meets four times a year and works to a strategic work plan. Membership of the Committee is ten councillors in proportion to the Council's political composition, see **Appendix A** (page 5). All meetings are held in public. Details of future meetings are shown in **Appendix E** (page 15).

#### ***When did it start work?***

The current Committee began in May 2010 after it was decided to decommission the Governance and Constitution Committee and have a separate Audit Committee (named 'Audit and Governance' Committee) and a Constitution Committee. This strengthened the governance framework by allowing each Committee to focus on its own particular areas.

### Review of 2011/12

#### ***When did it meet in 2011/12?***

There were four scheduled meetings in the year:

- 30<sup>th</sup> June 2011
- 29<sup>th</sup> September 2011
- 31<sup>st</sup> January 2012
- 27<sup>th</sup> March 2012

The agenda items covered are shown in **Appendix B** (page 7). Reports and supporting documents are publically available at [www.cheshireeast.gov.uk](http://www.cheshireeast.gov.uk)

#### ***What work did it carry out in 2011/12?***

A work plan was agreed at the beginning of the year and all planned work was completed, including the following:

- Statement of Accounts
- Annual Governance Statement (AGS)
- Internal Audit Plan
- Internal Audit Annual & Interim Reports
- Audit Commission Reports to the Council
- Risk Management Reports
- Anti-Fraud and Corruption Arrangements
- Whistleblowing Policy

Details of work carried out are shown in **Appendix B** (page 7).

### Review of 2011/12 (continued)

## Audit and Governance Committee Background and Review of 2011/12

### ***What key decisions did the Committee take in 2011/12?***

During 2011/12, the Committee made a number of key decisions, including the following:

- Approved the 2010/11 Statement of Accounts
- Approved the 2010/11 AGS
- Endorsed the updated Risk Management Policy
- Endorsed the updated Whistleblowing Policy

In addition, the Committee requested a number of pieces of work/additional actions, including the following:

- An investigation of issues surrounding the proposed waste transfer station at Lyme Green.
- Risk owners to be invited to Committee meetings to discuss their mitigation plans.
- Consideration to be given to conducting an anonymous survey of staff to ascertain the degree of satisfaction with the Whistleblowing Policy.

### ***Did the Committee cover the right areas?***

To ensure that the Committee met its remit for the year, its activities have been matched to the designated functions of the Committee as set out in the Council's [Constitution](#). The results are set out in **Appendix C** (page 8).

### ***What is the role of Internal Audit?***

The Internal Audit service carries out reviews throughout the year on the whole of the Council's control environment, comprising risk management, key control and governance processes. This work

includes a mix of risk based auditing, regularity, ICT audit, investigations and the provision of advice to officers.

Internal Audit activity is regularly reported to the Committee by the two Audit Managers, Jon Robinson and Neil Taylor, including the annual opinion on the adequacy and effectiveness of the Council's internal control environment.

### ***Who are the Council's External Auditors?***

During 2011/12, the Council's External Auditors were the Audit Commission's in-house Audit Practice. This is led by Judith Tench, District Auditor and Andrea Castling, Audit Manager, who attend all Audit and Governance Committee meetings.

Following the externalisation of the Audit Commission's work to private sector firms, the Council's new External Auditors are Grant Thornton, with effect from 1<sup>st</sup> September 2012. The majority of current Audit Practice staff transfer to the private sector firms at the end of October 2012.

### ***Does it meet best practice standards?***

The functions of the Audit and Governance Committee are based on best practice, as featured in the CIPFA (Chartered Institute of Public Finance and Accountancy) publication, *Audit Committees – Practical Guidance for Local Authorities*.

To ensure its ongoing effectiveness in 2011/12, the Committee has been

### **Review of 2011/12 (continued)**

assessed against the detailed checklist included within the CIPFA guidance. The

## **Audit and Governance Committee Background and Review of 2011/12**

results are shown as **Appendix D** (page 11)) and show that the Committee fully complies with best practice, with the exception of two aspects which it partially complies with.

that will enable it to meet its responsibilities.

### ***What training and development is carried out for Members?***

During 2011/12, the following training sessions for members of the Committee were carried out:

- Induction for new Members of the Committee
- Statement of Accounts
- Annual Governance Statement
- Data Protection

In September 2011, it was agreed by the Committee that individual Members would become more involved in specific areas of audit and governance work as a means of developing in-depth knowledge and expertise and subsequently five Member/Officer Groups were set up and had their first meetings in January 2012, covering the following areas:

- Audit
- Corporate Governance & Annual Governance Statement
- Financial Statements
- Fraud Management
- Risk Management

### ***What is planned for 2012/13?***

The Committee's work plan for 2012/13 is shown as **Appendix E** (page 15). These are the items required to ensure the Committee covers its remit. The work plan is brought to each Committee meeting for update, where necessary, and approval. Members consider the contents of the Work Plan and establish any additional agenda items/training/briefing sessions

**Audit and Governance Committee Members 2011/12****Councillor John Hammond**

Councillor Hammond has been an elected member of Cheshire East Council since its beginning in April 2009. He has served on the Audit and Governance Committee since its inception in June 2010 and became the Chair in May 2011.

**Councillor Martin Hardy**

Councillor Hardy has been an elected member of Cheshire East Council since its beginning in April 2009. He has served on the Audit and Governance Committee since its inception in June 2010 and became the Vice-Chair in May 2011. He stepped down as Vice-Chair in January 2012 and remains on the Committee.

**Councillor David Marren**

Councillor Marren became an elected member of Cheshire East Council in May 2011 and has served on the Audit and Governance Committee since then. He replaced Councillor Hardy as Vice-Chair for the remainder of the 2011/12 municipal year.

**Councillor Sam Corcoran**

Councillor Corcoran became an elected member of Cheshire East Council in May 2011 and has served on the Audit and Governance Committee since then.

**Councillor Rod Fletcher**

Councillor Fletcher has been an elected member of Cheshire East Council since its beginning in April 2009 and has served on the Audit and Governance Committee since May 2011.



**Audit and Governance Committee Members 2011/12****Councillor Steven Hogben**

Councillor Hogben became an elected member of Cheshire East Council in May 2011 and after attending as a substitute in June 2011, he has since served on the Audit and Governance Committee from September 2011 to date.

**Councillor Andrew Kolker**

Councillor Kolker has been an elected member of Cheshire East Council since its beginning in April 2009. He served as Vice-Chair of the Governance and Constitution Committee for a time and has been on the Audit and Governance Committee from June 2010 to date.

**Councillor Arthur Moran**

Councillor Moran has been an elected member of Cheshire East Council since its beginning in April 2009. He served on the Audit and Governance Committee for the year May 2011 to May 2012.

**Councillor Margaret Simon**

Councillor Simon has been an elected member of Cheshire East Council since its beginning in April 2009. She has served on the Audit and Governance Committee since its inception in June 2010 and was Chair for the 2010/11 year.

**Councillor Jacqueline Weatherill**

Councillor Weatherill has been an elected member of Cheshire East Council since its beginning in April 2009. She served on the Audit and Governance Committee for the year May 2011 to May 2012.

**Audit and Governance Committee Activity 2011/12****30<sup>th</sup> June 2011****Items covered:**

Appointment of Appeals Sub-Committee  
 External Audit: Annual Audit Fees 2011/12  
 External Audit: Progress Report 2010/11  
 Draft Statement of Accounts and Annual Governance Statement 2010/11 – Approval Process  
 Internal Audit Annual Report 2010/11  
 Risk Management Update Report  
 Risk Management Policy Review  
 Business Continuity Update Report  
 Whistleblowing Policy  
 Anti Fraud and Corruption Arrangements

**29<sup>th</sup> September 2011****Items covered:**

External Audit: 2010/11 Annual Governance Report  
 Annual Governance Statement (AGS) 2010/11  
 Internal Audit Plan 2011/12 and Update Report  
 Risk Management Update Report  
 Annual Report of Corporate Complaints and Local Government Ombudsman's Annual Review 2010/11  
 Breach of the Council's Contract Procedure Rules

**31<sup>st</sup> January 2012****Items covered:**

External Audit: Annual Audit Letter 2010/11  
 External Audit: Audit Plan 2011/12  
 External Audit: Audit Committee Update  
 Statement of Accounts for 2011/12  
 Compliance with Data Protection Act 1998, Freedom of Information Act 2000 and Environmental Regulations 2004  
 Annual Governance Statement (AGS) – 2011/12 Process and Update on 2010/11 Action Plan  
 Compliance with International Auditing Standards  
 Internal Audit 2011/12 Interim Report  
 Risk Management Update Report

**27<sup>th</sup> March 2012****Items covered:**

External Audit: Certification of Claims and Returns – Annual Report  
 Internal Audit Plan 2012/13  
 Audit Committee Self-Assessment  
 Business Continuity Management Update  
 Whistleblowing Policy  
 Risk Management Update Report

**Audit and Governance Committee Functions and Relevant Activity 2011/12**

<b>Function of Audit and Governance Committee</b> <i>(per Committee Terms of Reference)</i>	<b>Relevant activity in 2011/12</b>
<b>Annual Report</b>	
Submitting an Annual Report to the Council.	It was agreed at the Committee meeting in June 2011 that, with effect from the next municipal year, the Audit and Governance Committee submit an Annual Report to Council.
<b>Audit</b>	
Overseeing the Council's role and responsibilities in respect of Audit.	<p><i>Internal Audit:</i> The Committee approved the overall strategy and annual programme of audits (March 2012) and monitored progress against the plan (September 2011 &amp; January 2012).</p> <p><i>External Audit:</i> The Committee received and considered the work of the External Auditor (June 2011/September 2011/January 2012 &amp; March 2012).</p>
Supporting the Council's audit function, both internal and external.	See above.
Considering the Head of Internal Audit's Annual Report and opinion and a summary of internal audit activity and the level of assurance over corporate governance arrangements.	The Internal Audit Annual Report, including the Head of Internal Audit's opinion was presented to the Committee in June 2011.
Receiving the Internal Audit Plan and summary reports on performance against the plan.	Internal Audit interim reports against the 2010/11 plan were received in September 2011 and January 2012, with the 2012/13 Internal Audit Plan received in March 2012.
<b>Corporate Governance &amp; Annual Governance Statement</b>	
Overseeing the Council's role and responsibilities in respect of Corporate Governance.	The Committee received and approved the Annual Governance Statement (September 2011), agreed the AGS process (January 2012) and received an update on progress against the AGS Action Plan (January 2012).
Developing a Code of Corporate Governance and to undertake as appropriate an assessment of wider governance issues.	Changes to the Code of Corporate Governance are agreed by the Committee, when applicable (last done in November 2010). An update on the Code of Corporate Governance and the Governance Framework is scheduled for the September 2012 meeting

**Audit and Governance Committee Functions and Relevant Activity 2011/12**

<b>Function of Audit and Governance Committee</b> <i>(per Committee Terms of Reference)</i>	<b>Relevant activity in 2011/12</b>
	of the Committee.
Reviewing and approving the Annual Governance Statement.	The Annual Governance Statement 2010/11 was approved at Committee in September 2011.
<b>Financial Statements</b>	
Supporting the Chief Financial Officer in relation to the performance of her duties.	Reports on the Statement of Accounts, including progress and audit thereof were presented at June 2011/September 2011 and January 2012 Committee meetings.
Approving any Council Statement of Accounts as may be required by the relevant Account and Audit Regulations.	The Statement of Accounts 2010/11 was approved at Committee in September 2011.
Considering External Audit and other external agencies reports to those charged with governance as a source of assurance.	The Annual Audit Letter was reported to Committee in January 2012 by the External Auditor. A progress report on implementation of the 2010/11 Statement of Accounts Action Plan was brought to Committee by Officers in January 2012. The 2010/11 Annual Governance report was reported to the Committee in September 2011.
<b>Fraud Management</b>	
Ensuring the Council has in place appropriate policies and mechanisms to safeguard the Council's resources.	The Committee considered the outcome of a review of Anti Fraud and Corruption arrangements in June 2011.
Reviewing and making recommendations upon the Whistleblowing arrangements process.	The revised Whistleblowing Policy was endorsed at Committee in June 2011. An update on the effectiveness of the Policy and the number of reports received during 2011/12 was received by the Committee in March 2012.
Ensuring that the Council maintains a robust counter fraud culture via the implementation of an Anti Fraud and Corruption Policy and Strategy.	The Committee considered the outcome of a review of Anti Fraud and Corruption arrangements in June 2011.
Seeking assurance that Customer Complaint arrangements are robust.	Annual Report of Corporate Complaints and Local Government Ombudsman's Annual Review 2010/11 presented to Committee in September 2011.
<b>Risk Management</b>	
Ensuring any Council's Risk Management	Risk Management Update Reports are

**Audit and Governance Committee Functions and Relevant Activity 2011/12**

<b>Function of Audit and Governance Committee</b> <i>(per Committee Terms of Reference)</i>	<b>Relevant activity in 2011/12</b>
<p>arrangements are operating effectively.</p> <p>Where necessary, overseeing and agreeing the arrangements for Members to be indemnified for and insured against risks and liabilities arising from the performance of their duties as Members of the Council, and as the Council's representatives on outside bodies.</p>	<p>received at each Committee.</p> <p>General updates on insurance are reported to the Corporate Risk Management Group as part of their remit to review and monitor risks in relation to specific area needs as and when required e.g. Climate Change, Health and Safety, Insurance and the National Fraud Initiative (NFI). A summary of the key points from the insurance updates are included in the Risk Management Update reports to the Committee and a similar arrangement will continue in 2012/13. Any specific issues relating to Members' indemnity will be reported where necessary.</p>

## Audit and Governance Committee Self Assessment

Issue <i>per CIPFA Audit Committees Practical Guidance for Local Authorities Checklist</i>	Y	N	P	Comment
<b>Terms of Reference</b>				
Have the committee's Terms of Reference been approved by full Council?	✓			Approved as part of Constitution. Terms of Reference updated in 2011/12 to include requirement to submit an Annual Report to full Council.
Do the Terms of Reference follow the CIPFA model?	✓			Based on <i>Audit Committees – Practical Guidance for Local Authorities</i> , CIPFA 2005.
<b>Internal Audit Process</b>				
Does the Committee approve the strategic audit approach and the annual programme?	✓			Internal Audit Strategy approved in Sept 2009, with update in Nov 2010. Update planned in 2012/13. Audit Plans approved annually – 2011/12 Plan approved in March 2011.
Is the work of Internal Audit reviewed regularly?	✓			Annual Internal Audit Opinion report received in June 2011. Interim reports received in Sept 2011 and Jan 2012.
Are summaries of quality questionnaires from managers reviewed?	✓			Results of questionnaires reported in interim reports for 2011/12 and are reported in the Annual Report.
Is the Annual Report, from the Head of Audit, presented to the committee?	✓			Annually to support production of the Annual Governance Statement (AGS). Last reported in June 2011.
<b>External Audit Process</b>				
Are reports on the work of External Audit and other inspection agencies presented to the Committee?			✓	External Audit reports: June 2011 – Progress Report, Sept 2011 – Annual Governance Report 10-11, Jan 2012 – Annual Audit Letter 10-11/Audit Plan 11-12 were all presented to the Committee. Reports of other inspection agencies e.g. OFSTED are not presented to the Committee.
Does the Committee input into the External Audit programme?			✓	The Committee received and commented on the External Auditor's 2011/12 plan in January 2012, although there was no prior specific discussion on the content. The plan sets out the audit work in respect of the audit of the Financial Statements and the Value For Money conclusion 2011/12.



## Audit and Governance Committee Self Assessment

Issue <i>per CIPFA Audit Committees Practical Guidance for Local Authorities Checklist</i>	Y	N	P	Comment
Does the Committee ensure that Officers are acting on and monitoring action taken to implement recommendations?	✓			E.g. Progress on implementing the Final Accounts Action Plan was reported to the Committee in Jan 2012, and is discussed at the appropriate specialist Member/Officer Group.
Does the Committee take a role in overseeing: <ul style="list-style-type: none"> <li>• Risk Management strategies</li> <li>• Annual Governance Statement</li> <li>• Anti Fraud arrangements</li> <li>• Whistleblowing strategies?</li> </ul>	✓			Review of Policy in June 2011. Update reports at each meeting. Approved 10/11 AGS in Sept 2011, Process for 11/12 AGS and update on 10/11 AGS action plan in Jan 2012. Review of Strategy reported Jan 2011. Update planned in 2012/13. Review of Policy in June 2011.
<b>Membership</b>				
Has the membership of the Committee been formally agreed and a quorum set?	✓			
Is the Chair free of Executive or Scrutiny functions?	✓			
Are Members sufficiently independent of the other key Committees of the Council?	✓			The Chair and Vice-Chair are free of Executive and Scrutiny responsibilities. There are two Scrutiny Chairs on the Committee.
Have all Members' skills and experiences been assessed and training given for identified gaps?	✓			The Committee considered training requirements against the Better Governance Forum recommendations in Sept 2010 and training requirements are considered at each subsequent Committee as part of the Work Programme/Plan. Induction sessions have been delivered in June 2010 and Sept 2011 covering core functions re: Internal & External Audit, Risk & Governance and Financial Statements, and a series of training sessions have been delivered around the IFRS, AGS, Risk and Customer Complaints. In Sept 11, it was agreed by the

## Audit and Governance Committee Self Assessment

Issue <i>per CIPFA Audit Committees Practical Guidance for Local Authorities Checklist</i>	Y	N	P	Comment
				Committee that individual Members would become more involved in specific areas of audit and governance work as a means of developing in-depth knowledge and expertise and subsequently five Member/Officer Groups have been set up and had their first meetings in Jan 2012.
Can the Committee access other Committees as necessary?	✓			Best practice states that the Audit Committee should report direct to the governing body i.e. full Council. For 2011/12, the Audit & Governance Committee has produced an Annual Report to go to full Council.
<b>Meetings</b>				
Does the Committee meet regularly?	✓			
Are separate, private meetings held with the External Auditor and the Internal Auditor?	✓			External Audit: a meeting with the Chair and Vice-Chair took place in March 2012. Internal Audit: There are a combination of Member/Officer Group meetings and pre-Committee briefings.
Are meetings free and open without political influences being displayed?	✓			
Are decisions reached promptly?	✓			Any deviations from the Work Programme are discussed and agreed at each Committee.
Are agenda papers circulated in advance of meetings to allow adequate preparation by Members?	✓			There has been a conscious effort to make Committee reports more concise in 2011/12 to aid preparation. A review of the Work Programme is planned to ensure appropriate frequency of updates.
Does the Committee have the benefit of attendance of appropriate Officers at its meetings?	✓			The introduction of the Internal Audit Reporting Protocol and associated follow up procedure will enable appropriate managers to be invited to Committee to report back on e.g. implementation of recommendations.
<b>Training</b>				
Is induction training provided to Members?	✓			See response regarding the assessment of Members' skills and experiences.



## Audit and Governance Committee Self Assessment

<b>Issue</b> <i>per CIPFA Audit Committees Practical Guidance for Local Authorities Checklist</i>	<b>Y</b>	<b>N</b>	<b>P</b>	<b>Comment</b>
Is more advanced training available as required?	✓			As above.
<b>Administration</b>				
Does the Authority's S151 Officer or deputy attend all meetings?	✓			S151 Officer or deputy has attended all 2011/12 meetings.
Are the key Officers available to support the Committee?	✓			Key Officers i.e. Internal Audit, Finance, Legal, Democratic Services, External Audit attend all meetings. Other Officers will attend as and when appropriate to present specific reports.

**Key:**

Y     **Met**  
P     **Partially met**  
N     **Not met**

## Audit and Governance Committee Work Plan 2012/13

Committee Date/Agenda Item	Description
<b>14 June 2012 – Special Meeting</b>	
Lyme Green	Investigation of all issues surrounding the expenditure incurred on the proposed waste transfer station at Lyme Green.
<b>28 June 2012</b>	
External Audit – Progress Report 11/12	External Audit progress report against their 11/12 Plan.
Financial Statements 11/12 Update	Process and timetable for the approval of the 11/12 Financial Statements.
Draft Annual Governance Statement (AGS) 11/12	Draft AGS 11/12 for comment/agreement; final version to be approved at September meeting.
Internal Audit Annual Report 11/12	Opinion on the overall adequacy and effectiveness of the Council's control environment for 11/12.
Corporate Risk Management Group Annual Report 11/12 & Risk Management Policy Review <i>including Risk Owner Mitigation Plan</i>	First Annual Report of the Corporate Risk Management Group, an update of the Risk Management Policy and attendance by a Corporate Risk Owner to explain their mitigation plan.
Work Plan	Forward looking programme of meetings and agenda items to ensure comprehensive coverage of the Committee's responsibilities.
<b>27 September 2012</b>	
External Audit – Annual Governance Report 11/12	Summary of findings from the 11/12 audit and key issues identified by External Audit in issuing their opinion on the Council's Financial Statements and its arrangements for securing economy, efficiency & effectiveness in the use of resources.
Annual Report 11/12	First Annual Report of the Chair of the Audit & Governance Committee to Council (as agreed at Committee in September 2011).
Financial Statements 11/12	Approval of the final 11/12 Financial Statements.
Final AGS 11/12	Final AGS 11/12 for approval.
Governance Framework and Code of Corporate Governance Update	Council's Governance Framework for discussion/agreement and approval of updates to Code of Corporate Governance.
Internal Audit Interim Report	Progress report against the Internal Audit Plan 12/13.
Anti Fraud and Corruption Update	Periodic review of Anti Fraud and Corruption Policy and arrangements against best practice.
Treasury Management Update Report	Update report on Treasury Management.
Risk Management Update Report <i>including Risk Owner</i>	Update report on Risk Management, including Business Continuity and attendance by a Corporate Risk Owner

## Audit and Governance Committee Work Plan 2012/13

Committee Date/Agenda Item	Description
<i>Mitigation Plan</i>	to explain their mitigation plan.
Contract Regulations	Report on compliance with contractual regulations, including specific examples, as requested by Members.
Lyme Green Action Plan	Quarterly progress report on Lyme Green.
Standards Issues and Planning Protocol	Report on a number of issues in relation to the new Code of Conduct.
Work Plan	Forward looking programme of meetings and agenda items to ensure comprehensive coverage of the Committee's responsibilities.
<b>31 January 2013</b>	
External Audit – Annual Audit Letter 11/12	Summary of the External Audit findings from 11/12 audit.
External Audit – Audit Plan 12/13	External Audit's planned work for the audit of Financial Statements and the Value For Money conclusion 11/12. Also specifies the level of audit fees.
Financial Statements -12/13 Progress Report	Progress on preparation of the 12/13 Financial Statements.
Internal Audit Interim Report	Progress against the Internal Audit Plan 12/13.
Draft Treasury Management Strategy Report	Consider draft Treasury Management Strategy, before approval by Council in February 2013.
Data Protection and Freedom of Information Update	Update on Data Protection and Freedom of Information issues including volumes of requests and trends.
AGS – Update on 11/12 Action Plan & 12/13 Process	Progress to date on the 11/12 AGS Action Plan and suggested approach for the 12/13 AGS for approval.
Compliance with International Auditing Statements	Report setting out response to External Audit request for information regarding management arrangements for identifying and reporting risk of fraud and complying with the relevant laws and regulations.
Annual Report of Corporate Complaints and Local Government Ombudsman's Annual Review 11/12	Summary of the complaints received by the Council and also those dealt with by the Local Government Ombudsman about the Council for 11/12.
Risk Management Update Report <i>including Risk Owner Mitigation Plan</i>	Update report on Risk Management, including Business Continuity and attendance by a Corporate Risk Owner to explain their mitigation plan.
Lyme Green Action Plan	Quarterly progress report on Lyme Green.
Work Plan	Forward looking programme of meetings and agenda items to ensure comprehensive coverage of the Committee's responsibilities.
<b>28 March 2013</b>	
External Audit – Certification	Annual report on the issues, amendments and

## Audit and Governance Committee Work Plan 2012/13

Committee Date/Agenda Item	Description
of Claims & Returns	qualifications arising from certification work of grant claims and returns.
Internal Audit Plan 13/14	Approval of risk based Internal Audit Plan for following year.
Audit Committee Self Assessment	Self assessment of the effectiveness of the Committee, which feeds into the AGS process.
Whistleblowing Policy Update	Periodic assurance on effective operation of Whistleblowing Policy.
Risk Management Update Report <i>including Risk Owner Mitigation Plan</i>	Update report on Risk Management, including Business Continuity and attendance by a Corporate Risk Owner to explain their mitigation plan.
Lyme Green Action Plan	Quarterly progress report on Lyme Green.
Work Plan	Forward looking programme of meetings and agenda items to ensure comprehensive coverage of the Committee's responsibilities.
<b>Unallocated Items</b>	
	<b><i>The following items will be presented to the Committee but have not as yet been allocated to a specific agenda.</i></b>
Internal Audit Terms of Reference	Update and amendment to Internal Audit Terms of Reference.
Internal Audit Strategy	Update and amendment to Internal Audit Strategy.
	<b><i>The following items may, subject to requirement, be presented to the Committee.</i></b>
Insurance	Where necessary, overseeing and agreeing the arrangements for Members to be indemnified for and insured against risks and liabilities arising from the performance of their duties as Members of the Council, and as the Council's representatives on outside bodies.
Regulation of Investigative Powers Act (RIPA)	Any potential updates of the requirements of the RIPA legislation and actions to ensure the Council complies.
Anti Money Laundering	Consideration of any updates to the Anti Money Laundering Policy and assurance from management that measures are operating effectively.

## CHESHIRE EAST COUNCIL

### Audit and Governance Committee

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**Date of meeting:** 27<sup>th</sup> September 2012  
**Report of:** Director of Finance & Business Services  
**Title:** Work Plan 2012/13  
**Portfolio Holder:** Councillor Peter Raynes

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#### **1.0 Report Summary**

1.0 To present an updated Work Plan to the Committee for consideration.

#### **2.0 Recommendation**

2.1 That the Committee:

- consider the Work Plan and determine any required amendments;
- note the changes to the plan since it was last discussed in June 2012;
- note that the plan will be periodically brought back to the Committee for development and approval.

#### **3.0 Reasons for Recommendations**

3.1 The Audit and Governance Committee has a key role in overseeing and assessing the risk management, control and corporate governance arrangements and advising the Council on the adequacy and effectiveness of these arrangements. A forward looking programme of meetings and agenda items is necessary to ensure that the Committee fulfils its responsibilities.

#### **4.0 Wards Affected**

4.1 All wards.

#### **5.0 Local Ward Affected**

5.1 Not applicable.

#### **6.0 Policy Implications**

6.1 Not applicable.

## **7.0 Financial Implications**

- 7.1 When reviewing the Work Plan, Members will need to consider the resource implications of any reviews they wish to carry out both in terms of direct costs and in terms of the required officer support.

## **8.0 Legal Implications**

- 8.1 The Work Plan must take account of the requirements of the Accounts and Audit Regulations 2011.

## **9.0 Risk Assessment**

- 9.1 Effective internal control and the establishment of an audit committee can never eliminate the risks of serious fraud, misconduct or misrepresentation of the financial position. However, an effective audit committee can:

- raise awareness of the need for robust risk management, control and corporate governance arrangements and the implementation of audit recommendations
- increase public confidence in the objectivity and fairness of financial and other reporting
- reinforce the importance and independence of internal and external audit and any other similar review process
- provide additional assurance through a process of independent and objective review

- 9.2 A comprehensive Work Plan is necessary to ensure that the Committee fulfils its responsibilities.

## **10.0 Background and Options**

- 10.1 A forward looking programme of meetings and agenda items to ensure comprehensive coverage of the Committee's responsibilities has been attached at Appendix A of this report. The Committee is asked to consider the contents of the Work Plan and establish any additional agenda items/training/briefing sessions that will enable it to meet its responsibilities.
- 10.2 At the June meeting of the Committee, it was resolved that training be provided on the Member Code of Conduct for those Members who will sit on the ad hoc bodies.
- 10.3 There have been no further changes in membership to the specialist Member/Officer groups so they remain as confirmed in June.

## **11.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer:

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Designation: Director of Finance and Business Services

Tel No: 01270 686628

Email: [lisa.quinn@cheshireeast.gov.uk](mailto:lisa.quinn@cheshireeast.gov.uk)

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### Audit & Governance Committee Work Plan

Committee Date/Agenda Item	Description
<b>28 June 2012</b>	
External Audit – Progress Report 11/12	The Committee considered a report on the progress of the Audit Commission in delivering their responsibilities as external auditors. It was resolved that the report, and the updates provided by the officers on the issues highlighted, be noted.
Draft Statement of Accounts 2011-12 – Approval Process	The process and timetable for the approval of the 11/12 Statement of Accounts were noted.
Draft Annual Governance Statement (AGS) 11/12	The Committee considered the draft Annual Governance Statement 11/12. It was resolved that the draft AGS be amended to reflect the comments of Members and final version be submitted to the Committee at its September meeting.
Internal Audit Annual Report 11/12	The Committee noted the contents of the Internal Audit Annual Report the primary purpose being to provide an opinion on the overall adequacy and effectiveness of the Council's control environment for 11/12.
Corporate Risk Management Group Annual Report 11/12 & Risk Management Policy Review <i>including Risk Owner Mitigation Plan</i>	The Committee considered the 11/12 Annual Report of the Corporate Risk and received a short briefing on Key Corporate Risk 2- Financial Control from the Director of Finance and Business Services.
Work Plan	<p>The proposed work plan for 12/13 was approved subject to the following:</p> <ul style="list-style-type: none"> <li>▪ At its September meeting the Committee: <ul style="list-style-type: none"> <li>• receive a progress report on Lyme Green;</li> <li>• consider a report on contractual regulations.</li> </ul> </li> <li>▪ Training be provided on the Member Code of Conduct for those Members who will sit on the proposed ad hoc bodies.</li> </ul>
<b>27 September 2012</b>	
External Audit – Annual Governance Report 11/12	Summary of findings from the 11/12 audit and key issues identified by External Audit in issuing their opinion on the Council's financial statements and its arrangements for securing economy, efficiency and effectiveness in the use of resources.

### Audit & Governance Committee Work Plan

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Final AGS 11/12	Final AGS 11/12 for approval.
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Anti Fraud and Corruption Update	Periodic review of Anti Fraud and Corruption Policy and arrangements against best practice.
Treasury Management Update Report	Update report on Treasury Management.
Risk Management Update Report <i>including Risk Owner Mitigation Plan</i>	Update report on Risk Management, and attendance by a Corporate Risk Owner to explain their mitigation plan for Key Corporate Risk 15 - Reputation
Standards Issues and Planning Protocol <b>NEW</b>	Report on a number of issues in relation to the new Code of Conduct.
Contract Regulations <b>NEW</b>	Report on compliance with contractual regulations, including specific examples, as requested by members.
Lyme Green Action Plan <b>NEW</b>	Quarterly progress report on Lyme Green Action Plan
Work Plan	Forward looking programme of meetings and agenda items to ensure comprehensive coverage of the Committee's responsibilities.
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Data Protection and Freedom of Information	Update on Data Protection and Freedom of Information issues including

### Audit & Governance Committee Work Plan

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Regulation of Investigative Powers Act (RIPA)	Any potential updates of the requirements of the RIPA legislation and actions to ensure the Council complies.
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