

# Audit and Governance Committee

## Agenda

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**Date:** Thursday, 31st May, 2018  
**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 top of each report.

It should be noted that Part 1 items of Cheshire East Council decision making and Overview and Scrutiny meetings are audio recorded and the recordings will be uploaded to the Council's website.

### **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 paragraph 2.32 of the Committee Procedural Rules and Appendix 7 to the Rules a total period of 10 minutes is allocated for members of the public to address the Committee on any matter relevant to the work of the body in question.

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.

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For requests for further information

**Contact:** Cherry Foreman

**Tel:** 01270 686463

**E-Mail:** [cherry.foreman@cheshireeast.gov.uk](mailto:cherry.foreman@cheshireeast.gov.uk) with any apologies

4. **Minutes of Previous meeting** (Pages 5 - 12)

To approve the minutes of the meeting held on 15 March 2018 as a correct record.

5. **External Audit Progress and Update Report** (Pages 13 - 40)

To consider and comment on the progress report and sector update, and a report on an objection to the 2016/17 accounts.

6. **Internal Audit Annual Report 2017/18** (Pages 41 - 66)

To consider the Internal Audit Annual Report, and the opinion on the Council's framework of risk management and control for 2017/18.

7. **Compliance with the Freedom of Information Act (2000), Environmental Information Regulations (2004) and the Data Protection Act 1998** (Pages 67 - 74)

To note the performance of the Council in responding to requests for information under the above Acts.

8. **Compliance with the Regulation of Investigatory Powers Act 2000** (Pages 75 - 78)

To consider an update on the performance of the Council in respect of the above Act.

9. **Customer Feedback - Complaints, Compliments and Referrals to the Local Government Ombudsman 2017/18** (Pages 79 - 94)

To note and comment on the report for 2017/18.

10. **Annual Audit and Governance Committee Self Assessment** (Pages 95 - 118)

To consider the self assessment and actions, and to determine any amendments.

11. **Annual Risk Management Update** (Pages 119 - 136)

To consider and review the annual report on risk management.

12. **Draft Pre-Audit Statement of Accounts 2017/18** (Pages 137 - 142)

To note the summarised position of the accounts for the year ended 31 March 2018.

*There will be a presentation of the accounts at the meeting.*

13. **Draft Annual Governance Statement 2017/18** (Pages 143 - 188)

To consider and comment upon the draft Annual Governance Statement.

14. **Information Governance Update** (Pages 189 - 194)

To note the Information Assurance and Data Management Team's activities and progress in delivery of Information Governance.

15. **Audit and Governance Committee Work Plan 2018/19** (Pages 195 - 226)

To consider the forthcoming Work Plan for 2018/19, to ensure comprehensive coverage of the Committee's responsibilities.

16. **Contract Procedure Rule Waivers and Non-Adherences** (Pages 227 - 232)

To receive an update on the quantity and reasons for non-adherences approved between 1 February and 31 March 2018.

17. **Exclusion of the Press and Public**

The report relating to the remaining item on the agenda has been withheld from public circulation and deposit pursuant to Section 100(B)(2) of the Local Government Act 1972 on the grounds that it may be determined with the press and public excluded.

The Committee may decide that the press and public be excluded from the meeting during consideration of the following item pursuant to Section 100(A)4 of the Local Government Act 1972 on the grounds that it involves the likely disclosure of exempt information as defined in Paragraphs 1 and 2 of Part 1 of Schedule 12A to the Local Government Act 1972 and public interest would not be served in publishing the information.

**PART 2 – MATTERS TO BE CONSIDERED WITHOUT THE PUBLIC AND PRESS PRESENT**

18. **Contract Procedure Rule Waivers and Non-Adherences**

To note the approved WARNs issued since 1 February 2018.

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**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Audit and Governance Committee**  
held on Thursday, 15th March, 2018 at Committee Suite 1,2 & 3, Westfields,  
Middlewich Road, Sandbach CW11 1HZ

**PRESENT**

Councillor G Baxendale (Chairman)  
Councillor M Sewart (Vice-Chairman)

Councillors S Corcoran, R Fletcher, L Gilbert, A Kolker, N Mannion, G Merry  
and A Stott

**Members in attendance**

Councillor P Bates  
Councillor JP Findlow  
Councillor D Hough

**Officers in attendance**

Kath O'Dwyer, Acting Chief Executive  
Jan Willis, Interim Executive Director of Corporate Services  
Dan Dickinson, Acting Director of Legal Services and Interim Monitoring Officer  
Linda Couchman, Acting Strategic Director of Adults Social Care & Health  
Sara Barker, Head of Strategic HR  
Alex Thompson, Head of Finance and Performance  
Michael Todd, Principal Auditor  
Josie Griffiths, Principal Auditor  
Joanne Wilcox, Finance Lead Corporate  
Rachel Graves, Democratic Services Officers

**External Auditors (Grant Thornton)**

Jon Roberts and Scarlett Mayer

**45 APOLOGIES FOR ABSENCE**

Apologies were received from Councillor T Dean and Mr P Gardener.

**46 DECLARATIONS OF INTEREST**

No declarations of interest were made.

**47 PUBLIC SPEAKING TIME/OPEN SESSION**

Councillor D Hough asked about the work done at Wayside Linley Play area. He asked who authorised it, what was the cost, which budget pot did it come from and who has signed off the work. The Chairman responded that this was outside the remit of the Committee but asked the Interim

Monitoring Officer to look into the matter. The Interim Monitoring Officer asked that Councillor Hough forward the detail to them.

**48 MINUTES OF PREVIOUS MEETING**

**RESOLVED:**

That the minutes of the meeting held on 7 December 2017 be approved as a correct record.

**49 EXTERNAL AUDIT PLAN 2016/17 - UPDATE**

The Committee received an update on the External Audit Plan for 2016/17 from Jon Roberts of Grant Thornton.

It was expected that the work in relation to the objection to the Audit would be concluded by the end of April. There would be a period of consultation with the objector, Council and regulators before the report could be finalised.

**RESOLVED:**

That the update on the External Audit Plan 2016/17 be received.

**50 EXTERNAL AUDIT PLAN 2017/18**

The Committee considered the Audit Plan for the year ending 31 March 2018, which set out the work to be carried out by the Council's External Auditors Grant Thornton.

Jon Roberts of Grant Thornton outlined the work, detailed in the Appendix to the report, which included auditing identified significant risks and Value for Money arrangements.

**RESOLVED:**

That the Audit Plan for 2017/18 be received.

**51 ARRANGEMENTS FOR THE APPOINTMENT OF EXTERNAL AUDITORS**

The Committee considered a report which provided an update on the appointment of an external auditor from 1 April 2018.

At the Council meeting on 15 December 2016 it was agreed that the Council should 'opt in' to a national scheme rather than make its own auditor appointment.

The appointment process has been undertaken by Public Sector Audit Appointments Ltd and resulted in Mazars LLP being appointed to audit the

Council's accounts for the next five years. The proposed scale fee for 2018/19 was £119,034.

### **RESOLVED:**

That the outcome of the procurement exercise undertaken by Public Sector Audit Appointments Ltd which resulted in Mazars LLP being appointed to audit the accounts of Cheshire East Council for five years, from 2018/19 to 2022/23 and that the scale of fees are expected to reduce by approximately 23% compared to the 2017/18 be noted.

## **52 MEMBERS CODE OF CONDUCT: STANDARDS REPORT**

The Committee considered the reports which detailed the number of complaints received under the Members Code of Conduct 2012 and the Members Code of Conduct 2018 considered by the Acting Director of Legal Services in their capacity as Monitoring Officer and the Independent Person during the period 1 September 2017 to 28 February 2018.

The report broke down complaints received with regard to the number of complaints made against Cheshire East Councillors and Town and Parish Councillors; the paragraph of the code alleged to have been breached and the outcome of each complaint, where completed.

### **RESOLVED:**

That the reports be noted.

## **53 INFORMING THE RISK ASSESSMENT FOR CHESHIRE EAST COUNCIL**

The Committee considered a report on management's response to a series of questions posed by the Council's External Auditors.

In order to comply with International Standards on Auditing (UK and Ireland), the Council's External Auditors - Grant Thornton, require an understanding of management processes for fraud, laws and regulations, going concern, accounting estimates and related party transactions.

Appendix A to the Report detailed a series of questions on each of the above areas and the response that Grant Thornton had received from Cheshire East Council's management.

The Committee commented and sought clarification on the response to the question "Are you aware of any whistleblowing reports under the Bribery Act since 1 April 2017" and it was agreed that the response would be made clearer. The issue of planning fraud and the acceptance of bribes to approve planning applications was raised and it was reported that this was included in the bribery risk assessment.

**RESOLVED:**

That the management responses to the series of questions posed by the Council's external auditors be noted.

**54 RISK MANAGEMENT UPDATE**

The Committee considered a report which detailed the most significant threats and opportunities facing the Council which may prevent, or assist with, the achievement of the Council's Corporate Plan 2016-20.

The report detailed the changes and movement of the risks since the previous update to the Committee. These included:

- CR5 Information Security and Cyber Threat – the risk rating had been increased to 12 High Risk
- CR7a Cheshire East Local Plan Adoption – this risk had been removed from the Register and was now dormant
- CR11 Employee Engagement and Retention – the risk description had been updated to ensure it reflected the current most significant causes of threat to engagement and retention
- CR04 Regeneration – the risk title had been amended to 'Infrastructure and Regeneration' to better reflect the risk description
- CR12 Adult Social Care Market Strain – a new risk around market strain on the adult social care sector
- CR13 – Capacity and Demand – a new risk around increased demand and insufficient capacity to deliver.

**RESOLVED:**

That the changes to the Corporate Risk Register be noted.

**55 INTERNAL AUDIT INTERIM REPORT**

The Committee considered an update on the progress with the Internal Audit Plan for 2017/18, which focused on activity between October and December 2017.

During this quarter, in addition to planned activity, a considerable amount of time had been spent undertaking specific and focused reviews of historic land transactions and supporting unrelated investigations into irregularities in other parts of the organisation.

**RESOLVED:**

That the report be noted.

**56 INTERNAL AUDIT PLAN 2018/19**

The Committee considered the summary Internal Audit Plan for 2018/19.

The report detailed the key themes that had emerged which included:

- providing assurance that previously identified significant control weaknesses have been effectively and efficiently addresses and improved
- providing assurance on the progress and nature of improvement activity across Procurement, Commissioning and Contract Management
- reviewing key delivery areas associated with high value financial values and high level customer interaction
- providing assurance that identified issues in relation to land acquisitions and disposals have been effectively and efficiently addressed and improved.

Preparations were underway to develop a new structure for Internal Audit with consultation beginning in March 2018. The new structure would have an impact on the Internal Audit Plan and therefore the Plan would be updated and brought back to the Committee.

**RESOLVED:** That

- 1 the annual internal audit plan 2018/19 be approved; and
- 2 note that the plan will be developed and refined throughout the forthcoming year as a number of factors progress and the impact on the current level of audit resource become known.

## **57 GENERAL DATA PROTECTION REGULATIONS**

The Committee received a presentation on the readiness of the Council to meet the requirements of the General Data Protection Regulations.

**RESOLVED:**

That the presentation be received.

## **58 THE COUNCIL'S WHISTLEBLOWING ARRANGEMENTS AND NEW POLICY - UPDATE**

The Committee considered a report on the outcome of the review by Public Concern at Work of the Council's Whistleblowing Policy and arrangements.

Public Concern at Work had carried out a desk based review of the current policy, procedures and supporting documents and had produced a RAG rated report with recommendations and an action plan for improvement – Appendices A and B to the report.

In recognition of the comments and feedback from Public Concern at Work on the length of the existing policy, the potential for mixed messages and

the benefits of a uniform definition of whistleblowing, a revised Whistleblowing Policy, based on the model policy provided by Public Concern at Work, was brought to the Committee for approval.

**RESOLVED:** That

- 1 the progress made in implementing the action plan developed to address the finding of the policy review be noted; and
- 2 the revised Whistleblowing Policy be approved.

**59 CAPITAL, TREASURY MANAGEMENT AND INVESTMENT STRATEGIES - UPDATE**

The Committee considered a report on the changes in requirements relating to the Council's Capital, Treasury Management and Investment Strategies.

CIPFA had published revised editions of Treasury Management in Public Services: Code of Practice and the Prudential Code for Capital Finance in Local Authorities in December 2017. The changes, effective from 1 April 2018, reflected the changes in patterns of local authority behaviour regarding non-financial assets e.g. investment property portfolios and the provision of loans to local enterprises or third sector entities as part of regeneration or economic growth.

A member Investment Strategy Board would be establish to develop a detailed investment strategy and would be chaired by the Portfolio Holder for Finance. The updated strategies would be brought to the Committee as part of its scrutiny role on treasury management activities.

**RESOLVED:** That

- 1 the change in requirements to the Council's Capital, Treasury Management and Investment Strategies following revised guidance issued by the Ministry of Housing, Communities and Local Government effective from 1 April 2018 be noted.
- 2 the establishment of a member Investment Strategy Board be noted.

**60 THE AUDIT AND GOVERNANCE COMMITTEE WORK PLAN**

The Committee consider the Work Plan for 2018/19.

It was suggested that progress with implementing the General Data Protection Regulations be add as standing item and also that a review of the classes of interest to be declared by Member and included in the Code of Conduct be add to the Work Plan.

**RESOLVED:** That

- 1 the Work Plan be received and noted;
- 2 the additional items suggested be added to the Work Plan; and
- 3 the Work Plan be brought back to the Committee throughout the year for further development and approval.

**61 CONTRACT PROCEDURE RULE NON-ADHERENCES**

The Committee considered a report on the number and reasons for Waivers and Non-Adherences (WARNs) which had been approved between 1 November 2017 and 31 January 2018.

**RESOLVED:**

That the number and reasons for Waivers and Non-Adherences approved between 1 November 2017 and 31 January 2018 be noted.

**62 EXCLUSION OF THE PRESS AND PUBLIC**

**RESOLVED:**

That the press and public be excluded from the meeting during consideration of the following item pursuant to Section 100(A)4 of the Local Government Act 1971 as amended on the grounds that it involves the likely disclosure of exempt information as defined in Paragraphs 1,2 and 3 of Part 1 of Schedule 12A to the Local Government Act 1972 and public interest would not be served in publishing the information.

**63 CONTRACT PROCEDURE RULES NON-ADHERENCES**

**RESOLVED:**

That the WARNs be noted.

The meeting commenced at 2.00 pm and concluded at 4.11 pm

Councillor G Baxendale (Chairman)

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## **Audit & Governance Committee**

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**Date of Meeting:** 31 May 2018

**Report Title:** Grant Thornton Progress and Update Report

**Senior Officer:** Jan Willis, Interim Executive Director of Corporate Services

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### **1. Report Summary**

- 1.1. The progress and update report from Grant Thornton for the year ended 31<sup>st</sup> March 2017 and a summary report relating to the formal objection to the accounts are provided as Appendices to this report.

### **2. Recommendation**

- 2.1. That the Committee receive and comment on the attached reports.

### **3. Reasons for Recommendation/s**

- 3.1. The first report sets out the work that the Council's Auditors, Grant Thornton will be carrying out in their statutory audit on the Council's financial statements and arrangements for securing value for money.
- 3.2. The second report sets out the basis of the objection to the accounts and the response provided by Grant Thornton.

### **4. Other Options Considered**

- 4.1. Not applicable

### **5. Background**

- 5.1. Grant Thornton has been appointed as the Council's independent external auditors by the Audit Commission. Their annual work programme is set in accordance with the Code of Audit Practice issued by the Audit Commission and includes nationally prescribed and locally determined work.

- 5.2. The report provides members of the Committee with an update on progress of the external audit; it also includes a summary of emerging national issues and developments relevant to the Council.
- 5.3. Grant Thornton completed an interim audit in March and will commence their final accounts audit work on 1<sup>st</sup> June 2018; progress on their work to date is set out on pages 4 - 6 of the report.
- 5.4. The report also provides an update on progress to date on the Value for Money conclusion.
- 5.5. Grant Thornton will be attending the meeting to answer any questions raised by members on the report.

## **6. Implications of the Recommendations**

### **6.1. Legal Implications**

- 6.1.1. There are no legal implications identified.

### **6.2. Finance Implications**

- 6.2.1. The level of fees for the audit work specified by the external auditors will be met from within the existing revenue budget.

### **6.3. Policy Implications**

- 6.3.1. There are no policy implications identified.

### **6.4. Equality Implications**

- 6.4.1. There are no equality implications identified.

### **6.5. Human Resources Implications**

- 6.5.1. There are no human resources implications identified.

### **6.6. Risk Management Implications**

- 6.6.1. There is a risk that the Council will be unaware of progress against the audit plan and emerging issues and developments which may be of relevance if this report is not considered.

### **6.7. Rural Communities Implications**

- 6.7.1. There are no direct implications for rural communities.

### **6.8. Implications for Children & Young People**

- 6.8.1. There are no direct implications for children and young people.

**6.9. Public Health Implications**

6.9.1. There are no direct implications for public health.

**7. Ward Members Affected**

7.1. Not applicable.

**8. Access to Information**

8.1. The full reports provided by Grant Thornton are appended to this covering report.

**9. Contact Information**

9.1. Any questions relating to this report should be directed to the following officer:

Name: Joanne Wilcox

Job Title: Financial Strategy and Reporting Manager

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

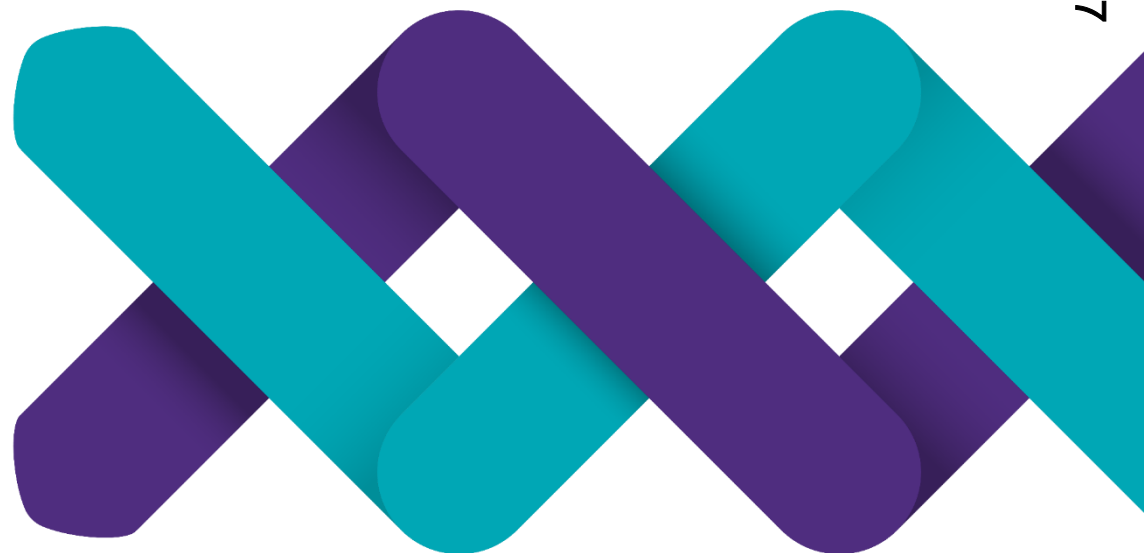
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# Audit Progress Report and Sector Update

Cheshire East Council

Year ending 31 March 2018

31 May 2018



# Introduction



**Jon Roberts**

**Engagement Lead**

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This paper provides the Audit & Regulatory Committee with a report on progress in delivering our responsibilities as your external auditors.

The paper also includes:

- a summary of emerging national issues and developments that may be relevant to you as a local authority; and
- includes a number of challenge questions in respect of these emerging issues which the Committee may wish to consider (these are a tool to use, if helpful, rather than formal questions requiring responses for audit purposes)

Since we last met, unfortunately Scarlett Mayer has unexpectedly resigned from the firm, however, we are pleased to introduce you to Avtar Sohal, a Senior Manager in the Public Sector Audit team, who will take over the audit manager responsibilities from Scarlett.

Members of the Audit and Regulatory Committee can find further useful material on our website, where we have a section dedicated to our work in the public sector. Here you can download copies of our publications. Click on the Grant Thornton logo to be directed to the website [www.grant-thornton.co.uk](http://www.grant-thornton.co.uk).

If you would like further information on any items in this briefing, or would like to register with Grant Thornton to receive regular email updates on issues that are of interest to you, please contact either your Engagement Lead or Engagement Manager.

# Progress to date

## Financial Statements Audit

We presented our detailed audit plan for the 2017/18 financial statements to you in March 2018. This set out our proposed approach to the audit of the Council's 2017/18 financial statements.

We continue to keep our plan under review and have now completed our interim fieldwork visit which included:

- Updating our review of the Council's control environment
- Updating our understanding of your financial systems
- Review of Internal Audit reports on core financial systems
- Early work on emerging accounting issues
- Early substantive testing

We have not identified any issues which will impact upon our reported plan. We can confirm that we have determined to set a lower specific materiality for senior officer remuneration disclosures of 2% on the total expenditure (including pension contributions) disclosed in the note.

The statutory deadline for the issue of the 2017/18 opinion is brought forward by two months to 31 July 2018. The final accounts audit is due to begin in June with findings reported to you in the Audit Findings Report by the earlier deadline of July 2018.

## Value for Money

The scope of our work is set out in the guidance issued by the National Audit Office. The Code requires auditors to satisfy themselves that: "the Council has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources".

The guidance confirmed the overall criterion as: "in all significant respects, the audited body had proper arrangements to ensure it took properly informed decisions and deployed resources to achieve planned and sustainable outcomes for taxpayers and local people".

The three sub criteria for assessment to be able to give a conclusion overall are:

- Informed decision making
- Sustainable resource deployment
- Working with partners and other third parties

We have completed our initial risk assessment and reported this to you in our Audit Plan which was presented in February.

We will report our work in the Audit Findings Report and give our Value For Money Conclusion by the deadline in July 2018.

## Other areas

### Certification of claims and returns

We are required to certify the Council's annual Housing Benefit Subsidy claim in accordance with procedures agreed with the Department for Work and Pensions. This certification work for the 2017/18 claim will be concluded by November 2018.

The results of the certification work are reported to you in our certification letter.

### Objection

We have recently concluded our work relating to an objection made by a local elector to the Council audit of its 2016/17 financial statements. The objection criticised the Council for allegedly failing to react to the need to treat sleep-in payments to carers as counting towards the National Minimum Wage and claimed that large back-payments were due to the staff impacted.

Overall, we did not uphold the objection but did agree with officers that the case demonstrated that the Council could have handled aspects of it better.

### Meetings

We will meet with Finance Officers as part of our liaison meetings and continue to be in discussions with finance staff regarding emerging developments and to ensure the audit process is smooth and effective.

# Audit Deliverables

2017/18 Deliverables	Planned Date	Status
<b>Fee Letter</b> Confirming audit fee for 2017/18.	April 2017	Complete
<b>Accounts Audit Plan</b> We are required to issue a detailed accounts audit plan to the Audit Committee setting out our proposed approach in order to give an opinion on the Council's 2017-18 financial statements.	February 2018	Complete
<b>Interim Audit Findings</b> We will report to you the findings from our interim audit and our within our Progress Report.	May 2018	Complete
<b>Objection to the 2016/17 accounts – sleep in payments report</b> We will report to you the findings from our review of the objection of the 2016/17 financial statements	May 2018	Complete
<b>Audit Findings Report</b> The Audit Findings Report will be reported to the July Audit Committee.	July 2018	Not yet due
<b>Auditors Report</b> This is the opinion on your financial statement, annual governance statement and value for money conclusion.	July 2018	Not yet due
<b>Annual Audit Letter</b> This letter communicates the key issues arising from our work.	September 2018	Not yet due
<b>Annual Certification Letter</b> This letter reports any matters arising from our certification work carried out under the PSAA contract.	December 2018	Not yet due

# Results of Interim Audit Work

The findings of our interim audit work, and the impact of our findings on the accounts audit approach, are summarised in the table below :

	Work performed	Conclusions and recommendations
<b>Audit Plan – lower specific materiality for senior office remuneration disclosures</b>	Senior officers remuneration disclosures includes salaries and pensions information and also termination benefits. We consider the whole of this note to be of particular interest to the reader and could affect decisions of users of the accounts. We have considered sensitivity and scrutiny these transactions are subject to and our approach is to audit the note as a separate area and set a materiality level specific to this note.	Our materiality level will be £100,000 and we will apply a tolerable error threshold of £75,000 for testing purposes. Our approach is to check that all senior officers in post during the year have been included in the disclosures and to audit the salary figures for all senior officers, together with any expense allowances and pension contributions higher than our tolerable error threshold to ensure they are accurate.
<b>Internal audit</b>	<p>We have completed a high level review of internal audit's overall arrangements. Our work has not identified any issues which we wish to bring to your attention.</p> <p>We have also reviewed internal audit's work on the Council's key financial systems to date. We have not identified any significant weaknesses impacting on our responsibilities.</p>	<p>Overall, we have concluded that the internal audit service provides an independent and satisfactory service to the Council and that internal audit work contributes to an effective internal control environment..</p> <p>Our review of internal audit work has not identified any weaknesses which impact on our audit approach.</p>
<b>Entity level controls</b>	<p>We have obtained an understanding of the overall control environment relevant to the preparation of the financial statements including:</p> <ul style="list-style-type: none"> <li>• Communication and enforcement of integrity and ethical values</li> <li>• Commitment to competence</li> <li>• Participation by those charged with governance</li> <li>• Management's philosophy and operating style</li> <li>• Organisational structure</li> <li>• Assignment of authority and responsibility</li> <li>• Human resource policies and practices</li> </ul>	Our work has identified no material weaknesses which are likely to adversely impact on the Council's financial statements.
<b>Journal entry controls</b>	<p>We have reviewed the Councils' journal entry policies and procedures as part of determining our journal entry testing strategy and have not identified any material weaknesses which are likely to adversely impact on the Council's control environment or financial statements.</p> <p>To date we have undertaken detailed testing on journal transactions recorded for the first nine months of the financial year, by extracting 'unusual' entries for further review. No issues have been identified that we wish to highlight for your attention.</p>	<p>Our work has not identified any weaknesses in the Council's journal entry policies or control environment.</p> <p>We will carry out further testing of journals for the remainder of the financial year ending 31 March 2018 as part of our final audit visit in June 2018.</p>

# Results of Interim Audit Work continued

	Work performed	Conclusions and recommendations
<b>Walkthrough testing</b>	<p>We have completed walkthrough tests of the Council's controls operating in areas where we consider that there is a risk of material misstatement to the financial statements, which include;</p> <ul style="list-style-type: none"> <li>- employee remuneration</li> <li>- operating expenses</li> <li>- property plant and equipment</li> </ul> <p>Our work has not identified any issues which we wish to bring to your attention. Internal controls have been implemented by the Council in accordance with our documented understanding.</p>	<p>Our work has not identified any weaknesses which impact on our audit approach.</p>
<b>Early substantive testing</b>	<p>As part of our interim testing we have commenced audit testing in the following areas for the first 11 months of the year ending 31 March 2018;</p> <ul style="list-style-type: none"> <li>• Precept Demands – we have tested a sample of precept demands</li> <li>• Grant Revenues – we have tested a sample of grant receipts</li> <li>• Other Revenues – we have tested a sample of transactions</li> <li>• Operating Expenditure – we have tested a sample of transactions</li> <li>• Property, Plant and Equipment – we have tested a sample of additions and disposals</li> <li>• Employee Remuneration – we have completed a substantive analytical review</li> <li>• Council Tax – we have completed a substantive analytical review</li> <li>• Non-Domestic Rate Revenues – we have completed a substantive analytical review</li> <li>• Bad Debt Provision – we have reviewed the methodology of the computation of this provision.</li> <li>• Housing Benefits Expenditure – We have completed elements of the HB Count requirements and undertaken some sample testing of payments.</li> <li>• PPE Valuation - We have contacted the Council's valuer and reviewed the appropriateness of your valuation policy and approach. We have also tested the inputs provided to the valuer.</li> </ul> <p>Our testing up until March 2018 has not identified any issues or weaknesses which we want to bring to your attention.</p>	<p>We will complete our final testing in these areas for the remainder of the financial year ending 31 March 2018 as part of our final audit visit in June 2018. We will report any issues or weaknesses in our ISA 260 report and present this to committee members.</p>

# Sector Update

Local government finances are at a tipping point. Councils are tackling a continuing drive to achieve greater efficiency in the delivery of public services, whilst facing the challenges to address rising demand, ongoing budget pressures and social inequality.

Our sector update provides you with an up to date summary of emerging national issues and developments to support you. We cover areas which may have an impact on your organisation, the wider NHS and the public sector as a whole. Links are provided to the detailed report/briefing to allow you to delve further and find out more.

Our public sector team at Grant Thornton also undertake research on service and technical issues. We will bring you the latest research publications in this update. We also include areas of potential interest to start conversations within the organisation and with audit committee members, as well as any accounting and regulatory updates.

- **Grant Thornton Publications**
- **Insights from local government sector specialists**
- **Reports of interest**
- **Accounting and regulatory updates**

More information can be found on our dedicated public sector and local government sections on the Grant Thornton website

# Financial sustainability of local authorities 2018

This National Audit Office report reviews financial sustainability across Local Government and examines whether the MHCLG, along with other departments with responsibility for local services, understands the impact of funding reductions on the financial and service sustainability of local authorities.

The report concludes that current pattern of growing overspends on services and dwindling reserves exhibited by an increasing number of authorities is not sustainable over the medium term. The financial future for many authorities is less certain than in 2014, when the NAO last looked at financial sustainability. It also notes that the financial uncertainty created by delayed reform to the local government financial system risks longer-term value for money.

The NAO's view is that the sector has done well to manage substantial funding reductions since 2010-11, but financial pressure has increased markedly since the 2014 review. Services other than adult social care are continuing to face reducing funding despite anticipated increases in council tax. Local authorities face a range of new demand and cost pressures while their statutory obligations have not been reduced. Non-social-care budgets have already been reduced substantially, so many authorities have less room for manoeuvre in finding further savings. The scope for local discretion in service provision is also eroding even as local authorities strive to generate alternative income streams.

Key findings include:

Financial resilience varies between authorities, with some having substantially lower reserves levels than others. Levels of total reserves in social care authorities as a whole are higher now than in 2010-11. However, there is variation in individual authorities' ability to build up their reserves and differences in the rate at which they have begun to draw them down. Some 10.6% of single-tier and county councils would have the equivalent of less than three years' worth of total reserves (earmarked and unallocated combined) left if they continued to use their reserves at the rate they did in 2016-17.

A section 114 notice has been issued at one authority, which indicates that it is at risk of failing to balance its books in this financial year. In February 2018, the statutory financial officer for Northamptonshire County Council issued a section 114 notice, indicating that it was at risk of spending more in the financial year than the resources it has available, which would be unlawful.

MHCLG's work to assess the sector's funding requirements as part of the 2015 Spending Review was better than the work it undertook for the 2013 Spending Review. The Department's advice to ministers in 2015 drew on a more comprehensive evidence base, including data returns from 12 departments.

The government has announced multiple short-term funding initiatives in recent years and does not have a long-term funding plan for local authorities. In 2016-17, the Department offered a four-year settlement to all authorities to enable better financial planning. However, there have been many changes to funding streams outside this core offer. The funding landscape following the 2015 Spending Review has been characterised by one-off and short-term funding initiatives.

There is also uncertainty over the long-term financial plan for the sector. The absolute scale of future funding is unknown until the completion of the next Spending Review. The government has confirmed its intention to implement the results of the Fair Funding Review in 2020-21 and to allow local authorities to retain 75% of business rates. However, the implications of these changes are not yet clear.

There is a lack of ongoing coordinated monitoring of the impact of funding reductions across the full range of local authority services.

49.1%

real-terms reduction in government funding for local authorities, 2010-11 to 2017-18

28.6%

real-terms reduction in local authorities' spending power (government funding plus council tax), 2010-11 to 2017-18

1

number of authorities since 2010-11 where a section 114 notice has been issued that indicates they are at risk of spending more than the resources they have available



# Public Sector Audit Appointments: Report on the results of auditors' work 2016/17

This is the third report on the results of auditors' work at local government bodies published by PSAA. It summarises the results of auditors' work at 497 principal bodies and 9,752 small bodies for 2016/17. The report covers the timeliness and quality of financial reporting, auditors' local value for money work, and the extent to which auditors used their statutory reporting powers.

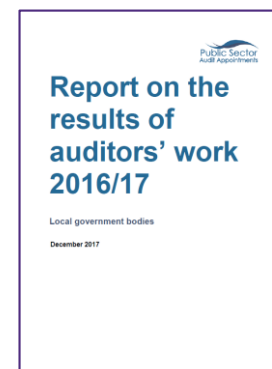
The timeliness and quality of financial reporting for 2016/17, as reported by auditors, remained broadly consistent with the previous year for both principal and small bodies. Compared with 2015/16, the number of principal bodies that received an unqualified audit opinion by 31 July showed an encouraging increase. 83 principal bodies (17 per cent) received an unqualified opinion on their accounts by the end of July compared with 49 (10 per cent) for 2015/16. These bodies appear to be well positioned to meet the earlier statutory accounts publication timetable that will apply for 2017/18 accounts.

Less positively, the proportion of principal bodies where the auditor was unable to issue the opinion by 30 September increased compared to 2015/16. Auditors at 92 per cent of councils (331 out of 357) were able to issue the opinion on the accounts by 30 September 2017, compared to 96 per cent for the previous year. This is a disappointing development in the context of the challenging new reporting timetable from 2017/18. All police bodies, 29 out of 30 fire and rescue authorities and all other local government bodies received their audit opinions by 30 September 2017.

The number of qualified conclusions on value for money arrangements has remained relatively constant at 7 per cent (30 councils, 2 fire and rescue authorities and 1 other local government body) compared to 8 per cent for 2015/16. The most common reasons for auditors issuing non-standard conclusions on the 2016/17 accounts were:

- the impact of issues identified in the reports of statutory inspectorates;
- corporate governance issues; and
- financial sustainability.

The latest results of auditors' work on the financial year to 31 March 2017 show a solid position for the majority of principal local government bodies. Generally, high standards of financial reporting are being maintained despite the financial and service delivery challenges currently facing local government.



# Changes to the prudential framework of capital finance

The Ministry of Housing Communities and Local Government has updated the Local Authority Investments Guidance and the Minimum Revenue following its publication of consultation responses on 2 February 2018.

A total of 213 consultation responses were received by the MHCLG by the 22 December 2017 deadline from across local government. Following consideration of the responses the Government has:

- made some technical changes to the Investments Guidance and MRP Guidance
- amended proposals relating to useful economic lives of assets
- implemented the Investments Guidance for 2018-19, but allowed flexibility on when the additional disclosure first need to be presented to full Council
- deferred implementation of MRP Guidance to 2019-20 apart from the guidance "Changing methods for calculating MRP", which applies from 1 April 2018.

Key changes are noted below.

## Statutory Guidance on Local Authority Investments

**Transparency and democratic accountability** – the revised guidance retains the requirement for an Investment Strategy to be prepared at least annually and introduces some additional disclosures to improve transparency. However, as the changes to the CIPFA Prudential Code include a new requirement for local authorities to prepare a Capital Strategy, the revised guidance allows the matters required to be disclosed in the Investment Strategy to be disclosed in the Capital Strategy.

**Principle of contribution** – the consultation sought views on the introduction of a new principle requiring local authorities to disclose the contribution that non-core investments make towards core functions. Authorities' core objectives include 'service delivery objectives and/or placemaking role.' This clarification has been made to recognise the fact that local authorities have a key role in facilitating the long term regeneration and economic growth of their local areas and that they may want to hold long term investments to facilitate this.

**Introduction of a concept of proportionality** – the Government is concerned that some local authorities may become overly dependent on commercial income as a source of revenue for delivering statutory services. The consultation sought views on requiring local authorities to disclose their dependence on commercial income to deliver statutory services and the amount of borrowing that has been committed to generate that income. A majority of respondents supported the introduction of a concept of proportionality, recognising the importance that local authorities make decisions based on an understanding of the overall risk that they face.

**Borrowing in advance of need** – by bringing non-financial investments (held primarily or partially to generate a profit) within the scope of the Investments Guidance, the consultation proposals made it clear that borrowing to fund acquisition of non-financial assets solely to generate a profit is not prudential. The Investment Guidance requires local authorities who have borrowed in advance of need solely to generate a profit to explain why they have chosen to disregard statutory guidance. It is also important to note that nothing in the Investment Guidance or the Prudential Code overrides statute, and local authorities will still need to consider whether any novel transaction is lawful by reference to legislation.

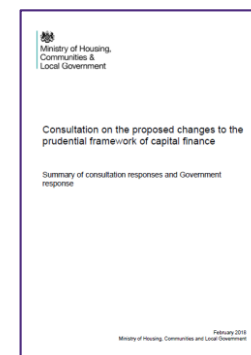
## Minimum Revenue Provision Guidance

The consultation sought views on proposals to update the guidance relating to MRP to ensure local authorities are making prudent provision for the repayment of debt.

**Meaning of a charge to the revenue account** – the Government does not believe that crediting the revenue account is either prudent or within the spirit of the approach set out in the relevant Regulations. For this reason a charge to the account should not be a negative charge.

**Impact of changing methods of calculating MRP** – the Government does not expect any local authority to recalculate MRP charged in prior years due to the proposed changes in methodology.

**Introduction of a maximum economic life of assets** – the consultation sought views on setting a maximum useful economic life of 50 years for freehold land and 40 years for other assets. The MRP Guidance will set a maximum life of 50 years, but allow local authorities to exceed this where the related debt is PFI debt with a longer term than 50 years, or where a local authority has an opinion from an appropriately qualified person that an operational asset will deliver benefits for more than 50 years.



## Changes to capital finance framework

### Challenge question:

Has your Head of Finance briefed members on the impact of the changes to the prudential framework of capital finance?

# CIPFA publications - The Prudential Code and Treasury Management Code

CIPFA have published an updated 'Prudential Code for Capital Finance in Local Authorities'. Key developments include the introduction of more contextual reporting through the requirement to produce a capital strategy along with streamlined indicators.

The framework established by the Prudential Code should support local strategic planning, local asset management planning and proper option appraisal. The objectives of the Prudential Code are to ensure, within this clear framework, that the capital investment plans of local authorities are affordable, prudent and sustainable.

Local authorities are required by regulation to have regard to the Prudential Code when carrying out their duties in England and Wales under Part 1 of the Local Government Act 2003, in Scotland under Part 7 of the Local Government in Scotland Act 2003, and in Northern Ireland under Part 1 of the Local Government Finance Act (Northern Ireland) 2011.

Since the Prudential Code was last updated in 2011, the landscape for public service delivery has changed significantly following the sustained period of reduced public spending and the developing localism agenda. It reflects the increasing diversity in the sector and new structures, whilst providing for streamlined reporting and indicators to encourage better understanding of local circumstances and improve decision making.

The introduction of a capital strategy allows individual local authorities to give greater weight to local circumstances and explain their approach to borrowing and investment. The Code is available in hard copy and online.



CIPFA have also published an updated Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes. The Code provides a framework for effective treasury management in public sector organisations.

The Code defines treasury management as follows:

The management of the organisation'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.

It is primarily designed for the use of local authorities (including police and crime commissioners and fire authorities), providers of social housing, higher and further education institutions, and the NHS. Local authorities in England, Scotland and Wales are required to 'have regard' to the Code.

Since the last edition of the TM Code was published in 2011, the landscape for public service delivery has changed significantly following the sustained period of reduced public spending and the developing localism agenda.

There are significant treasury management portfolios within the public services, for example, as at 31 March 2016, UK local authorities had outstanding borrowing of £88bn and investments of £32bn.

The Code is available in hard copy and online.

## CIPFA Publication

### Challenge question:

Has your Head of Finance briefed members on the impact of the changes to the prudential code?



# Overview of the General Data Protection Regulation (GDPR)

## What is it?

The GDPR is the most significant development in data protection for 20 years. It introduces new rights for individuals and new obligations for public and private sector organisations.

## What's next?

Many public sector organisations have already developed strategic plans to implement the GDPR, which require policy, operational, governance and technology changes to ensure compliance by 25<sup>th</sup> May 2018.

### How will this affect you?

- ✓ All organisations that process personal data will be affected by the GDPR.
- ✓ The definition of 'personal data' has been clarified to include any data that can identify a living individual, either directly or indirectly. Various unique personal identifiers (including online cookies and IP addresses) will fall within the scope of personal data

### What organisations need to do by May 2018

- ✓ Local government organisations need to be able to provide evidence of completion of their GDPR work to internal and external stakeholders, to internal audit and to regulators.
- ✓ New policies and procedures need to be fully signed off and operational.

## Organisation Accountability

- Organisations must document their assurance procedures, and make them available to regulators
- Some organisations need to designate a Data Protection Officer, who has expert knowledge of data protection law

## Notifications and Rights

- Organisations must notify significant data breaches to regulators within 72 hours
- Organisations must explain to individuals what their rights over their personal information are and how it is being processed and protected

## Claims and Fines

- For the most serious data breaches, privacy regulators can impose penalties of up to €20 million on public sector organisations,
- Individuals and representative organisations can claim compensation for infringements of data protection law

## Questions for your organisation:

- Can your organisation erase personal data effectively?
- Have you appointed a Data Protection Officer if required to have one?
- How will your organisation ensure citizens know how their data is being used and whether it's being shared with other organisations?

# Commercial Healthcheck: commercial investments and governance

Our latest healthcheck report was launched at CIPFA's Income Generation Summit in November. It is part of our 'The Income Spectrum' series, giving leaders of local government and public services insights into why and how local authorities are changing their approach to commercialisation, some of the related governance and risk management issues, and the latest innovation trends with case studies ranging from Angus and Luton to Oldham and Stirling.

The research shows that councils need to do more than simply adhere to the drafted rules to ensure an approach to commercialisation that balances outcomes and risks. The report therefore also includes a healthcheck diagnostic tool designed to give local government leaders extra comfort and confidence that they are pursuing a suitably balanced approach

Governance of commercial commitments is key to building confidence in the path to financial sustainability. The CIPFA code is the sector's primary rule book for treasury management and is expected to place a stronger emphasis on how councils will balance security, liquidity and return.

## Key findings from the report include:

- While property has tended to be the focus, it is just one of a number of areas of activity. In the past year, borrowing includes £4.8 billion on bonds and commercial paper, and investment includes £7 billion in inter-authority lending (Investment in property for councils is a growing trend – a third of councils have done so since 2010, spending more than £2.4 billion between them, but this is not the only major area of investment activity)
- More entrepreneurial councils are adopting innovative approaches such as place-based market offerings, working together locally to add social value and cross-boundary franchising
- For many councils, investing in commercial assets is key to developing anchor institutions that contribute to place – ranging from airports, business parks and forestry to GP surgeries and cinemas
- A 'beyond compliance' approach to governance of commercial activities is required by progressive councils wanting to do more with less

[Click on the report cover to download and read more](#)



## Grant Thornton Publication

### Challenge question:

Is your Authority considering the risks and governance issues for its commercialisation agenda?



# Cost Assurance

## Did you know....

**40**

Number of Public Sector engagements to date

**£125m**

Annual spend analysed

**£3.55m**

Rebate opportunities identified

**£1.1m**

Fee income identified

**2.84%**

Error rate – rebates versus spend volume

**55%**

Of Public Sector engagements are Local Government

Our Cost Assurance service line provides Local Authorities with an independent and retrospective audit of their legacy telecommunications and utilities costs incurred during the past 6 years (as per the Statute of Limitation).

We find that there are repeat errors contained within a Suppliers' invoice arrangements – errors that aren't necessarily picked up by the end client. This is due to the fact that they tend to be contained in suppliers' billing systems 'at source' and are much further down the supply chain which the user won't necessarily have visibility of.

We are supported by a comprehensive library of legacy supplier pricing that has been collated since 2011. Our one aim is to ensure that the client has only paid for the services used during the period by:

- ensuring that bills presented by Suppliers' are in line with their contracts and relevant pricing mechanisms
- ensuring the client receives the Supplier refunds where errors have been identified by us
- ensuring consequential savings are identified and implemented immediately for the client

Our Cost Assurance work is based on a contingent-fee model and is supported by PSAA Ltd. Each of our Local Authority engagements include a fee cap to ensure governance and regulatory standards are maintained.

In summary, we are able to bring much needed financial benefit to the sector as well as providing insight into errors that may be prone to repeat offence by suppliers long after our work is concluded.

### Grant Thornton Challenge question:

Has your Authority considered the potential for an independent review of telecommunications and utility costs?

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# Links

## Grant Thornton website links

<https://www.grantthornton.co.uk/>

<http://www.grantthornton.co.uk/industries/publicsector>

<http://www.grantthornton.co.uk/en/insights/commercial-healthcheck-in-local-authorities/>

<http://www.cfoinsights.co.uk/>

## PSAA website links

<https://www.psaa.co.uk/audit-quality/reports-on-the-results-of-auditors-work/>

## MHCLG website links

<https://www.gov.uk/government/consultations/proposed-changes-to-the-prudential-framework-of-capital-finance>

<https://www.gov.uk/government/publications/capital-finance-guidance-on-local-government-investments-second-edition>

<https://www.gov.uk/government/publications/capital-finance-guidance-on-minimum-revenue-provision-third-edition>

## CIPFA website link

<http://www.cipfa.org/policy-and-guidance/publications/the-prudential-code-for-capital-finance-in-local-authorities-2017-edition-book>

## National Audit Office link

<https://www.nao.org.uk/report/financial-sustainability-of-local-authorities-2018/>

<https://www.nao.org.uk/report/the-adult-social-care-workforce-in-england/>



# Cheshire East Council

Objection to the 2016/17 accounts – sleep-in payments

# Contents

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## Background

- 1 We have recently concluded our work relating to an objection made by a local elector to Cheshire East Council's (the Council) audit of its 2016/17 financial statements.
- 2 The objection criticised the Council for allegedly failing to react to the need to treat sleep-in payments to carers as counting towards the National Minimum Wage and claimed that large back-payments were due to the staff impacted.
- 3 Overall, we did not uphold the objection but did agree with officers that the case demonstrated that the Council could have handled aspects of it better.
- 4 This report is a summary of the objection and our findings and conclusions. It is presented for consideration by the Council's Audit and Governance Committee to clearly document our position and, importantly, the actions that officers have agreed to take in response to our findings.

## What is an objection?

- 5 One of the key differentiators between local public audit and commercial audit is the fact that electors and other interested parties have public rights to inspect and challenge the accounts of local authorities. This reflects the fact that public bodies are responsible for the stewardship of public funds and are accountable to the public for these monies and the arrangements that support their proper governance and financial management. Any objection is one such form of challenge, where the objector can ask a local public auditor to either refer a matter to the courts to be declared unlawful, can ask the auditor to issue a Report in the Public Interest, or both.
- 6 The auditor has a duty to respond to valid objections and can either uphold the objection or not. If the auditor does not uphold the objection, they are required to explain their decision. Objections are often made regarding complex and contentious aspects of a council's business and the cost of investigation falls upon the audited body. Auditors therefore need to take a proportionate approach to investigation to ensure that the relevant matters raised are properly investigated in an independent manner but that the costs of such investigations are reasonable, given the matters raised.

## The objection

- 7 The objection was in respect of sleep-in payments made to employees providing social care within Cheshire East. The objector was concerned that the Council knew it was paying below National Minimum Wage levels for these individuals, which was unlawful and that the Council had been aware of its failure to pay the national minimum wage to staff undertaking sleep-in duties since "early 2014". As a consequence of the Council's failure to respond to this knowledge, the objector alleged that back pay was owed to the impacted individuals from 1 April 2009.
- 8 The objector requested that I apply to the Court, under section 28 of the Local Audit and Accountability Act 2014 (the Act) for a declaration that the salary payments in the areas mentioned were unlawful.
- 9 In addition, the objector requested that I also issue a Report in the Public Interest under section 27 of the Act, because a whistle-blower originally brought these unlawful salary payments to the Council's attention and was subsequently dismissed. The objector also considered that this Report in the Public Interest should address the view that the Council had been aware that it was not lawfully paying its sleep-in workers and was potentially behaving dishonestly and misleading members and, as such, had not exhibited the appropriate high standards in Public Office.
- 10 The objector had concern that the Council's Chief Operating Officer had potentially misled members of the Council's Audit and Governance Committee of 16 March 2017 and ourselves, as the Council's external auditor, by his failure to declare this matter when responding to Grant Thornton's question regarding compliance with law and regulation, within our report, "Informing the audit risk assessment for Cheshire East Council for the year ended 31 March 2017".

## Work carried out

- 11 In responding to the objection, we have taken into account the Council's own work since the matter was raised with us in August 2017, as the Council's Internal Audit service has also been investigating the timeline of events regarding this matter since March 2014, in order to gain its own understanding of the issues and identify any lessons to be learned for the future.
- 12 To avoid duplication and minimise the cost of investigation for the Council, we have considered carefully Internal Audit's work as it has progressed and have raised various queries of our own with officers, as well as conducting our own review of the documentary evidence relating to the issues you have raised.

## The national issue

- 13 In November 2013, the Local Government Association (LGA) advised local authorities that an Employment Appeal Tribunal had determined that carers, who slept-in on call in case care was needed during the night, were entitled to have the whole of the time reckoned for calculation of the National Minimum Wage.
- 14 In recent years, the key legal developments in this area have related to the Royal Mencap Society, who operate their sleep-in care arrangements in common with most social care providers and pay a mostly flat rate sleep-in payment. The Society has been unsuccessful in arguing that the hours during sleep-in shifts were not to be taken into account in calculating the National Minimum Wage. The matter, which is commonly described as 'the Mencap case', has been considered at Employment Tribunal and an Employment Appeal Tribunal and is currently under appeal by the Society to the Court of Appeal.

## Impact at Cheshire East

- 15 In terms of the specific matters the objector raised, I had the following conclusions:
  - i **The Council knew it was paying below National Minimum Wage rates for certain employees, undertaking sleep-in duties since early 2014.** I have established that the Council was aware that it was at risk of failing to comply over this period and could have done more to establish with clarity the position against this risk, but ambiguity with the national legal position and the Council's initial financial evaluation, had led it to believe that it was compliant in this area and that a continued "watching brief" approach was appropriate.
  - ii **The Council owed back pay to the impacted individuals from 1 April 2009.** Once the Council had acknowledged its earlier errors, it has devoted significant resources to ensure an appropriate methodology and that the final calculations were accurate and complete. In addition, the Council engaged with independent legal counsel who advised on various matters. I have reviewed the various counsel opinions obtained and find them to be comprehensive. Following counsel advice, the Council determined that initial backdating over two years from September 2015 was appropriate and backdated payments amounting to £167,863 were made to 108 current and former employees in October 2017. The Council was the first nationally to acknowledge that back payments should be made and has, in my opinion, made full and appropriate effort to regularise the situation once its actual non-compliance was identified. I did not agree with the scale of backpayments suggested by the objector or the number of years to be backdated.
  - iii **The Council had "personally defrauded" these employees by its actions and was at risk of being "named and shamed" by HMRC and, potentially being penalised up to 200% of the money owed.** I considered that the Council's earlier actions relating to this matter were based on an ambiguous legal position and financial analysis that had misled the Council to believe it was compliant with the National Minimum Wage regulations. There is, therefore, no evidence of dishonesty or intent to defraud, in my opinion. As Cheshire East Council has already made back payments based on detailed calculations and independent counsel opinion, based on these national developments, I did not consider the Council to be at risk of being named and shamed and fined by HMRC.

- iv **A whistleblower had originally brought the unlawful salary payments to the Council's attention and was subsequently dismissed.** On 28 November 2016, the officer wrote to Care4CE's Service Manager saying that she was "being finished" at the Council. This letter drew attention to the Council being "*seriously as risk*" of paying some individuals below the minimum wage. The letter appears to me to be consistent with the employee's previous communications on the subject and, whilst it correctly highlights a risk to the Council, it is part of the general management of this issue that has taken place over a number of years. In terms of the officer's exit from the Council, I understand that the matter is now subject to an employment tribunal, so I have not pursued the matter further at this stage, as the tribunal process represents the proper process for dealing with the matter.
- v **Officers had misled members generally regarding this matter and, specifically, the Council's Chief Operating Officer had misled members of the Council's Audit and Governance Committee of 16 March 2017, as well as Grant Thornton, by not disclosing the matter when responding to Grant Thornton's questions regarding compliance with law and regulation, within our report, "informing the audit risk assessment for Cheshire East Council for the year ended 31 March 2017".** I have not seen any evidence of dishonest behavior from officers to members in their general interactions regarding this matter. In terms of disclosures made to the Audit and Governance Committee of 16 March 2017, the sequence of events set out above identifies that the potential risks of non-compliance were being considered over a number of years and the position was clarifying during late 2016. It is debatable whether officers were sufficiently clear on the risk of non-compliance with the National Minimum Wage Regulations to include the matter in the management comments to the Audit and Governance Committee in March 2017. However, as the purpose of the communications are to promote transparency over the communication of such matters, I consider that a more open approach should have been adopted towards drawing our attention to this matter. I note, however, that the level of disclosure in this year's "Informing the audit risk assessment" report has considerably increased and encourage the Council to continue with this practice in future.

## Conclusions

- 16 If an item of account appears to me to be contrary to law, it is within my discretion as to whether I apply to the Court for a declaration to that effect. Relevant factors which we take into account in deciding whether to exercise our discretion to apply to the Court for a declaration include:
  - the significance of the issue concerned;
  - the amount of the item account involved;
  - the expense of an application;
  - the practical consequence of my declaration;
  - whether or not the Council agrees with our view on the unlawfulness of the item in question.
- 17 While the underpayments and/or the failure to accrue for the back pay at 31 March 2017 could well be deemed to be unlawful by the Court, the Council has already remedied the situation by making back payments. Under such circumstances, it seems unlikely that the Court would actually make a declaration, or if one were made it would be of little consequence. There is therefore little point in incurring further public expense in seeking an application from the Court. Therefore, whether or not there are unlawful items of account, I did not consider it appropriate to exercise my discretion in applying to the Court for a declaration in this matter.
- 18 Whether or not to issue a Report in the Public Interest is also a matter for us in the exercise of discretion.
- 19 In this particular case, I considered that, through more effective risk management arrangements, the Council could have allocated more senior leadership to the matter (particularly in its early stages) and clarified the respective roles and responsibilities of its social care service and finance legal and HR support teams. I also considered that greater care should have been taken to check and approve the early (now accepted as erroneous) financial calculations that had led officers to believe

that the Council was complying with the National Minimum Wage Regulations. The Council has accepted improvements are required in these areas and is taking action as a consequence.

- 20 Whilst a lack of firm risk management has contributed to a tendency for matters to drift, over a number of years, I note that, since the Council has identified its non-compliance (which also followed further clarification of the national legal position), it has moved quickly and decisively to regularise matters. It is particularly important to note that Cheshire East Council was amongst the first nationally to make back payments in remedy of previous non-compliance. The Council has also taken the measure of obtaining independent counsel advice in this matter, to balance its responsibilities to the underpaid carers with its wider duties of stewardship for public money.
- 21 Importantly, I have found no evidence of dishonesty or willfully delaying dealing with the matter beyond the reasonable approach of monitoring the clarification of the national legal position.
- 22 The matter of compliance with the National Minimum Wage has been a matter of considerable interest in the national press but I do not consider there are any aspects of Cheshire East Council's handling of the matter that warrant specific reporting to the public.
- 23 Overall then I also did not believe that the public interest would be served by making a Public Interest Report on this matter.

## Recommendations

24 I recommend that:

- the Council now takes action to implement improvements arising from the Internal Audit review into the matter;
- the Council formally concludes on whether further back payments are necessary, following the outcome of the Mencap appeal;
- also following the outcome of the Mencap appeal, the Council continues to ensure that its current and forward arrangements comply with the Government's National Social Care Compliance scheme;
- officers continue with the increased levels of disclosure regarding potential areas of non-compliance with law and regulation established this year in future communications with the auditor.

## Appendix – Action Plan

Recommendations	High/Med/Low	Management comments
R1 The Council should take action to implement improvements arising from the Internal Audit review into the matter	M	<p>The Internal Audit review identified that had there been more formal ownership and robust risk management of the issue in 2014, this would have ensured that the issue of Sleep In allowances and the National Minimum Wage was subject to regular review and formal decision making with regards to retaining a watching brief.</p> <p>Operational risk registers are now integrated into annual Team Plans and as such are signed off by the appropriate Head of Service. Team Plans are subject to quarterly challenge sessions to ensure that they are up to date and being delivered successfully and a review of the risk register is included within this process. This improvement in the control environment and embedding of risk management into wider team planning and performance regime should ensure that the risk of a similar issue arising is mitigated.</p>
R2 The Council should formally conclude on whether further back payments are necessary, following the outcome of the Mencap appeal	H	Agreed.
R3 Also following the outcome of the Mencap appeal, the Council should continue to ensure that its current and forward arrangements comply with the Government's National Social Care Compliance scheme	H	Agreed.
R4 Officers should continue with the increased levels of disclosure regarding potential areas of non-compliance with law and regulation established this year in future communications with the auditor.	H	<p>The completion of the 'Informing the Risk Assessment for Cheshire East Council' document will continue to be a comprehensive exercise ensuring that the External Auditor is aware of all areas of non compliance with law and regulations.</p> <p>The document is completed by managers within Internal Audit and Finance and approved by the Interim Executive Director of Corporate Services (Section 151 Officer).</p> <p>It is also subject to comment by Corporate Leadership Team and Audit and Governance Committee.</p>





*Working for a brighter future together*

## **Audit & Governance Committee**

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**Date of Meeting:** 31 May 2018

**Report Title:** Internal Audit Annual Report 2017/18

**Senior Officer:** Jan Willis, Interim Executive Director of Corporate Services

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### **1. Report Summary**

- 1.1. This report provides the Audit and Governance Committee with the Annual Internal Audit opinion on the overall adequacy and effectiveness of the Council's control environment for 2017/18. The report is timed to support the Annual Governance Statement (AGS).

### **2. Recommendation/s**

- 2.1. That the Committee:

- 2.1.1. Note and consider the contents of the Internal Audit Annual Report 2017/18; and

- 2.1.2. Note the Internal Audit opinion on the Council's framework of risk management, control and governance for 2017/18.

### **3. Reasons for Recommendation/s**

- 3.1. The Public Sector Internal Audit Standards (PSIAS) require the Corporate Manager Governance and Audit to deliver an annual audit opinion and report which can be used to inform the Annual Governance Statement (AGS).

### **4. Other Options Considered**

- 4.1. Not applicable

### **5. Background**

- 5.1. 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 AGS. 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.

- 5.2. All principal local authorities subject to the Accounts and Audit Regulations 2015 must make provision for internal audit in accordance with the proper practices.
- 5.3. The Head of Internal Audit provides a written report to those charged with governance timed to support the Annual Governance Statement. The primary purpose of the report, which is set out in Appendix A, is to provide an opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control i.e. the control environment.

## **6. Implications of the Recommendations**

### **6.1. Legal Implications**

- 6.1.1. Section 151 of the Local Government Act 1972 requires Councils to make arrangements for the proper administration of their financial affairs and the Accounts and Audit Regulations 2015 establishes a specific responsibility for the Council to conduct a review at least once a year of the effectiveness of its system of internal control

### **6.2. Finance Implications**

- 6.2.1. The Internal Audit team must be appropriately resourced to comply with statutory and best practice requirements

### **6.3. Policy Implications**

- 6.3.1. There are no policy implications identified.

### **6.4. Equality Implications**

- 6.4.1. There are no equality implications identified.

### **6.5. Human Resources Implications**

- 6.5.1. There are no human resources implications identified.

### **6.6. Risk Management Implications**

- 6.6.1. Failure to consider the effectiveness of the Council's system of internal audit, and the Internal Audit opinion on the Council's control environment, could result in non-compliance with the requirements of the Accounts and Audit Regulations 2015

**6.7. Rural Communities Implications**

6.7.1. There are no direct implications for rural communities.

**6.8. Implications for Children & Young People**

6.8.1. There are no direct implications for children and young people.

**6.9. Public Health Implications**

6.9.1. There are no direct implications for public health.

**7. Ward Members Affected**

7.1. All Ward Members as the report provides the Annual Audit Opinion on the Council's control environment.

**8. Access to Information**

8.1. The full Internal Audit Annual Report 2017/18 is attached as Appendix A to this report.

**9. Contact Information**

9.1. Any questions relating to this report should be directed to the following officer:

Name: Michael Todd/Josie Griffiths

Job Title: Principal Auditors

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# Internal Audit Annual Report 2017-18

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Internal Audit  
First Floor, Westfields  
Cheshire East Council  
Sandbach CW11 1HZ

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# Cheshire East Council - Internal Audit Annual Report 2017/18

## 1 Introduction

1.1 From 1 April 2013, the Public Sector Internal Audit Standards (PSIAS) and accompanying Local Government Application Note became the standards by which all Local Government Internal Audit Sections must comply. The Standards were updated in March 2017.

1.2 As set out in the PSIAS, the Council's Corporate Manager Governance and Audit must provide an annual report to the Audit and Governance Committee - timed to support the annual governance statement. This must include:

- an annual internal audit opinion on the overall adequacy and effectiveness of the organisation's governance, risk and control framework (i.e. the control environment)
- a summary of the audit work from which the opinion is derived (including reliance placed on work by other assurance bodies), and
- a statement on conformance with the PSIAS and the results of the internal audit Quality Assurance and Improvement Programme (QAIP).

1.3 It should also include:

- disclosure of any qualifications to that opinion, together with the reasons for the qualification;

- disclosure of any impairments ('in fact or appearance') or restriction in scope
- a 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 target;
- any issues judged particularly relevant to the annual governance statement; and
- progress against any improvement plans resulting from QAIP external assessment.

1.4 As has been the case for the previous two years, this report has been prepared by the Council's Principal Auditors who have continued acting up to cover the responsibilities of the vacant Corporate Manager Governance and Audit and Audit Manager roles.

1.5 Support and sign off has been provided by the Interim Executive Director of Corporate Services who has line management responsibility for Internal Audit and the approach has been validated with the Council's External Auditors.

## 2 Background and Context

2.1 In common with all other public bodies, the Council continues to face increasing financial and service delivery challenges, the scale of which are

## Cheshire East Council - Internal Audit Annual Report 2017/18

illustrated within the Medium Term Financial Strategy.

- 2.2 Expected gross expenditure in 2017/18 by the Council was £599m, with a capital programme of £138m. This annual expenditure supports service delivery to over 370,000 residents, in line with our six strategic outcomes for residents.
- 2.3 During 2017/18 the Council continued to develop innovative solutions for service delivery to provide the best possible outcomes for the residents of Cheshire East at a competitive price.
- 2.4 The Council's 2017/18 audit plan reflected this through the areas selected for review and the changes made during the year to ensure resources were focussed in the right areas.
- 2.5 In preparing, reviewing and updating the plan during the year, the following were taken into account:
  - Adequacy and outcomes of the Authority's risk management, performance management and other assurance processes.
  - Internal Audit's own risk assessment.
  - Cheshire East Council's Corporate Plan 2016-2020.

- Consultation with key stakeholders e.g. Corporate Leadership Team (CLT), Senior Management including Strategic Risk Owners/Managers, External Audit, Internal Audit staff, Cheshire West and Chester Internal Audit.
- The impact of unplanned investigation work undertaken during the year.

- 2.6 Staffing resource for Internal Audit has again been limited during 2017/18. This was due to vacancies to the Corporate Manager Governance and Audit and the Audit Manager posts. External resource was procured during the year to support investigative work.
- 2.7 In response, the Principal Auditors have continued to carry out the senior management roles within the team thus ensuring that the responsibilities placed upon the 'Chief Audit Executive' by the PSIAS have been fulfilled. As a result the capacity to carry out audit assignments and review and quality assure limited.
- 2.8 Despite this limited audit resource, the team has delivered sufficient coverage, to the appropriate standard, to enable an informed opinion to be provided on the control environment.

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### 3 Opinion on the Control Environment

- 3.1 Internal Audit is required to form an annual opinion on the adequacy and effectiveness of the Council's internal control environment. This includes consideration of any significant risk or governance issues and control failures that have been identified.
- 3.2 In the context of the PSIAS, 'opinion' does not simply mean 'view', 'comment' or 'observation'. It means that internal audit have done sufficient, evidenced work to form a supportable conclusion about the activity that it has examined.
- 3.3 Assurances given by Internal Audit are never absolute. It is impossible to examine every activity and every transaction and, audit reviews are at a point in time. The most Internal Audit can provide is a reasonable assurance that there are no major weaknesses, or that the weaknesses identified have been highlighted, and improvement plans agreed with a timetable for implementation.
- 3.4 The Council continues to make changes to its organisational structures and ways of working in a number of services as the Council's transformation and improvement programme continues to gather pace. This has increased the challenges to the internal control environment with changes to both staffing structures and delivery models.
- 3.5 Our work has confirmed that adequate management arrangements are in place to ensure that services are being delivered and agreed savings proposals are being realised. Findings are delivered through formal audit reports and action plans and this is complemented by regular meetings with departmental management teams to provide updates on audit, internal control, risk and governance issues as well as a programme of follow ups of audit recommendations.
- 3.6 In arriving at the Opinion, it was recognised that during 2017/18 Internal Audit has completed a number of reviews of land transactions, at the request of the Acting Chief Executive and Executive Director Place, that have resulted in referrals to the police. It was also recognised, however, that these reviews were concerned with historic transactions and as such have not impacted upon our Opinion of the current control environment.
- 3.7 In response to these reviews, a consolidated findings report was produced. A review of current arrangements in this area, informed by previous findings, is included with the 2018/19 Internal Audit Plan.

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### Internal Audit Opinion on the Council's control environment

#### The Council's framework of risk management, control and governance is assessed as Adequate for 2017/18.

The Internal Audit work carried out this year provides reasonable assurance that the Council has in place a satisfactory framework of governance and internal control designed to meet the Council's objectives and that key controls are generally being applied consistently.

Where weaknesses in the design and inconsistent application of controls have been identified it is pleasing to note the positive engagement with Management in agreeing recommendations. Action plans are in place to address all weaknesses identified during the year.

This opinion is based upon:

- the programme of internal audit reviews - including opinion based work undertaken during the year;
- Management's response to advice and recommendations
- the process of producing the Council's annual governance statement; and
- the Council's Annual Report on its Risk Management Arrangements

### 4 Summary of Audit Work 2017/18

4.1 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 organisation that these arrangements are in place and operating properly.

4.2 The provision of assurance is, therefore, the primary role for internal audit. This role requires the Corporate Manager Governance and Audit to provide an annual internal audit opinion based on an objective assessment of the framework of governance, risk management and control.

4.3 A risk based Internal Audit plan is produced each year to ensure that:

- the scale and breadth of audit activity is sufficient to allow Internal Audit to provide an independent and objective opinion to the Council on the control environment; and
- audit activity focuses on areas where assurance is most needed i.e. risk based coverage.

4.4 In preparing the risk based plan for 2017/18 Internal Audit consulted with CLT and the Audit and Governance Committee. They also considered:

- the adequacy and outcomes of the Council's risk management, performance management and other assurance processes;
- their own risk assessment;

## Cheshire East Council - Internal Audit Annual Report 2017/18

- the Council's Corporate Plan 2016-2020; and
- discussion with key stakeholders including external audit, the internal audit team and also the Cheshire West and Chester internal audit team in relation to shared services.

4.5 The plan was broadly split into two main areas:

- those audits that deliver an opinion report on the risks and controls of the area under review and will inform the Annual Internal Audit Opinion; and
- work that will not deliver an opinion report but will help inform the Annual Internal Audit Opinion.

4.6 The plan was reviewed and adjusted, as necessary, in response to changes in the Council's business, risks, operations, programmes, systems, and controls. Any significant changes were communicated to both CLT and the Audit and Governance Committee.

4.7 Interim reports on progress against the Internal Audit Plan and work carried out by the team were presented to Audit and Governance Committee in December 2017 and March 2018.

4.8 A summary comparison of the 2017/18 Audit Plan with actuals for the year is shown on page 6.

4.9 A summary of the audit work carried out in support of the Annual Internal Audit Opinion is shown on page 7.

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## Summary comparison of Audit Plan against actual 2017/18

Area of Plan		Plan		Actuals (to 31/03/2018)		Comments on coverage
		Days	%	Days	%	
<b>Chargeable Days</b>		<b>1407</b>		<b>1371</b>		Reduced impact of vacancies due to increased hours and external resource to supplement investigative work.
Less: Corporate Work		327		140		Reduced involvement due to increased investigation requirement
<b>Available Audit Days:</b>		<b>1080</b>	<b>100</b>	<b>1231</b>	<b>100</b>	
Corporate Governance and Risk		80	7	82	7	Coverage in line with plan
Anti-Fraud and Corruption	Proactive Reviews	60	5	56	5	Coverage in line with plan
	Reactive Investigations	30	3	277	23	Increased due to complex investigations
Chief Operating Officer (COO)	Key Financial Systems	250	23	218	18	Decrease offset by increased Corporate Core & Cross Service work
	Corporate Core & Cross Service	120	11	149	12	As above
Children and Families		90	8	62	5	Scope and coverage reduced following review of plan
Adult's Social Care		90	8	41	3	Scope and coverage reduced following review of plan
Community and Partnerships		40	4	24	2	Scope and coverage reduced following review of plan
Public Health		10	1	0	0	Work planned for 2018/19
Planning and Sustainable Development		30	3	57	5	Additional work following review of plan
Infrastructure and Highways		50	5	72	6	Additional work following review of plan
Growth and Regeneration		40	4	83	7	Additional work following review of plan
Rural and Green Infrastructure		20	2	27	2	Coverage in line with plan
Providing Assurance to External Organisations		40	4	25	2	Scope and coverage reduced following review of plan
Advice & Guidance		30	3	21	1	Coverage broadly in line with plan
Other Chargeable Work		100	9	37	2	Includes Certification of grants arising in year, follow up and additional reporting on the implementation of agreed audit actions
<b>Total Audit Days</b>		<b>1080</b>	<b>100</b>	<b>1231</b>	<b>100</b>	

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## Summary of Audit Work to support the overall opinion

Area	Description of Audit Work	Output
Assurance Work	Audits with formal assurance level.	Audit Reports
Schools	Assessment against Schools Financial Value Standard and completion of thematic reviews.	Audit Reports
Supporting Corporate Governance	Support and contribution to production of the Annual Governance Statement, including assurance statements from Heads of Service.	Annual Governance Statement, and supporting evidence
	Support and contribution to update reports from the Corporate Governance Group.	Reports to Management Group Board
	Support and contribution to AGS Action Plan, Compliance with Contract Procedure Rules reports etc.	Report to Audit & Governance Committee
Counter Fraud	Review of Anti-Fraud and Corruption arrangements.	Report to Audit & Governance Committee
	National Fraud Initiative – co-ordination of matches and investigation work.	Results published on Cabinet Office website/update reports to Corporate Assurance Group/Investigation Reports.
	Investigations	Investigation Reports
Consultancy & Advice	Ad-hoc consultancy and advice provided to services.	Various – reports etc.
Statutory Returns/Grant Claims	Audit/assurance work on programme/project and subsequent report to statutory/funding body.	Return/Claim sign off
Implementation of Recommendations	Targeted follow up of audit recommendations based on audit opinion/recommendation.	Follow up reports/action plans/Key Corporate Indicator

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## Summary of Assurance Reports 2017/18

Audit Report	Reason for Review	Assurance	Management Response
Cyber Security	Identified via Audit Planning Process	Good	All actions agreed Final report issued
Council Tax Billing Reconciliation 18/19	Key Financial System	Good	All actions agreed Final report issued
NDR Billing Reconciliation 18/19	Key Financial System	Good	All actions agreed Final report issued
GDPR	Identified via Audit Planning Process	Good	All actions agreed Final report issued
Air Quality Follow Up	Request of Audit & Governance Committee	Good	All actions agreed Final report issued
Council Tax 2016/17	Key Financial System	Good	All actions agreed Final report issued
Housing Benefits	Key Financial System	Good	All actions agreed Final report issued
Business Rates	Key Financial System	Good	All actions agreed Final report issued
ERP Phase 2	Identified via Audit Planning Process	Satisfactory	All actions agreed Final report issued

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LEP Assurance Framework 2017	Identified via Audit Planning Process	Satisfactory	All actions agreed Final report issued
SFVS High Schools Consolidated Report	Assurance to s151 Officer	Satisfactory	All actions agreed Final report issued
Schools Capacity Survey	Identified via Audit Planning Process	Satisfactory	All actions agreed Final report issued
ERP Replacement – Phase 1	Joint Work with CWAC issued as a CWAC report	Satisfactory	All actions agreed Final report issued
KFS – Accounts Receivable	Key Financial System	Satisfactory	All actions agreed Final report issued
Facilities Management	Identified via Audit Planning Process	Satisfactory	All actions agreed Final report issued
Adults Personal Budgets	Identified via Audit Planning Process	Satisfactory	All actions agreed Final report issued
Schools Finance Team	Identified via Audit Planning Process	Satisfactory	All actions agreed Final report issued
Procurement Governance 17/18	Identified via Audit Planning Process	Satisfactory	All actions agreed Final report issued
SFVS Consolidated Report 17/18	Identified via Audit Planning Process	Limited	All actions agreed Final report issued

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General Ledger	Key Financial System	Limited	All actions agreed Final report issued
Purchase Cards	Identified via Audit Planning Process	Limited	All actions agreed Final report issued
CCTV	Identified via Audit Planning Process	Limited	All actions agreed Final report issued
LEP Assurance Framework	Assurance to CEC as accountable body	Limited	All actions agreed Final report issued
Children's Placements	Identified via Audit Planning Process	Limited	All actions agreed Final report issued
Children's Centres	Identified via Audit Planning Process	Limited	All actions agreed Final report issued
Adults Direct Payments	Identified via Audit Planning Process	No Assurance	All actions agreed Final report issued

### Assurance Work

- 4.10 In accordance with best practice Internal Audit's focus is on higher risk areas and areas where issues were known or expected to exist, for example through manager self-assessment. Clearly this approach adds value to the organisation, but, by its nature, may also result in lower overall assurance levels.
- 4.11 The exception to this approach is the cyclical review of the Council's key financial systems which, despite being deemed to be low risk, are subject to regular review due to the volume of transactions processed.

### Summary of reports by assurance level

Assurance Level	Audit Reports 2017/18	Audit Reports 2016/17
Good	8	3
Satisfactory	10	7
Limited	7	12
None	1	1
Total	26	23

- 4.12 These assurance levels reported include a combination of opinions at a broad level for the Council as a whole and opinions on individual business processes or activities within a single department or location.
- 4.13 Management has responsibility for ensuring that the agreed actions for improvement are implemented. All actions from these audits have been agreed with

management and progress on implementation will be monitored through agreed processes.

- 4.14 The issues arising from audit activity and the implementation of associated recommended actions have been considered as part of the 2017/18 Annual Governance Statement process.

### Limited and No Assurance Reports

- 4.15 A summary of the audit reports that relate to work undertaken during 2017/18 is shown on pages 8 to 10, with further detail of the limited and no assurance reports provided below.
- 4.16 **Purchase Cards** – the objective of the review was to assess the adequacy of the controls in place to prevent the inappropriate use of purchase cards with regard to compliance with procurement rules and unauthorised or fraudulent transactions.
- 4.17 The review concluded that more detailed guidance was required to clarify roles and responsibilities in relation to the use of cards, particularly online, and compliance checking of purchase cards.
- 4.18 **CCTV** – the objective of the review was to assess the adequacy of the controls in place to ensure compliance with legislation including the 12 principles of the CCTV Code of Practice.
- 4.19 The review identified that plans were already in place for the majority of identified issues. These included formalisation of disaster recovery arrangements

including decisions around back up servers, completion of asset registers for both equipment and information and completion of an ongoing project to update CCTV signage across the Borough.

- 4.20 **LEP Assurance Framework** – the objective of the review was to provide assurance that the Local Assurance Framework and the procedures adopted and applied by the Local Enterprise Partnership were robust, in accordance with national guidance and supportive of Cheshire East's responsibilities as the Accountable Body
- 4.21 The review identified that the Assurance Framework had been reviewed, amended, formally approved and was, at the time, being implemented. It was concluded that further consideration was required by the LEP to ensure that independent overview and scrutiny arrangements are in place, and additional supporting information relating to projects is available on the CWLEP website.
- 4.22 **Children's Placements** – the objective of the review was to seek assurance that robust and effective systems were in place to ensure the efficient management of external placements within Children's Services.
- 4.23 The review identified that robust guidance and strategies were required to ensure a consistent approach to contract management rather than relying on the skill sets of individual officers. It was agreed that the detailed findings of the audit review would be

addressed during a planned 'lean review' of the Placement Service.

- 4.24 **Children's Centres** – the objective of the review was to assess the adequacy of controls in place to manage the financial performance and achievement of outcomes in this area.
- 4.25 The review concluded that although the day to day management of budgets and the staff related objective setting are in place and operating effectively, improvements were required in relation to areas such as the local scheme of delegation, operational risk registers and the strategic service plan.
- 4.26 **Adult Direct Payments** – the objective of the review was to assess the adequacy of controls in place to manage the monitoring and review of direct payments.
- 4.27 The review identified that direct payment accounts were not being audited in accordance with the Policy and that procedures for the recovery of surplus or misspent funds were not sufficiently robust.
- 4.28 **General Ledger** – the objective of the review was to assess the adequacy of the systems, processes and controls in place for the management of the general ledger.
- 4.29 The review concluded that although controls are operating effectively in some areas, improvements were recommended in relation to issues such as ensuring Schemes of Delegation are up to date, timely

review of control accounts and the approval process in relation to system access requests.

4.30 **SFVS Consolidated Report 17/18** – this is covered within the Schools section below.

4.31 In all cases a number of recommendations have been made and agreed with management. These are being progressed and when implemented will address the identified weaknesses and improve the control environment.

4.32 All recommendations are subject to follow up in accordance with normal Internal Audit practice and should this identify any concerns relating to the implementation of recommended actions this will be escalated.

### Schools

4.33 The Department for Education requires the Council's Section 151 Officer to sign off an Annual Assurance Statement. That statement confirms:

- the number of School's Financial Value Standard (SFVS) self-assessment returns received; and
- that an appropriate audit programme is in place to provide adequate assurance over the standard of financial management, and the regularity and propriety of spending in schools.

4.34 The School's Audit Programme for 2017/18 and 2018/19 has been designed to ensure that coverage of

all schools not yet audited, since the responsibility for undertaking SFVS assurance work returned to the Internal Audit team, will be achieved by the end of 2018/19.

4.35 The School's Audit Programme for 2017/18 covered the following work areas:

- A thematic review on the effectiveness of governance arrangements at 20 schools;
- An audit review of the School's Governance Team.

The same programme of work will be carried out at the remaining schools during 2018/19.

4.36 The schools subject to audit were selected using a risk assessment which took into account the following:

- Ofsted rating;
- Size of school (number of pupils);
- Budget management;
- Recent audit reports;
- School buildings projects; and
- Internal knowledge provided by the School Finance Team.

4.37 Individual audit reports were issued to the Headteacher and Chair of Governors of each school along with a detailed action plan to enable the school to improve its control environment. This year we have also introduced an assurance opinion on the arrangements, in line with other audit reports issued.

- 4.38 A consolidated report drawing together the thematic findings of the 2017/18 school audits was produced and a limited opinion given due to the inconsistent application of controls in relation to governance. This included issues such as the regular review and approval of the Manual of Internal Financial Procedures, and the annual review of Governor declaration of interests.
- 4.39 The work undertaken by Internal Audit provided assurance that the majority of controls relating to the risk areas subject to review are operating effectively. While the individual issues identified were not considered to be significant, the range and number of common issues were such that a limited assurance on the wider control environment was given. They have been reported to the relevant schools and also shared with all schools using our established network.

#### **Supporting Corporate Governance**

- 4.40 In accordance with the Accounts and Audit Regulations the Council is required to conduct a review at least once a year of the effectiveness of its governance arrangements and publish an Annual Governance Statement (AGS).
- 4.41 The Statement explains how the Council makes decisions, manages its resources and promotes its values and high standards of conduct and behaviour. This is an opportunity to reflect clearly and openly on where the Council has, and in some cases, hasn't reached the standards it sets for itself.
- 4.42 Any significant issues that are assessed as falling short of the Council's expected high standards are reported in the AGS. Although the Council is recognising four issues in the draft 2017/18 Annual Governance Statement, there are no outstanding significant control issues identified through the work of Internal Audit that require disclosure.
- 4.43 Issues recognised in the Annual Governance Statements are monitored by the Corporate Assurance Group and escalated, as necessary, to the Corporate Leadership Team, Audit and Governance Committee and/or Cabinet. Internal Audit actively supports the Corporate Assurance Group to ensure that effective improvements and mitigating actions are implemented.
- 4.44 Internal Audit has assisted Management in the production of the Council's AGS for 2017/18 by:
- Coordinating assurance exercises to inform the AGS
  - Co-production of the draft AGS;
  - Contribution to and production of Audit & Governance Committee reports which inform the AGS
  - Representation on and contribution to the Information Governance Group, in order to advise on control and governance issues in relation to information governance and data handling.
  - Representation on and contribution to the Corporate Assurance Group (CAG) in order to

advise on risk management, control, and governance issues that have been identified through audit work and ensure that the findings have been considered when determining the 2017/18 Statement and Action Plan.

- 4.45 Audit and Governance Committee approved the Final Annual Governance Statement 2016/17 at their September 2017 meeting, in line with statutory deadlines. A progress update on issues recognised in the AGS 2016/17 was presented at the Committee's December meeting. This paper also outlined the proposed production process for the 2017/18 AGS.
- 4.46 The Final 2017/18 Statement will be considered and approved by the Audit and Governance Committee at its July 2018 meeting.

### **Risk Management**

- 4.47 Internal Audit no longer has operational responsibility for Risk Management. This currently sits with the Business Governance and Risk Manager who reports to the Director of Legal Services.
- 4.48 Assurance with regards to the effectiveness of Risk Management is provided by regular reports to Audit and Governance Committee.

### **Counter Fraud**

- 4.49 Internal Audit has provided advice and guidance to both Human Resources colleagues and Service

Managers to support them in the completion of a small number of investigations.

- 4.50 In addition to this support role, Internal Audit has undertaken 5 investigations into suspected financial irregularities in relation to expense/overtime claims and the use of purchase cards.
- 4.51 The investigations identified losses of around £50,000 and resulted in the following actions being taken:
- 2 members of staff were dismissed
  - 1 member of staff is subject to an ongoing disciplinary process
  - The 2 remaining individuals had left Cheshire East prior to the Internal Audit investigation
  - All cases have been referred to the police for further investigation
- 4.52 During the year Internal Audit continued to coordinate the investigation of matches received in January 2017 as part of the National Fraud Initiative data matching exercise. These matches are being investigated by the appropriate services.
- 4.53 Additional work was also completed to ensure that the additional annual Flexible Matching exercise was completed successfully in December 2017. The results were released to the appropriate service in January 2018 and investigations are currently underway on the matches which have been released.

- 4.54 Finally, work is currently being undertaken to prepare the Council for its participation in the 2018 National Fraud Initiative exercise. This work also includes issuing updated Fair Processing Notices (FPNs) which take account of the changes in data protection requirements as a result of the forthcoming EU General Data Protection Regulations (GDPR).

### Consultancy and Advice

- 4.55 During the year, Internal Audit has continued to support management with the provision of advice - at the specific request of management. The nature and scope of these engagements are generally aimed at improving governance, risk management and control and contribute to the overall audit opinion as well as building good relationships across the Council.
- 4.56 This year advice was given on matters such as the application of Finance and Contract Procedure Rules, suspected scams/frauds in schools and across the council, management of client monies in social care settings and the development of performance management information to support the sign off of grant claims.
- 4.57 Internal Audit was also involved on the Project Board for the development of the new Constitution.

### Statutory Returns/Grant Claims

- 4.58 Internal Audit is often required to certify statutory returns and grant claims. This may be related to

funding provisos or similar. In most cases the work required is either an audit or an assurance statement on a specific programme/project.

- 4.59 During 2017/18 this has included work on the following grants which were successfully signed off and submitted to the appropriate central government department:

Family Focus	£141,600
Bus Service Operators Grant 2014-15	£348,000
Crewe Green Roundabout	£585,000
Sydney Road Bridge	£909,000
Middlewich Eastern Bypass	£1,257,000
CWLEP LGF 2016-17	£45,787,000
<b>Total</b>	<b>£49,027,600</b>

- 4.60 It should be noted that the level of work required to complete the sign off of grants is not always proportionate to the value of the grant.

### Implementation of Audit Recommendations

- 4.61 Throughout 2017/18, Internal Audit has continued to carry out a range of follow up exercises to ensure that agreed recommendations are implemented. This work is done in a number of different ways:
- Major pieces of audit work, such as the AGS have detailed action plans which are monitored and reported separately to the Committee;
  - Investigations – follow up work is usually dependent on both the nature of the investigation and any

recommendations made e.g. a follow up audit may be done at the request of management; and

- Formal assurance audits – whilst management are responsible for ensuring that their agreed actions are implemented, they are asked to confirm that this is the case for medium level actions and evidence is sought for high level ones. Follow up audits may be completed at the request of management or where the nature of the actions requires additional assurance that they have been implemented.

4.62 During 2017/18, Audit and Governance Committee requested additional assurance that the actions arising from the review of Air Quality Management had been implemented by management.

4.63 As such, a follow up review of actions arising from both the Internal Audit review, and the external work undertaken as a result of the Internal Audit review was carried out.

4.64 This identified that all actions were either complete or progressing towards implementation in line with agreed timescales and a report was issued providing 'Good Assurance'.

### Implementation of Agreed Recommendations

On time	After the agreed date	Total implemented	In progress, or overdue	Agreed actions subsequently not implemented
2015/16				
78%	14%	<b>92%</b>	8%	0%
2016/17				
82%	12%	<b>94%</b>	6%	0%
2017/18				
65%	31%	<b>96%</b>	4%	0%

4.65 The figures detailed show a continued improvement in the percentage of agreed actions implemented between 2015/16 and 2017/18.

4.66 It should be noted that the figures for 2015/16 and 2016/17 have been updated to take into account actions implemented in subsequent years and are therefore different to the figures previously reported.

4.67 These improvements have been as a result of significant effort by the Internal Audit team in carrying out follow ups with managers along with support from senior managers in raising the profile of audit actions.

4.68 Additional investigation has been carried out into the relatively high figure for actions implemented after the agreed date for 2017/18. This identified that the majority of these actions had been implemented within a month of the agreed date and had been impacted by events outside of the control of the services such as sickness absence.

- 4.69 In agreeing implementation dates, managers are encouraged to be realistic with regards to when actions can be completed whilst ensuring that issues are addressed in a timely manner.
- 4.70 Whilst Internal Audit support the implementation of actions by undertaking a follow up process, management are ultimately responsible for implementing the actions assigned to them within the deadlines that they have agreed. It is therefore pleasing to report that during 2017/18 senior management have supported Internal Audit by challenging their service managers around implementation of actions.
- 4.71 In some cases the scale of change now means that the original recommendation is no longer appropriate. In these circumstances Internal Audit liaises with managers to agree a more appropriate action, or agrees that the implementation of the action is no longer appropriate.
- 4.72 The timely implementation of audit recommendations is a good indicator of both the effectiveness of Internal Audit in securing action and the Council's commitment and capacity to improve.

### Ongoing Work

- 4.73 The following audits commenced during 2017/18, with work ongoing in the first quarter of 2018/19:

Name of Audit	Status
Land transactions consolidated report	Draft Report Issued
Section 106 Payments	Draft Report Issued
Performance Management	Fieldwork Complete
Free School Meals	Fieldwork Complete
External Moderation	Fieldwork Complete
Budget Monitoring	Fieldwork Ongoing
Salary Overpayments	Fieldwork Ongoing

### Reliance placed on the work of other assurance bodies

- 4.74 Internal Audit place assurance on the work of the Council's external auditors, OFSTED and other external bodies, where appropriate.

## 5 Internal Audit Performance

- 5.1 The Internal Audit team's performance is summarised below and is above target. The slight underperformance relating to promptly issuing draft reports is as a result of the increased work load of the Principal Auditors. This has impacted upon their ability to carry out quality assurance reviews as quickly as would normally be the case.

Performance Indicator	2017/18 Actual	2017/18 Target	2016/17 Actual	Comments on 2015/16 Actuals
Percentage of Audits completed to user satisfaction	95%	92%	96%	Above target.
Percentage of significant recommendations agreed	97%	90%	100%	Above target.
Productive Time (Chargeable Days)	86%	80%	82%	Above target
Draft report produced promptly (per Client Satisfaction Questionnaire)	89%	95%	92%	Slightly below target

## 6 Compliance with the Public Sector Internal Audit Standards (PSIAS)

- 6.1 Regulation 6 of the Accounts and Audit Regulations 2015 requires relevant bodies to conduct an annual review of the effectiveness of its internal audit and for a committee of the body to consider the findings. This review is carried out by self-assessing compliance with the Public Sector Internal Audit Standards (PSIAS) which were updated with effect from 1 April 2017. The PSIAS require Internal Audit to have in place a quality

assurance and improvement programme which must include both internal and external assessments.

- 6.2 Therefore, a self assessment was undertaken against the updated PSIAS during quarter 1 of 2017/18 and an action plan developed. In addition to the self assessment, the Internal Audit function received an external assessment as part of the peer review arrangements with other North West internal audit teams during January 2018.
- 6.3 The findings of the assessment, which will be supported by an Action Plan, are currently progressing through the agreed drafting and moderation process and will be reported to the next meeting of the Audit and Governance Committee following their release.

## 7 Other Developments

- 7.1 During 2017/18, Internal Audit carried out a number of significant pieces of non assurance work into historic matters such as land transactions and the Council's response to changes to the National Minimum Wage with regards to sleep in payments.
- 7.2 This work resulted in 5 referrals to the police and as such it has not been possible to report the outcome of these pieces of work to Members. However, in producing the Internal Audit Plan for 2018/19, consideration was given to weaknesses identified and work will be undertaken to ensure that current controls are sufficiently robust to prevent similar issues.

- 7.3 As referenced earlier in this report, resource within Internal Audit remains an issue with both the Corporate Manager Governance and Audit, and Audit Manager posts currently vacant. This has been recognised by senior management and a restructure of Internal Audit is currently being progressed. This will ensure that the current level of Internal Audit resource is maintained whilst providing sufficient additional resource to undertake investigations and establish a robust counter fraud function.

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## **Audit & Governance Committee**

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**Date of Meeting:** 31 May 2018

**Report Title:** Compliance with Freedom of Information Act (2000), Environmental Information Regulations (2004) and the Data Protection Act 1998.

**Portfolio Holder:** Councillor Paul Findlow

**Author:** Helen Sweeney – Senior Compliance & Customer Relations Officer

**Senior Officer:** Daniel Dickinson – Acting Director of Legal Services

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### **1. Introduction and Policy Context**

- 1.1. This report provides an update on the performance of Cheshire East Council in responding to requests for information under the Freedom of Information Act, Environmental Information Regulations (EIRs) and Data Protection Act.

### **2. Decision Requested**

- 2.1 That the Committee notes the performance of the Council in responding to requests for information and also notes ongoing and future developments.

### **3. Background**

- 3.1. The Freedom of Information Act (FOIA) became law in 2000. The Environmental Information Regulations (EIR) are EU legislation and became law in 2004. If a Freedom of Information request relates in any way to the environment, then it is classed as an Environmental Information Request and is subject to these regulations. Both pieces of legislation came into force on 1st January 2005. The Data Protection Act came into force in 1998.
- 3.2. A report is submitted annually to brief Audit & Governance Committee on the volumes and trends in the number of requests received under the above legislation.
- 3.3. The legislation applies to all public authorities and obliges them to advise requesters whether information falling within the scope of a request is held, and, if it is held, to communicate that information to the requester in a format of their choice.
- 3.4. The Council receives a significant number of formal requests each year and has a statutory duty to respond correctly under the relevant legislation.

#### 4. Briefing Information

- 4.1. The table below outlines the number of requests (subject access and disclosure) received under the current Data Protection legislation during the financial year 2017/18 compared with 2016/17. It also shows the percentage of requests which were responded to within the statutory timescale (40 calendar days).

**Table 1 – Requests Received under the Data Protection Act**

	<b>2017/18</b>	<b>2016/17</b>
Requests under the Data Protection Act 1998	1219 <sup>1</sup>	1287
Percentage responded to within 40 calendar days.	86%	95%

- 4.2. Requests into the Compliance and Customer Relations Team typically originate from individuals (including care leavers requesting access to their social care records), public authorities (including the Police) and commercial organisations (including insurance companies requesting CCTV footage, and solicitors).
- 4.3. Information gathered in response to subject access requests and requests for disclosure can be complex, voluminous and sometimes very difficult to locate and access if the data is very old. Every page in every document must be carefully reviewed and redacted of third party data before it is released to the requestor. This can be extremely time consuming and so it is not always possible to fulfil the request within 40 days. If this is the case, then the requester is kept informed at every stage. There was an increase in complex subject access requests during 2017/18 which resulted in a decrease in the percentage responded to within 40 days.
- 4.4. Data Protection Legislation is being reformed with the implementation of the new EU General Data Protection Regulation (GDPR) on 25<sup>th</sup> May, 2018. The key changes required under the new Regulation are as follows:
- Higher fines for non-compliance with the legislation.
  - Mandatory notification - it will be mandatory to report all serious data protection breaches to the Information Commissioner within 72 hours of becoming aware of the breach. Currently this procedure is voluntary.
  - Mandatory data protection impact assessments - legal requirement for a data protection impact assessment (DPIA) to be carried out in high-risk situations, for example where new technology is being deployed

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<sup>1</sup> 533 (44%) of the requests were requests directly to Council Tax from various other public authorities (658 (51%) in 2016/17).

- Sensitive personal data – stricter rules will apply to the processing of sensitive personal data such as medical information. ‘Sensitive’ personal data will also include genetic and biometric data.
- Consent – consent must be freely given, specific, informed and unambiguous, provided by clear affirmative statement or action.
- Additional individual rights for data subjects, e.g.
  - right to erasure of information (subject to certain conditions)
  - right to data portability, i.e. the right to have any information submitted through an automated process returned or transferred to another organisation.
- Removal of £10 fee for subject access requests, although reasonable charges can be made in certain circumstances.
- Changes to statutory time limits for responding to requests. Reduced from 40 calendar days to 1 month.
- Statutory requirement for public authorities to appoint a Data Protection Officer.
- Data Processors – the Data Protection Act currently only regulates data controllers but the new regulation imposes certain direct legal obligations on data processors also.

The implications of the new legislation for the Council are significant, as they are for any UK organisation, both public and private. Cheshire East Council has a well established project in place within the Information Assurance and Data Management Programme, with every part of the organisation, and its partners, engaged in ensuring that the Council is fully prepared for the changes to come.

The status of the Council’s GDPR project will be reported separately at this meeting, and at subsequent Audit & Governance meetings, by the GDPR Project Leads.

The forthcoming Data Protection Bill will bring the GDPR and the EU Law Enforcement Directive into UK law. The Bill is currently passing through Parliament and is expected to come into force on 25<sup>th</sup> May, 2018 at the same time as GDPR.

- 4.5 The tables below outline the number of requests received under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004. They also detail the type, source and number of requests made to Cheshire East Council under the two sets of legislation, the response times for individual services and the request outcomes.

**Table 2 – Requests Received under FOIA and EIRs.**

Type of Request	2017/18	2016/17
FOIA/EIR Requests	1643	1658
<sup>2</sup> EIR Requests to Land Charges	1846	1523
<b>Total FOIA/EIR Requests</b>	<b>3489</b>	<b>3181</b>

**Table 3 – Source of FOI/EIR Request to Compliance & Customer Relations Team**

Source	2017/18	2016/17
Individual	44%	37%
Commercial	24%	24%
Press or media	14%	18%
<sup>3</sup> What do they know?	9%	8%
Pressure Groups	3%	0%
Researchers	2%	3%
Councillor	1%	2%
MP	1%	1%
Other	1%	1%
Public Sector	1%	0%

**Table 4 – Percentage of requests handled within 20 working days per Directorate (excluding requests directly made to Land Charges)**

Directorate	2017/18	2016/17
Corporate Directorate	87%	87%
People Directorate	83%	86%
Place Directorate	80%	86%
<b>Total</b>	<b>83%</b>	<b>86%</b>

**Table 5 – FOI/EIR Outcomes – 2017/18**

The Council provides full information to the requester in the majority of cases (1129 in 2017/18.). The table below details the numbers of cases where the information has not been released or has not been released in full.

It is not possible to provide comparative information for 2016/2017 as this was not recorded on the legacy database.

<sup>2</sup> Personal Search Companies make EIR requests directly to the Land Charges Team, who respond directly to the requester. The requests are all completed within the statutory deadline of 20 working days.

<sup>3</sup> Website dedicated to FOI/EIR requests

<b>Outcome</b>	<b>Total</b>
All information sent	1129
Information not held	159
Ongoing Request at 31 <sup>st</sup> March 2018 (outcome not known)	90
Some information sent but not all held	84
No information sent - all held but exempt	64
Some information sent but part exempt	44
<sup>4</sup> Exceeds appropriate limit (18 hours) - refused	28
Request lapsed - requested information not provided	27
Some information sent and exceeds appropriate limit	11
Neither confirm or deny information held	3
Vexatious request	2
Repeated request	1
Some information sent, part exempt and exceeds limit	1
<b>Total</b>	<b>1643</b>

**Table 6 – FOI/EIR Refusal Notice Reasons**

151 FOIA Exemptions/EIRs Exceptions were applied to refusal notices issued during 2017/18 compared with 102 during 2016/17.

<b>Refusal Notices issued</b>	<b>2017/18</b>	<b>2016/17</b>
FOIA Section 12(1) Compliance Exceeds 18 Hours	28	15
FOIA Section 40 Personal Information	22	24
FOIA Section 43 Commercial Interests	16	10
FOIA Section 21 Publicly Accessible to applicant	14	19
FOIA Section 30 Investigations & Proceedings	9	3
EIRs Regulation 12(5)(b) Course of Justice	8	3
EIRs Regulation (12)(5)(f) Information in Confidence	8	1
EIRs Regulation 6(1)(b) Publicly Accessible	8	5
FOIA Section 31 Law Enforcement	7	3
FOIA Section 41 Information Provided in Confidence	6	7
EIRs Regulation 12(4)(b) Manifestly Unreasonable	5	0
EIRs Regulation 12(3) Personal Information	3	2
EIRs Regulation 12(5) (e) Commercial Interests	3	0
FOIA Section 22 Intended for Future	2	3

<sup>4</sup> The 'appropriate limit' is 18 hours, i.e. if it will take more than 18 hours to fulfil the request, then it can be refused. If a requester wishes to pursue the request and the response, then a fees notice can be issued. In the majority of cases the requester will issue a new revised and reduced request.

Publication		
FOIA Section 36 Prejudicial to conduct of public affairs	2	1
FOIA Section 42 Legal Professional Privilege	2	2
EIRs Regulation 12(5)(d) Confidentiality of Proceedings	2	1
FOIA Section 33 Audit Functions	1	0
EIRs Regulation 12(4)(a) Information Not Held	1	0
EIRs Regulation 12(4)(d) Draft Information	1	1
EIRs Regulation 12(4) (e) Internal Communications	1	0
EIRs Regulation 12(5)(c ) Intellectual Property Rights	1	0
EIRs Regulation 12(5)(g) Protection of Environment	1	1
FOIA Section 38 Health & Safety	0	1
<b>TOTAL</b>	<b>151</b>	<b>102</b>

The number of exemptions/exceptions does not correlate with the number of requests refused in Table 4. This is because more than one exemption/exception can be used in a refusal notice.

#### **Table 7 – Internal Reviews**

Should a requester be unhappy with the initial response to their request, they have the right to request an internal review. This is conducted by someone independent of the initial response and usually by a Senior Officer within the Compliance and Customer Relations Team. During 2017/18 there was a 36% increase in the number of internal reviews carried out.

<b>Year</b>	<b>2017/18</b>	<b>2016/17</b>
Number of Internal Reviews	64	47

#### **Table 8 – Complaints to the Information Commissioner’s Office (ICO)**

Should a requester remain unhappy following the internal review, they may appeal to the Information Commissioner’s Office for a decision. The table below outlines the outcomes for those requests which were referred to the ICO.

<b>Year</b>	<b>2017/18</b>	<b>2016/17</b>
Late Notification	3	2
Ongoing at year end	3	3
Withdrawn	2	1
Complaint Upheld	2	0
Complaint Not Upheld	1	2
<b>TOTAL</b>	<b>11</b>	<b>8</b>

## **5. Implications**

### **5.1. Legal Implications**

Please refer to Section 4.4. in respect of the Legal Implications for the Data Protection Act and the forthcoming General Data Protection Regulation (GDPR).

Compliance with Freedom of Information legislation and the Environmental Information Regulations is integral to effective management of information within the Council. This legislation makes public bodies open and transparent. It is essential, therefore, that all relevant policies and procedures take account of these regulations.

### **5.2. Financial implications**

Failure to comply with the Data Protection and GDPR legislation can lead to large fines being imposed on the Council. The current maximum penalty for breach of Data Protection or non-compliance is £500,000. Under the new legislation, there are two tiers of penalties available to the Information Commissioner dependent upon the nature of the breach. The two tiers are a maximum of 10,000,000 EUR or 20,000,000 EUR. A higher penalty may be imposed for breaches which affect individual rights. Non-compliance with Freedom of Information can lead to enforcement action by the Information Commissioner or possibly costly court proceedings and reputational damage.

### **5.3 HR implications**

All officers, Members and partners are required to be fully aware of their obligations under the Freedom of Information Act (2000), Environmental Information Regulations (2004) and the Data Protection Act (1998) in addition to the forthcoming GDPR. To this end, a comprehensive online training module is currently being rolled out to all staff and Members.

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## **Audit & Governance Committee**

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**Date of Meeting:** 31 May 2018

**Report Title:** Compliance with the Regulation of investigatory Powers Act 2000 (RIPA)

**Portfolio Holder:** Councillor Paul Findlow

**Author:** Sandra Smith – Compliance and Customer Relations Manager

**Senior Officer:** **Daniel Dickinson, Acting Director of Legal Services**

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### **1. Introduction and Policy Context**

- 1.1. This report provides an update on how the Council has complied with RIPA legislation during 2017/18 and the number of RIPA applications which have been authorised during this period.

### **2. Decision Requested**

- 2.1. That the Committee notes the performance of the Council in respect of compliance with the Regulation of investigatory Powers Act 2000 (RIPA) and notes ongoing and future developments.

### **3. Background**

- 3.1. The Council occasionally needs to use directed surveillance in order to carry out its enforcement functions effectively, e.g. planning enforcement, licensing enforcement, trading standards, environmental health and community safety investigations. RIPA provides a regulatory framework to enable public authorities to obtain information through the use of certain covert investigatory techniques. It is imperative that, when investigating alleged wrongdoing, certain conditions are met in each case in order that successful prosecutions can be made. In particular, it is essential that covert surveillance is only used when it is necessary and proportionate to do so. Therefore, this must be properly authorised and recorded, the tests of necessity and proportionality must be satisfied, and the potential for collateral intrusion must be considered and minimised.
- 3.2. The Council's Authorising Officers/Designated Persons are:
- Acting Chief Executive
  - Executive Director – Place
  - Acting Executive Director – People

## Director of Children's Social Care

Any officer making an application or undertaking the role of an Authorising Officer/Designated Person must have completed a training session; these are arranged internally. Officers who have not attended a training session are not permitted to instigate or authorise any application for the use of RIPA powers. Once authorised, all applications need the approval of a Justice of the Peace/Magistrate, as required by the Protection of Freedoms Act 2012. The Act also restricts the use of RIPA authorised surveillance to the investigation of offences which attract a custodial sentence of six months or more.

- 3.3. The Director of Legal Services assumes responsibility for the integrity of the process to ensure that the Council complies with the legislation.

3.4. Access to Communications Data – use of National Anti Fraud Network (NAFN)

The Regulation of Investigatory Powers (Communications Data) Order 2010 sets out which organisations can access communications data and for what purposes. The Council is limited to accessing only service user and subscriber data, i.e. the 'who', 'when' and 'where' of a communication, but not the actual content. The Council is required to nominate a Single Point of Contact (SPOC), who needs to be an accredited person, to ensure that data is obtained lawfully and to facilitate access to the data with the communications service providers. The SPOC may be an employee of the council or an externally appointed person. The Council has been using the SPOC service provided by the National Anti-Fraud Network (NAFN) since October 2012. Currently 935 Local Authorities use NAFN. The Interception of Communications Commissioner's Office stated "Very good compliance and we continue to encourage all local authorities to use their service".

3.5. Use of Covert Human Intelligence Source (CHIS)

Covert human intelligence sources may only be authorised if there are certain additional arrangements in place, including an employee of the Council being responsible for the source's security and welfare and a Senior Officer with general oversight of the use made of the source. Use of a CHIS must be authorised by the Chief Executive before it is approved by a Justice of the Peace/Magistrate.

## 4 Briefing Information

### 4.1. Applications Authorised

The table below shows the number of applications authorised during 2017/2018 compared with previous years:

	Directed surveillance	Communications Data	CHIS
2011-12	7	2	
2012-13	16	3	
2013-14	8	3	

2014-15	5	2	
2015-16	5	2	1
2016-17	6	0	0
2017-18	1	0	0

Only one application was authorised during 2017/2018 (in respect of a test purchase).

#### 4.2. Inspections

Formerly, the Office of the Surveillance Commissioners (OSC) was responsible for inspecting the Council's use of and compliance with RIPA, and the Council was last inspected on 23<sup>rd</sup> May 2016. The report was a very positive one, with only one recommendation for further improvement - to update policies and procedures to include a more detailed explanation of the use of social networking sites. The RIPA policy and procedure has been updated and a separate social media policy has been drafted.

Inspections generally take place every three years and so it is anticipated that the Council will be inspected again in Spring 2019.

The Interception of Communications Commissioner's Office (IOCCO) was formerly responsible for inspecting applications to access communications data. Inspections were carried out on NAFN rather than on the Council

On 1<sup>st</sup> September, 2017, the newly established Investigatory Powers Commissioner's Office (IPCO) took over the inspection and oversight functions carried out by the previous Commissioners' Offices.

### 5. **Implications**

#### 5.1 Legal implications

Using RIPA powers can conflict with an individual's human rights and so it is imperative that, when investigating alleged wrongdoing, certain conditions are met in each case in order that successful prosecutions can be made. By following the authorisation procedures set out in RIPA legislation, officers can demonstrate that any surveillance is necessary for a purpose permitted by the Human Rights Act 1998 and that it is a proportionate measure to take, given all the circumstances. The Regulation of Investigatory Powers Act 2000 was enacted to consolidate and update a range of law enforcement investigative powers to ensure these powers were fit for purpose, as well as being compliant with the UK's obligations under the European Convention on Human Rights. A number of codes of practice have also been issued under this Act. The Protection of Freedoms Act 2012 introduced additional safeguards in respect of certain surveillance undertaken by local authorities

#### 5.2. Financial Implications

Failure to comply with the legislation can lead to the Council's ability to conduct directed surveillance being withdrawn for a period of time. This would have a detrimental impact

on the Council's ability to conduct investigations. Fines may also be imposed if the Council were found to be breaching Human Rights legislation.

5.3. HR Implications

There are no direct Human Resources implications.

## **Audit & Governance Committee**

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**Date of Meeting:** 31 May 2018

**Report Title:** Report on Customer Feedback – Complaints, Compliments and Referrals to Local Government Ombudsman 2017-18

**Portfolio Holder:** Councillor Liz Wardlaw – Deputy Leader

**Author:** Juan Turner – Compliance & Customer Relations Officer

**Senior Officer:** Daniel Dickinson - Acting Director of Legal Services

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### **1. Introduction and Policy Context**

- 1.1. Feedback from customers is welcomed and encouraged by Cheshire East Council, in order that the information can be used to drive service improvements. This report summarises the formal feedback received from customers during 2017/18 and administered under the Council's Corporate Compliments, Suggestions and Complaints Policy as well as the Council's Adults and Children's Social Care Complaints Policies. The report also provides a summary of the cases dealt with by the Local Government Ombudsman and gives a further breakdown of the investigations in which maladministration causing injustice was found. It is not possible to report on any decision notices issued during February, March and April 2018, as the LGO impose a three month embargo on the reporting of their investigations.

### **2. Recommendation**

- 2.1. That the Committee notes the contents of this report and makes any further response it considers appropriate.

### **3. Reasons for Recommendations**

- 3.1. The Terms of Reference for the Audit and Governance Committee include seeking assurance that customer complaint arrangements are robust and that recommendations agreed with the LGO are being implemented.

### **4. Background**

- 4.1. All formal complaints are received and recorded by the Customer Relations and Compliance team. Complaints are responded to in the first instance by the appropriate departmental Service Manager. However, the customer has a right of appeal (Stage 2) if they are not satisfied with the initial

response and the complaint is then investigated by an officer who has had no involvement with the initial response. In the case of Adult Social Care complaints, customers are encouraged to come back to the manager who initially investigated the complaint if they remain unhappy with the response. All customers have the right to appeal to the Local Government Ombudsman (LGO) at any stage of the process but the Ombudsman prefers the customer to have exhausted the organisation's complaints procedure first.

- 4.2. Once a complainant has exhausted the Council's Complaints procedure, their next step, should they remain dissatisfied with the Council's response, is to contact the Local Government Ombudsman.
- 4.3. The LGO will assess the merits of each case which has been escalated to them and will seek clarification from the Council, as necessary, before making the decision to investigate a complaint.
- 4.4. Once the LGO decides to investigate a complaint, they will look to ascertain if maladministration has occurred and if there has been any resulting injustice to the complainant as a result of the maladministration.
- 4.5. In the instances where maladministration and injustice is found by the LGO, they will make non-legally binding recommendations which they consider to be appropriate and reasonable.
- 4.6. Although not legally binding, refusal to accept the LGO's recommendation will trigger them to issue a Public Report. A Public report is a detailed account of the complaint, outlining where it considers the Council has made errors. This can have a significant reputational impact.

## 5. Briefing Information

- 5.1. During 2017/18 the Council received 3187 instances of customer feedback – 1159 were compliments, 130 were suggestions and 1898 were complaints. (Details are attached at **Appendices 1a, 1b and 1c.**) Complaints increased in 2017/18 compared with the previous year, when 1603 were received. This increase can be partly attributed to the increase in complaints received by the Waste and Recycling Service (ANSA) and by Children's Services.
  - 5.1.1. The number of recorded compliments was 1159, compared with 1503 in 2016/17. Over half of these related to Adult Services. The Council also recorded 130 suggestions (148 in 2016/17). These are neither complaints nor compliments but often suggested changes to policy or working practice.
- 5.2. **Stage 2 complaints**
  - 5.2.1. **Corporate Complaints Procedure** – of the 1667 corporate (i.e. non social care) complaints received in 2017/18, 109 customers requested a Stage 2 investigation and 24 went straight to Stage 2 (for example in cases where there may have already been lengthy e-mail communications between the

service and the customer). This compares with 2016/17, when 64 customers requested a Stage 2 investigation and 21 went straight to Stage 2. The main areas which received requests for Stage 2 investigations were Development Management & Enforcement, Highways, Council Tax and Waste & Recycling.

5.2.2. **Children's Social Care Complaints Procedure** – 144 new complaints were received in 2017/18, compared with 120 received in 2016/17. Of the 144 complaints, 6 were dealt with at Stage 2, compared with 2 in 2016/17.

5.2.3. **Adult Social Care Complaints Procedure** – 87 new complaints were received in 2017/18, compared with 94 in 2016/17. Of the 87 complaints, 12 complaints were dealt with at Stage 2, compared with 3 in 2016/17.

5.2.4. **Frequent Complaints**

The most frequent complaints received by the Council in 2017/18 are detailed in **Appendix 2**.

5.3. **Local Government Ombudsman (LGO) referrals**

5.3.1. All customers are offered the opportunity to appeal to the LGO if they are unhappy with the way in which the Council has handled their complaint.

5.3.2. **Appendices 3a and 3b** show the number of Decision Notices issued to the Council during 2017/18 (89) and 2016/17 (73). During 2017/18, the LGO issued Decision Notices on 89 cases. 45 of these cases were closed after the LGO conducted their initial enquiry, 23 of the complaints were upheld in the customer's favour and 21 were not upheld. Of the 23 upheld cases, it was considered that in 8 of these there was no injustice to the complainant.

5.3.3. Of the 15 cases in which maladministration and injustice was found, we can report on 13 decision notices received from the LGO between 1 April 2017 and 31 January 2018, as the LGO impose a three month embargo on the reporting of their investigations.

5.3.4. **Appendix 4** provides a summary of these 13 cases, along with the agreed action/recommendations made by the LGO. All these recommendations have been complied with as agreed with the LGO.

5.3.5. During this period the LGO recommended that the Council make 7 compensation payments, totalling £8483. In 2016/17, 9 compensation payments were made, amounting to £2950.

5.3.6. There are a number of cases which the Ombudsman receives annually and which are rejected on receipt (for example, because they are premature or because the LGO has no jurisdiction over a particular type of complaint). These figures are published in the LGO's annual report which is usually issued by the end of July following the end of the financial year. An update report on LGO referrals will be submitted to Audit & Governance Committee in September 2018, following the publication of the LGO's Annual Report.

## **6. Implications**

### **6.1. Policy Implications**

- 6.1.1. Adherence to the Corporate Complaints, Suggestions and Complaints Policy, the Children's Social Care Complaints Policy and the Adult Social Care Complaints Policy is key to ensuring that customers have an effective means of feeding back about our services. This is to ensure that we understand what we are doing well and where we may need to improve services we deliver.

### **6.2. Financial Implications**

- 6.2.1. If fault causing injustice is found, Cheshire East Council can be asked to pay compensation to a complainant. The Council made 7 compensation payments in 2017/18 amounting to £8483. In 2016/17, 9 compensation payments were made, amounting to £2950.

### **6.3. Legal Implications**

- 6.3.1. There are no legal implications flowing directly from the content of this report.

### **6.4. Human Resources Implications**

- 6.4.1. There are no Human Resources implications.

## COMPLAINTS RECEIVED

## Appendix 1a

Service Area	Complaints Received 2017 / 2018	Complaints Received 2016 / 2017	Complaints Received 2015 / 2016	Complaints Received 2014 / 2015
Waste & Recycling (Ansa)	616	287	359	235
Highway Operations	256	281	227	227
Children's Services*	221	125	105	100
Council Tax & Billing	141	188	240	208
Development Management & Enforcement	130	183	165	177
Adult Services*	87	95	111	100
Customer Services	58	26	40	47
Benefits	53	44	60	74
Parking Enforcement	46	36	31	35
Highways Strategy	41	12	4	1
Community Safety	33	14	12	9
Transport (TSS)	24	37	39	29
Grounds Maintenance (Ansa)	20	20	21	29
Environmental Protection	18	21	15	23
Street Cleansing (Ansa)	15	18	13	11
Licensing	14	123	4	24
Electoral Registration	13	0	0	0
Housing	11	8	12	10
Education Complaints	11	15	19	12
Leisure	10	1	2	2
Assets	9	14	4	10
Library & Cultural Services	8	3	12	11
Mixed Service Area	8	4	5	8
Building Control (Civance)	6	7	3	5
Spatial Planning	6	1	0	5
Legal Services	5	7	2	4
Public Rights of Way	4	0	0	0
Business Rates & Billing	4	0	0	0
Communications & PR	4	0	1	0
Registration	4	0	0	0
Bereavement (Orbitas)	3	7	4	4
Facilities	3	0	0	0
Trading Standards	3	0	0	0
Democratic Services	3	11	27	24
Finance General	2	0	2	1
Partnerships Business Manager	2	0	1	0
Shared Services	2	1	0	0
HR	1	0	1	2
Visitor Economy incl. Tatton Park	1	3	1	1
Regeneration & Economic Development	1	2	0	1
Procurement	1	1	1	1
Land Charges (Civance)	0	0	13	4
Governance & Audit	0	0	2	1
Green Spaces	0	8	6	0
ICT	0	0	0	0
Transformation	0	0	0	0
Planning & Performance	0	0	0	0
Engine of the North	0	0	1	0
<b>Total Complaints</b>	<b>1898</b>	<b>1603</b>	<b>1556</b>	<b>1435</b>

\*Figures represent the total of complaints handled under the Corporate Complaints Policy and the Social Care Complaints Policy.

## COMPLIMENTS RECEIVED Appendix 1b

Service Area	Compliments Received 2017 / 2018	Compliments Received 2016 / 2017	Compliments Received 2015 / 2016	Compliments Received 2014 / 2015
Adult Services	619	704	682	669
Grounds Maintenance (Ansa)	84	88	79	56
Waste & Recycling (Ansa)	82	102	98	86
Children's Services	73	197	558	170
Customer Services	71	118	177	99
Council Tax Business Rates & Billing	58	64	52	75
Highway Operations	49	58	42	62
Housing Benefits	28	28	48	43
Street Cleansing (Ansa)	25	68	67	50
Library & Cultural Services	21	38	14	10
Business Rates & Billing	11	0	0	0
Mixed	9	2	0	0
Education	8	2	2	2
Green Spaces	6	5	2	0
Parking Enforcement	4	1	1	2
Communications & PR	3	0	1	0
Development Management & Enforcement	2	14	14	10
Environmental Protection	1	3	2	4
Housing	1	2	4	1
Visitor Economy incl Tatton Park	1	0	1	0
Transport (TSS)	1	0	3	0
Land Charges (Civance)	1	0	1	0
Electoral Registration	1	0	0	0
Building Control	0	0	0	3
Regeneration & Economic Development	0	2	0	2
Licensing	0	0	2	1
Community Safety	0	2	2	1
Leisure	0	0	0	0
Assets	0	0	1	0
Finance General	0	0	0	0
Democratic Services	0	2	0	0
Legal	0	3	0	0
Governance & Audit	0	0	2	0
<b>Total Compliments</b>	<b>1159</b>	<b>1503</b>	<b>1855</b>	<b>1346</b>

## SUGGESTIONS/COMMENTS RECEIVED    Appendix 1c

Service Area	Suggestions Received 2017 / 2018	Suggestions Received 2016 / 2017	Suggestions Received 2015 / 2016	Suggestions Received 2014 / 2015
Children's services**	49	56	75	49
Adult Services**	45	47	61	57
Waste & Recycling (Ansa)	9	12	12	21
Highways Strategy	6	6	0	0
Customer Services	4	1	0	5
Street Cleansing (Ansa)	3	0	1	2
Parking Enforcement	2	1	0	4
Council Tax Business Rates & Billing	2	3	3	4
Development Management & Enforcement	2	2	3	3
Regeneration	2	0	0	0
Highway Operations	1	9	6	16
Grounds Maintenance (Ansa)	1	2	5	11
Library & Cultural Services	1	0	3	1
Mixed Service Area	1	1	1	0
Transport (TSS)	1	1	1	0
Education	1	0	0	0
Community Safety	0	0	0	2
Visitor Economy incl Tatton Park	0	1	0	2
Building Control	0	0	0	1
Housing	0	0	0	1
Green Spaces	0	2	1	1
Communications	0	1	0	1
Partnerships Business Manager	0	0	0	0
Licensing	0	0	0	0
Environmental Protection	0	0	0	0
Spatial Planning	0	0	0	0
Bereavement (Orbitas)	0	0	0	0
Benefits	0	0	2	0
Assets	0	2	2	0
Governance & Audit	0	0	1	0
Democratic Services	0	1	0	0
<b>Total Suggestions/Comments</b>	<b>130</b>	<b>148</b>	<b>177</b>	<b>181</b>

\*\*In Children's/Adult Services these can be concerns which have not been dealt with as a formal complaint

## Frequent Complaints Appendix 2

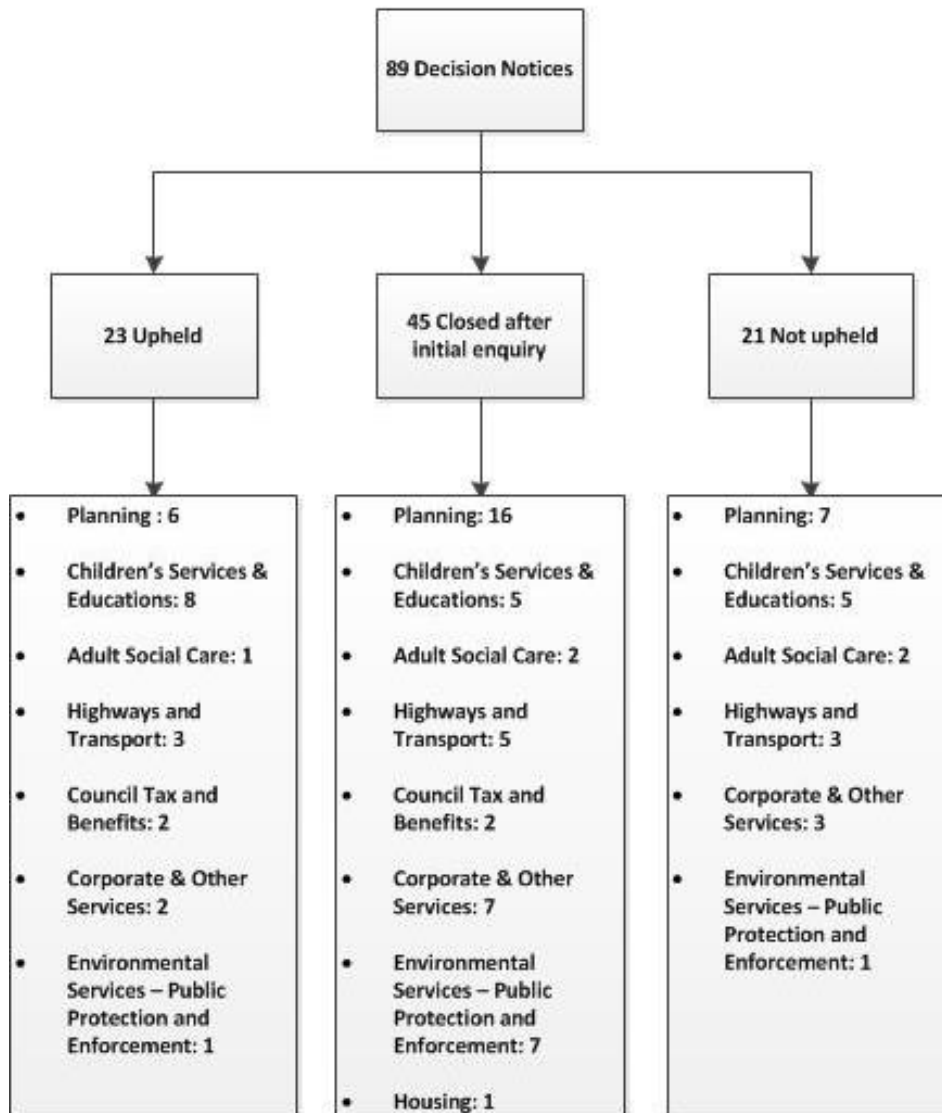
<b>Service Area</b>	<b>Percentage change from 2016/17 and most frequent cause for complaint</b>	<b>Comments from Services (including learning points)</b>
Waste and Recycling (Ansa)	<p>Increase of 115% (from 287 in 2016/17 to 616 in 2017/18)</p> <p>Repeated missed collections/ inconsistent collections.</p> <p>New bin Delivery</p>	<p>Cheshire East Council (CEC) has invested in a new Environmental Hub site from which all of its Environmental and Operational Services can be managed all of which are delivered by Ansa on behalf of CEC.</p> <p>Following the site completion in October 2017, employees relocated from Ansa's two primary depots at Pym's Lane, Crewe and Commercial Road, Macclesfield, as well as a number of secondary sites.</p> <p>Although the relocation has been a great success, with more than 350 employees relocated whilst maintaining services, a combination of events has resulted in higher numbers of missed bins and delays to bin deliveries. In addition to the disruption caused by the move, significant severe weather conditions at the end of February and beginning of March, combined with crews becoming familiar with the changes in their rounds and the recommencement of the garden waste collection service, all contributed to a higher than anticipated missed bin rate. As soon as the weather improved, an action plan was implemented to resolve these issues and return to see levels of complaints reducing back to those experienced in previous years.</p>
Highways Operations	<p>Decrease of 9% (from 281 in 2016/17 to 256 in 2017/18)</p> <p>Not happy with the level of service, having to chase up progress of fault reports. Dissatisfied with the quality/level of repair carried out (potholes or streetlights).</p>	<p>The Council's commitment to Managing and Maintaining the Highway Network Programme funding in 17/18 enabled the Service to limit deterioration of the network condition. The prolonged cold and wet winter weather conditions have provided a significant challenge leading to a spike in complaints relating to network condition.</p>

OFFICIAL

<b>Service Area</b>	<b>Percentage change from 2016/17 and most frequent cause for complaint</b>	<b>Comments from Services (including learning points)</b>
Children's services	<p>Increase of 77% (from 125 in 2016/17 to 221 in 2017/18)</p> <p>Delays in completing/reviewing Education, Health, Care Plans. Problems with contact arrangements. Inaccuracies in assessments &amp; records. Contact/communication from social workers</p>	<p>Children's Social Care received 144 new complaints in 2017/18, compared with 120 received in 2016/17. Whilst this is an increase nearly all were resolved at Stage 1.</p> <p>In 2017/18 3000 referrals were made to Children Social Care, so, whilst 144 complaints represents just under 5%, we track the themes from complaints so we continue to address and improve the service response. However we continue focus on improving communication between social workers and families and ensuring children enjoy more flexible contact with their wider family. We believe the multi-agency implementation of our Signs of Safety model is changing how we engage children and families and we expect to see a reduction in complaints.</p> <p>Due to significantly reduced capacity in the Education Psychology (EP) Service, as a result of staff vacancies which have proved difficult to fill, the service has had limited ability to complete assessments in a timely manner to support Education, Health and Care plans being written within 20 weeks. This resulted in 47 complaints from parents. This is being addressed through the introduction of a EP Recruitment and Retention Strategy and a 20 week service compliance improvement plan.</p>
Council Tax and Billing	<p>Decrease of 25% (from 188 in 2016/17 to 141 in 2017/18)</p> <p>General dissatisfaction about the Recovery/Bailiff Action taken. Delays in updating account</p>	<p>The service is pleased to see a further reduction in complaints following a similar reduction last year. This reflects improvement work we have continued, including:</p> <ul style="list-style-type: none"> <li>• New, more user friendly Webforms available to customers on the Council Tax web pages</li> <li>• Re-design of the Council's Reductions section on the webpage, giving customers a clearer description of the reductions available</li> </ul>

<b>Service Area</b>	<b>Percentage change from 2016/17 and most frequent cause for complaint</b>	<b>Comments from Services (including learning points)</b>
	changes.	<ul style="list-style-type: none"> <li>• Additional support to the Contact Centre to enable call handling to be more effective</li> </ul> <p>Further improvement work will be undertaken this year to:</p> <ul style="list-style-type: none"> <li>• Make outgoing documentation clearer to the customer in order to reduce the number of inbound enquiries</li> <li>• Enhance the ability for residents to 'self serve' where they wish to thereby reducing delays in account adjustment</li> </ul>
Development Management & Enforcement	<p>Reduction of 29% (from 183 in 2016/17 to 130 in 2017/18)</p> <p>Complainants (3rd parties - not applicants) disagree with the outcome of planning application.</p>	<p>Planning attracts complaints, but these are often as a result of the decision taken rather than the process or the quality of the service. In 2017/18 there was a 29% reduction in the number of complaints received compared to the previous year and the number received is lower than any of the previous 3 years.</p> <p>In terms of LGO complaints, the number referred increased from 24 in 2016/17 to 29 in 2017/18 and there were 6 complaints upheld in 2017/18 as compared to only 1 in 2016/17. These 6 decisions have been examined to ensure that lessons have been learned.</p>

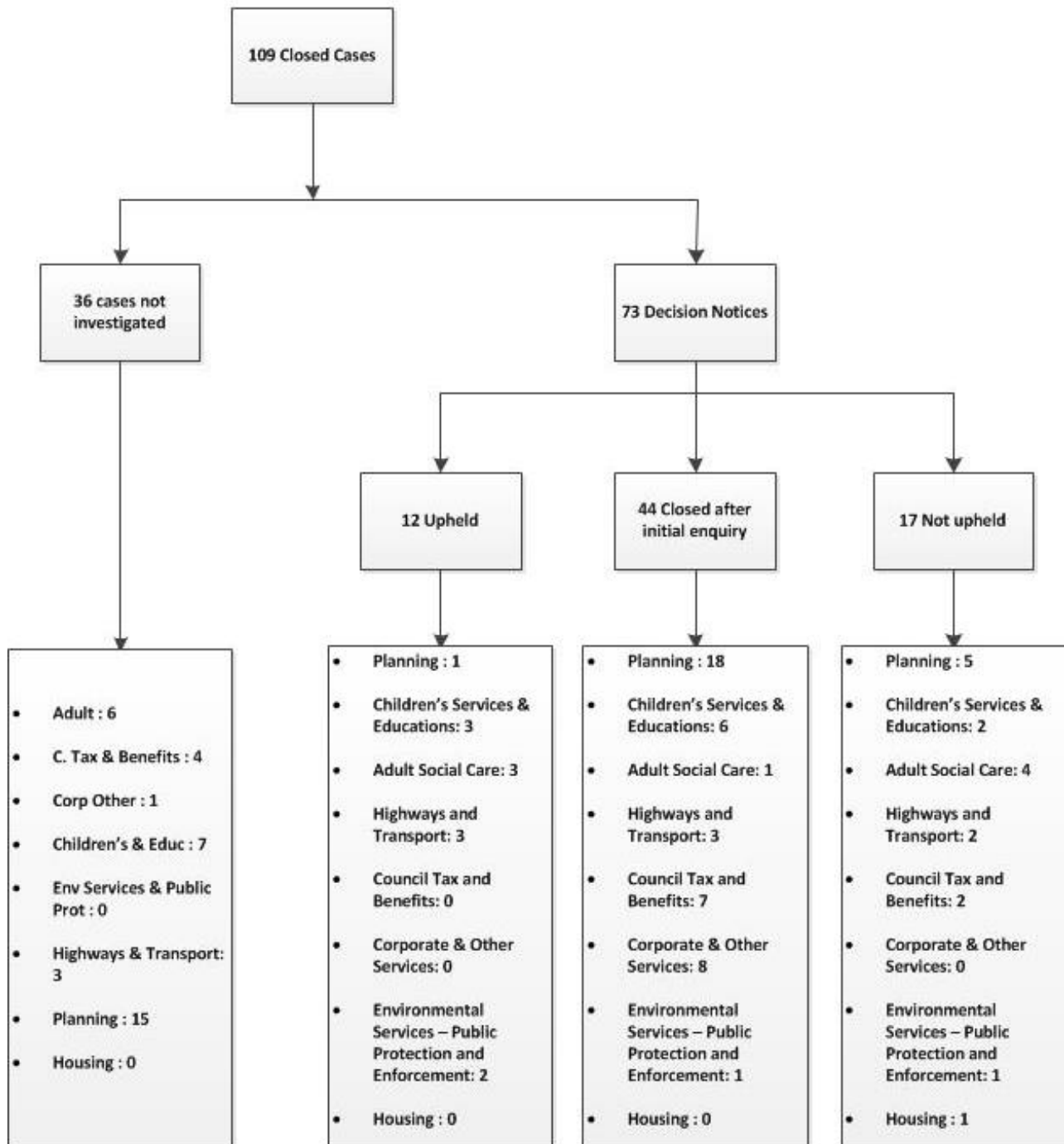
<b>Service Area</b>	<b>Percentage change from 2016/17 and most frequent cause for complaint</b>	<b>Comments from Services (including learning points)</b>
Adult Services	<p>Decrease of 8% (from 95 in 2016/17 to 87 in 2017/18)</p> <p>Poor communication and delays in implementing agreed actions. Unclear/unexpected charges for care provisions; top up payments.</p>	<p>There has been a small decrease in the number of complaints from 2016/17. The nature of the complaints is in keeping with most authorities and result from.</p> <ul style="list-style-type: none"> <li>• Workers facing greater demand and pressure,</li> <li>• Some delay in the commencement of care from providers</li> <li>• The increasing charges imposed on families in the form of top ups from providers.</li> <li>• Individuals unclear that social care is means tested and not free as health is.</li> </ul> <p>We have taken time to look at learning points and to work with staff to ensure that they talk through all areas of assessment and care planning, that they are very clear with individuals about charging and any wait for care due to demand on providers, and that this is documented and evidenced through recording.</p>



\* Appendix 3a differs from 3b as the information from Local Government Ombudsman has not yet to been published. It is anticipated that the LGO annual report will be available in July 2018.

## LGO DECISION NOTICES 2016/17    Appendix 3b

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Service	The Ombudsman's final decision Summary	Agreed Action
Adults Social Care	There was fault by the Council as it did not give Mrs M leaflets on third party top-ups and the social worker did not check she understood the arrangement when her mother went into a care home. The Council refunding the £628.57 paid before Mrs M received the correct advice remedies the injustice caused to her.	Issue refund to complainant of £628.57
Council Tax	The Council was at fault for failing to tell Mr X that he could appeal his Council Tax liability at a Valuation Tribunal. In recognition of this the Council has agreed to reissue its decision on Mr X's liability so he has a fresh right of appeal and to waive the bailiff fees he has accrued.	Reissue decision to Complainant so he has a fresh right of appeal
Council Tax	Miss X complains the Council have asked her to pay a large sum for council tax after receiving two bills previously stating that she did not owe anything. The Council are at fault for sending Miss X incorrect council tax bills and not advising her about the discretionary reduction powers it has. The Council has agreed to cancel the council tax bill it issued to Miss X for the period of 16 June 2016 to 27 March 2017 to remedy the injustice to her.	Cancel outstanding Bill
Compliance & Customer Relations Team	The Council failed to properly apply its policy for unreasonable or unreasonably persistent complainants.	Issue a Formal written apology and pay complainant £200. Review process
Facilities	The Council was at fault because it did not consider whether an alarm in a car park opposite Mrs X's home was a statutory noise nuisance, and it delayed resolving a breach of planning control. The Council was also at fault because it delayed responding to Mrs X's complaint. The faults identified led to frustration for Mrs X, and she had to chase the Council for responses. The Council has agreed to apologise, pay Mrs X £100 and assess whether the alarm is a statutory noise nuisance.	Issue Formal written apology and pay complainant £100. Assesses if the alarm in the car park is a statutory nuisance
Education and Children's Services	The ICO has found fault in how the Council handled information it held about Miss B's son. The Council has apologised to Miss B and accepted the ICO's recommendations, so it has already remedied the injustice caused. The Council has also found fault in the way it managed its child protection procedures in 2014. It has agreed to apologise to Miss B, which remedies her injustice.	Issue a Formal written apology and reassess care plan
Education and Children's Services	The Council was at fault in failing to arrange supervised contact as it should have done between Mr and Mrs X and their children during a child protection investigation. I recommend a financial remedy.	Pay complainants £4005 for the failure to make appropriate contact arrangements
Education and Children's Services	The Council failed to deal with Ms B's complaint in line with the children's statutory complaints procedure. After the Ombudsman's intervention, it has now agreed to do so.	Reconsider the complaint at Stage 2 of the Children's statutory complaints procedure

Education and Children's Services	While there was confusion over what statement C's school were delivering, the Council is not at fault. It issued the correct statement and acted when Mrs X questioned which statement the school was using. However, the Council delayed in issuing C's EHCP and failed to act on Mrs X's concerns over the school's delivery of the EHCP. The Council also failed to liaise with the school when responding to Mrs X's complaint. The Council has agreed to carry out a review of the school's delivery of C's EHCP, apologise to Mr and Mrs X and pay them £300.	Formal written apology and pay complainant £300. Carry out a review of School meeting the requirements of ECH Plan.
Education and Children's Services	The Council did not send Mr and Mrs X documentation for its annual review of their daughter, Z's statement in 2014. It did not hold an annual review of Z's statement in 2015. These faults means Mr and Mrs X could not appeal to SEND. The Council did not transfer Z's statement to an Education and Health Care Plan within the required timescale. It has already apologised for this delay but has still not finalised her plan. The Council has agreed to apologise to Mr and Mrs X, make a payment and finalise Z's EHCP. It has also agreed to review its records to assess whether others have missed out on an annual review.	Formal written apology and pay complainants £3000. Carry out a review system to ensure same issue is not affecting others
Planning Enforcement	The Council took too long to deal with Mr X's complaint about enforcement action. It has agreed to apologise to him for this delay. It correctly took enforcement action and secured undertakings from the developer.	Formal written apology for delays and provide complainant with update of Enforcement case
Planning Enforcement	There was no fault in the Council's investigation of a potential statutory nuisance from a waste transfer station. However, it was at fault for not adequately monitoring street cleaning arranged by that business and ensuring it complied with a dust management plan forming part of its planning permission. The Council accepts these findings. It has agreed to remedy the complaint by implementing a plan of action designed to better monitor and if possible improve conditions associated with the site.	Agree investigate dust and street cleaning issue raised with a view of taking enforcement action following a three month period. Written update to be sent to complainant following this period
Planning Enforcement	I uphold this planning enforcement complaint as there was fault causing injustice by the Council. I am satisfied the recommended actions are enough to remedy the complaint.	Formal written apology and pay complainant £250. Consider Enforcement action following further investigation of the issues raised.

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*Working for a brighter future together*

## **Audit & Governance Committee**

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**Date of Meeting:** 31 May 2018

**Report Title:** Audit and Governance Committee Self-Assessment

**Senior Officer:** Jan Willis, Interim Executive Director of Corporate Services

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### **1. Report Summary**

- 1.1. The aim of this report is to support the Audit and Governance Committee in performing effectively and facilitate compliance with the Accounts and Audit Regulations 2015. Members are, therefore, asked to consider the results of a self assessment of the effectiveness of the Audit and Governance Committee, carried out by the Chair and Vice Chair using the CIPFA publication '*Audit Committees – Practical Guidance for Local Authorities and Police (2013 Edition)*'.
- 1.2. Following completion of the self assessment, CIPFA released the updated 2018 edition of the above guidance. This will be reviewed and a report brought to a future meeting of the Committee setting out any additional actions required to ensure the Committee's continued compliance with best practice.

### **2. Recommendations**

- 2.1. That the Committee:
  - 2.1.1. consider the self-assessment (Appendix A) and determine any required amendments
  - 2.1.2. endorse the actions arising from the self assessment; and
  - 2.1.3. note that a further report, updating Members on progress with these actions, will be brought to a future meeting of this Committee.

### **3. Reasons for Recommendations**

- 3.1. A good standard of performance against recommended practice, together with a knowledgeable and experienced membership, are essential requirements for the Audit and Governance Committee to be effective.
- 3.2. Regular self-assessments against best practice, as outlined in the CIPFA “Audit Committees Practical Guidance for Local Authorities (2013)” can be used to support the planning of the Committee’s work programme, training plans and inform the annual report.
- 3.3. The self-assessment forms part of the review of the system of internal control as required by Regulation 6 of the Accounts and Audit Regulations 2015 and which supports the production of the Annual Governance Statement (AGS).

### **4. Other Options Considered**

- 4.1. The self assessment could have been carried out at a specially convened meeting of the Committee. The Chair and Vice Chair agreed that it was more effective for them to complete the assessment and seek comments/changes from the wider Committee.

### **5. Background**

- 5.1. The process for conducting the review of the effectiveness of internal audit, which is based on best practice guidance, was agreed with the Audit and Governance Committee in November 2014 and includes a self-assessment using the following:
  - 5.1.1. The Checklist for Assessing Conformance with the Public Sector Internal Audit Standards and the Local Government Application Note, taken from the Local Government Application Note for the United Kingdom Public Sector Internal Audit Standards (CIPFA).
  - 5.1.2. Self-assessment of Good Practice and Evaluating the Effectiveness of the Audit Committee taken from Audit Committees - Practical Guidance for Local Authorities and Police (2013 Edition).
- 5.2. Table 1 and Table 2 show the outcome of the 2017/18 draft self-assessment against the Good Practice questions and the Evaluation of the Effectiveness of the Audit Committee. The detailed self-assessment is shown in Appendix A.

**Table 1****2017/18 Draft Self-Assessment Results****Section 1: Good Practice Questions**

<b>Self-Assessment against Good Practice 2017/18</b>		
Meeting recommended practice	Number	Actions Arising
Yes	16	0
Partly	4	3
No	0	0
<b>Total</b>	<b>20</b>	<b>3</b>

**Table 2****2017/18 Draft Self-Assessment Results****Section 2: Evaluating the Effectiveness of the Audit Committee**

<b>Assessment Key: Level</b>	<b>Assessment Key: Criteria</b>	<b>Outcome of 2016/17 Draft Assessment</b>	<b>Actions Arising</b>
5	Clear evidence is available from a number of sources that the committee is actively supporting improvements across all aspects of this area. The improvements made are clearly identifiable.	3	0
4	Clear evidence from some sources that the committee is actively and effectively supporting improvement across some aspects of this area.	6	2
3	The committee has had mixed experience in supporting improvement in this area. There is some evidence that demonstrates their impact but there are also significant gaps	0	0
2	There is some evidence that the committee has supported improvements, but the impact of this support is limited.	0	0
1	No evidence can be found that the audit committee has supported improvements in this area.	0	0
<b>Total</b>		<b>9</b>	<b>2</b>

- 5.3. As the results of the Audit and Governance Self-Assessment will be reported to this Committee for consideration as part of the AGS process, it is important that Members are satisfied that the draft Audit and Governance Committee self-assessment, prepared by the Chairman and Vice Chairman, has been completed correctly.
- 5.4. To assist Members in forming a view, the following changes have been made to the responses to the Good Practice Questions since the 2016/17 assessment:
  - 5.4.1. Question 6 – moved from partly to yes. This was due to the Annual Report of the Committee being subject to questions at Council.
  - 5.4.2. Question 15 – moved from partly to yes. This was due to the completion of a skills assessment in January 2018.
  - 5.4.3. Question 18 – moved from partly to yes. This was due to the Annual Report of the Committee being subject to questions at Council.
- 5.5. This report therefore provides the opportunity for challenge and comment by the Committee and ensures that the self assessment is an accurate reflection of the effectiveness of the Committee.

## **6. Implications of the Recommendations**

### **6.1. Legal Implications**

- 6.1.1. There are no direct implications for legal.

### **6.2. Finance Implications**

- 6.2.1. There may be cost implications should it be recommended that training be undertaken to address any gaps in skills or knowledge.

### **6.3. Policy Implications**

- 6.3.1. There are no direct implications for policy.

### **6.4. Equality Implications**

- 6.4.1. There are no direct implications for equality matters.

### **6.5. Human Resources Implications**

- 6.5.1. There are no direct implications for Human Resources.

### **6.6. Risk Management Implications**

- 6.6.1. There are no direct implications for risk management.

**6.7. Rural Communities Implications**

6.7.1. There are no direct implications for rural communities.

**6.8. Implications for Children & Young People**

6.8.1. There are no direct implications for children and young people.

**6.9. Public Health Implications**

6.9.1. There are no direct implications for public health.

**7. Ward Members Affected**

7.1. All wards are affected as the Audit and Governance Committee reports to Council.

**8. Access to Information**

8.1. The detailed self assessment document is available as Appendix A to this report.

**9. Contact Information**

9.1. Any questions relating to this report should be directed to the following officer:

Name: Michael Todd

Job Title: Principal Auditor

Email: michael.todd@cheshireeast.gov.uk

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This appendix provides a high-level review that incorporates the key principles set out in CIPFA's Position Statement: Audit Committees in Local Authorities and Police (2013). Where an audit committee has a high degree of performance against the good practice principles then it is an indicator that the committee is soundly based and has in place a knowledgeable membership. These are the essential factors in developing an effective audit committee.

Regular self-assessment can be used to support the planning of the audit committee work programme and training plans. It can also inform an annual report.

### Section 1 – Good Practice Questions

Good practice questions		Yes	Partly	No	Comments/Actions for Improvement
<b>Audit committee purpose and governance</b>					
1	Does the authority have a dedicated audit committee?	✓			
2	Does the audit committee report directly to full council?	✓			The Audit and Governance Committee present an annual report to Full Council. The 2016/17 report was presented to Council on 19 October 2017
3	Do the terms of reference clearly set out the purpose of the committee in accordance with CIPFA's Position Statement*?  * The Purpose of Audit Committees (CIPFA Position Statement) extract: <i>Audit committees are a key component of an authority's governance framework. Their function is to provide an independent and high level resource to support good governance and strong public financial management.</i>	✓			The ToR are based on the latest guidance from CIPFA; "Audit Committees: Practical Guidance for Local Authorities and Police" (2013 Edition) and therefore clearly set out the purpose of the Committee in accordance with CIPFA's position statement.  The last update to the terms of reference was approved by Constitution Committee in July 2016.  A review of the terms of reference will be undertaken upon release of CIPFA's updated guidance.

Good practice questions		Yes	Partly	No	Comments/Actions for Improvement
	<i>The purpose of an audit committee is to provide to those charged with governance independent assurance on the adequacy of the risk management framework, the internal control environment and the integrity of the financial reporting and annual governance processes.</i>				
4	Is the role and purpose of the audit committee understood and accepted across the authority?		✓		<p>The Committee's Terms of Reference are included in the Council's Constitution and are approved by Full Council.</p> <p>The Annual Report of the Committee is presented to Full Council. It addresses the areas where the Committee should be held to account and helps to ensure that those not directly involved in the work of the Committee achieve an understanding of its role and purpose</p> <p><b>IMPROVEMENT ACTIONS:</b></p> <p><i>Training and awareness on the purpose and function of the Audit and Governance Committee to be provided to the Committee once the updated CIPFA Guidance has been received.</i></p> <p><i>Formal training from CIPFA to be included in the Member Development Programme in June 2019.</i></p> <p><i>Other ways of raising awareness of the Committee and its purpose to be discussed with the Senior Member Development Office.</i></p>

Good practice questions		Yes	Partly	No	Comments/Actions for Improvement
5	Does the audit committee provide support to the authority in meeting the requirements of good governance?	✓			<p>The Annual Report of the Committee is presented to full Council. It addresses the key areas where the Committee should be held to account including what impact it has had on the improvement of governance, risk and control within the Council.</p> <p>Delegated governance responsibilities include approving the Council's Annual Governance Statement (AGS).</p>
6	Are the arrangements to hold the committee to account for its performance operating satisfactorily?	✓			<p><b>Moved from Partly to Yes</b></p> <p>The Audit and Governance Committee's ToR set out the accountability arrangements.</p> <p>The Annual Report of the Committee is currently based on recommendations made by the CIPFA Better Governance Forum and those contained in Audit Committees: Practical Guidance for Local Authorities and Police (2013 Edition). It is presented to full Council and addresses the key areas where the Committee should be held to account. The Chair attends Council to present the report and take questions.</p> <p>The format and content of the Annual Report will be updated as necessary in relation to the revised CIPFA guidance on Audit Committees.</p>
Functions of the committee					

Good practice questions		Yes	Partly	No	Comments/Actions for Improvement
7	Do the committee's terms of reference explicitly address all the core areas identified in CIPFA's Position Statement?	✓			The ToR are based on the latest guidance from CIPFA - Audit Committees: Practical Guidance for Local Authorities and Police (2013 Edition) and explicitly address all of the core areas identified in CIPFA's Position Statement. This will be subject to review when the latest version of the CIPFA guidance is released.
	good governance				
	assurance framework				
	internal audit				
	external audit				
	financial reporting				
	risk management				
	value for money or best value				
	counter-fraud and corruption.				
8	Is an annual evaluation undertaken to assess whether the committee is fulfilling its terms of reference and that adequate consideration has been given to all core areas?	✓			A self- assessment of the Committee is undertaken every year and forms part of the AGS process. The Committee's Annual Report compares the work carried out by the Committee during the year with its ToR. The work programme presented to every meeting identifies which part of the terms of reference specific reports address.
9	Has the audit committee considered the wider areas identified in CIPFA's Position Statement and whether it would be appropriate for the committee to undertake	✓			Considered as part of the review of the Committees ToR in 2014 and evidenced by the Committee having responsibility for reviewing:

Good practice questions		Yes	Partly	No	Comments/Actions for Improvement
	them?				<ul style="list-style-type: none"> <li>• ethical standards issues</li> <li>• the effectiveness of the Council's whistleblowing arrangements</li> <li>• and monitoring the Council's treasury management arrangements in accordance with the CIPFA Treasury Management Code of Practice.</li> </ul>
10	Where coverage of core areas has been found to be limited, are plans in place to address this?	✓			<p>See Actions below relating to:</p> <ul style="list-style-type: none"> <li>▪ Aiding the achievement of the authority's goals and objectives through helping to ensure appropriate governance, risk, control and assurance arrangements</li> <li>▪ Supporting the development of robust arrangements for ensuring value for money.</li> </ul>
11	Has the committee maintained its non-advisory role by not taking on any decision-making powers that are not in line with its core purpose?	✓			The Committee's decision making powers are all in line with its core purpose. E.g. approval of Financial Statements, approval of AGS, approval of the Whistleblowing Policy.
<b>Membership and support</b>					
12	<p>Has an effective audit committee structure and composition of the committee been selected?</p> <p>This should include:</p> <ul style="list-style-type: none"> <li>• separation from the executive</li> <li>• an appropriate mix of knowledge and skills among the membership</li> <li>• a size of committee that is not unwieldy</li> <li>• where independent members are used, that they have been appointed using an appropriate process.</li> </ul>		✓		<p>The Committee is separate from the executive and is of a size that is not unwieldy.</p> <p>The Chairman and Vice Chairman of the Audit and Governance Committee are selected by the political group to which Full Council has allocated those offices.</p> <p>Re: appropriate mix of knowledge and skills among the membership, see 15 below.</p>

Good practice questions		Yes	Partly	No	Comments/Actions for Improvement
					An independent member has been appointed to the Committee with the March 2017 meeting being the first one attended.
13	Does the chair of the committee have appropriate knowledge and skills?	✓			The chair has attended CIPFA events to supplement his knowledge and skills.
14	Are arrangements in place to support the committee with briefings and training?	✓			Induction training is provided to new members and substitute members of the Committee prior to their attendance at meetings. During 2017/18 events were held in March 2017, May 2017 and in July 2017. Further training is planned after the 2019 elections.
15	Has the membership of the committee been assessed against the core knowledge and skills framework and found to be satisfactory?	✓			<p><b>Moved from Partly to Yes</b></p> <p>An assessment of the current Committee's knowledge and skills was carried out during in January 2018 following changes to the membership of the Committee.</p> <p>This will be used to develop a programme of support, which will include regular briefings, updates and formal training sessions.</p>
16	Does the committee have good working relations with key people and organisations, including external audit, internal audit and the chief financial officer?	✓			<p>External Audit attend all Committee meetings.</p> <p>Internal Audit, Section 151 Officer, Deputy Section 151 Officer, and the Monitoring Officer attend all Committee meetings.</p> <p>In line with the Action from a previous self-assessment, the Chair and Vice Chair have the opportunity to meet with External Audit</p>

Good practice questions		Yes	Partly	No	Comments/Actions for Improvement
					separately should they wish to do so.  The Committee will need to develop their relationship with the next provider of External Audit over the course of the transition between 2018/19 and 2019/20.
17	Is adequate secretariat and administrative support to the committee provided?	✓			Democratic Services and Internal Audit provide secretariat and administrative support to the Committee.
<b>Effectiveness of the committee</b>					
18	Has the committee obtained feedback on its performance from those interacting with the committee or relying on its work?	✓			<b>Moved from Partly to Yes</b> The Annual Report of the Committee is presented to full Council, which gives the opportunity for feedback on performance, questions were taken from full Council. Any member is able to attend the Committee and raise questions of the Committee.
19	Has the committee evaluated whether and how it is adding value to the organisation?		✓		The Annual Report of the Committee is presented to full Council and addresses the key areas where the Committee should be held to account. This includes what impact the Committee has had on the improvement of governance, risk and control within the Council.  This self-assessment also evaluates where the Council is adding value – see points 6 and 18.  <b>IMPROVEMENT ACTION:</b> <i>The Audit and Governance Committee should schedule a session</i>

Good practice questions		Yes	Partly	No	Comments/Actions for Improvement
					<i>to consider how it can evaluate and demonstrate the value it adds to the Council. Feedback from this will inform the self-assessment as necessary.</i>
20	Does the committee have an action plan to improve any areas of weakness?		✓		<p>Each self-assessment of the Audit and Governance Committee has been supported by an action plan identifying areas for improvement.</p> <p>Any actions are regularly reviewed at meetings.</p> <p><b>IMPROVEMENT ACTION:</b>  <i>The self-assessment action plan will become a standing agenda item in meetings between the Chair, Vice Chair and the Section 151 Officer to ensure progress is made against the plan. Progress against the Action Plan will be reported to the Audit and Governance Committee.</i></p>

Section 2 – Areas where the Audit and Governance Committee can add value by supporting improvements					
Assessment key					
5	Clear evidence is available from a number of sources that the committee is actively supporting improvements across all aspects of this area. The improvements made are clearly identifiable.				
4	Clear evidence from some sources that the committee is actively and effectively supporting improvement across some aspects of this area.				
3	The committee has had mixed experience in supporting improvement in this area. There is some evidence that demonstrates their impact but there are also significant gaps.				
2	There is some evidence that the committee has supported improvements, but the impact of this support is limited.				
1	No evidence can be found that the audit committee has supported improvements in this area.				
Ref	Areas where the audit committee can add value by supporting improvement	Examples of how the audit committee can add value and provide evidence of effectiveness	Self-evaluation, examples, areas of strength and weakness	Overall assessment: 5 – 1 See key above	Comments/Actions for Improvement
A	Promoting the principles of good governance and their application to decision making.	<ul style="list-style-type: none"> <li>Providing robust review of the AGS and the assurances underpinning it.</li> <li>Working with key members/governors to improve their understanding of the AGS and their contribution to it.</li> <li>Supporting</li> </ul>	<ul style="list-style-type: none"> <li>The AGS and supporting evidence is provided to the Committee and a training session held for Members in June 2017. Draft AGS is brought to the Committee in June ahead of the final version in September.</li> <li>Pro-active in requesting reports e.g. Readiness for General Data Protection Regulations</li> </ul>	4	<b>ACTION:</b> <i>Consider how the Committee can work with other Members to improve their understanding of the Code of Corporate Governance and the Annual Governance Statement and their contribution to it. This could include raising awareness through Cabinet and Scrutiny, for example.</i>

Ref	Areas where the audit committee can add value by supporting improvement	Examples of how the audit committee can add value and provide evidence of effectiveness	Self-evaluation, examples, areas of strength and weakness	Overall assessment: 5 – 1 See key above	Comments/Actions for Improvement
		<p>reviews/audits of governance arrangements.</p> <ul style="list-style-type: none"> <li>Participating in self-assessments of governance arrangements.</li> <li>Working with partner audit committees to review governance arrangements in partnerships.</li> </ul>	<ul style="list-style-type: none"> <li>Governance arrangements with respect to partnerships are considered as part of the AGS review and approval process.</li> </ul>		
B	Contributing to the development of an effective control environment.	<ul style="list-style-type: none"> <li>Monitoring the implementation of recommendations from auditors.</li> <li>Encouraging ownership of the internal control framework by appropriate managers.</li> <li>Raising significant concerns over controls</li> </ul>	<ul style="list-style-type: none"> <li>Audit and Governance Committee receives regular reports on the quantity and reasons for “Waivers and Non Adherences (WARNS) to monitor compliance with Procurement rules.</li> <li>The Committee continues to monitor the implementation of actions raised by the External</li> </ul>	5	

Ref	Areas where the audit committee can add value by supporting improvement	Examples of how the audit committee can add value and provide evidence of effectiveness	Self-evaluation, examples, areas of strength and weakness	Overall assessment: 5 – 1 See key above	Comments/Actions for Improvement
		with appropriate senior managers.	<p>Auditors and the AGS Action Plan.</p> <ul style="list-style-type: none"> <li>Internal Audit Interim and Annual reports include information relating to implementation of audit actions and provide details of all limited or no assurance reports issued.</li> <li>Audit and Governance Committee can request Senior Managers to attend meetings where there have been concerns raised over the implementation of agreed recommendations, although this has not been required in practice as yet.</li> </ul>		
C	Supporting the establishment of arrangements for the governance of risk	<ul style="list-style-type: none"> <li>Reviewing risk management arrangements and their effectiveness, e.g. risk</li> </ul>	<ul style="list-style-type: none"> <li>Regular risk management reports received at Committee, reviewing strategic (Corporate) risks. Also: regular reports on</li> </ul>	4	The Chair and Vice Chair will continue to invite Corporate Risk owners to the Committee to present on the management of

Ref	Areas where the audit committee can add value by supporting improvement	Examples of how the audit committee can add value and provide evidence of effectiveness	Self-evaluation, examples, areas of strength and weakness	Overall assessment: 5 – 1 See key above	Comments/Actions for Improvement
	and for effective arrangements to manage risks.	management benchmarking. <ul style="list-style-type: none"> <li>Monitoring improvements.</li> <li>Holding risk owners to account for major/strategic risks.</li> </ul>	specific strategic (Corporate) risks and mitigating controls from risk owners. <ul style="list-style-type: none"> <li>Monitoring the risk maturity assessment and associated action plans and development work.</li> </ul>		this level of risk.
D	Advising on the adequacy of the assurance framework and considering whether assurance is deployed efficiently and effectively.	<ul style="list-style-type: none"> <li>Specifying its assurance needs, identifying gaps or overlaps in assurance.</li> <li>Seeking to streamline assurance gathering and reporting.</li> <li>Reviewing the effectiveness of assurance providers, e.g. internal audit, risk management, external audit.</li> </ul>	<ul style="list-style-type: none"> <li>The Committee is proactive in requesting work and reports to ensure it receives assurances from across the Council.</li> <li>It receives the assurance framework for the AGS on an annual basis.</li> <li>The Work Plan presented to Committee demonstrates how the assurance reports enable the Committee to meet its terms of reference.</li> <li>The results of the review of the effectiveness of internal audit</li> </ul>	5	No further action.

Ref	Areas where the audit committee can add value by supporting improvement	Examples of how the audit committee can add value and provide evidence of effectiveness	Self-evaluation, examples, areas of strength and weakness	Overall assessment: 5 – 1 See key above	Comments/Actions for Improvement
			are reported to this Committee for consideration as part of the AGS process.		
E	Supporting the quality of the internal audit activity, particularly by underpinning its organisational independence.	<ul style="list-style-type: none"> <li>Reviewing the audit charter and functional reporting arrangements.</li> <li>Assessing the effectiveness of internal audit arrangements and supporting improvements.</li> </ul>	<ul style="list-style-type: none"> <li>The Committee reviewed the audit charter and functional reporting arrangements in December 2017</li> <li>Internal Audit produces interim reports and an annual report, featuring their performance indicators.</li> </ul>	4	The Committee require assurance around the level of resource and structure in Internal Audit.
F	Aiding the achievement of the authority's goals and objectives through helping to ensure appropriate governance, risk, control and assurance arrangements.	<ul style="list-style-type: none"> <li>Reviewing major projects and programmes to ensure that governance and assurance arrangements are in place.</li> <li>Reviewing the effectiveness of</li> </ul>	<ul style="list-style-type: none"> <li>Responsibility for undertaking high level project/programme monitoring rests with the Executive Monitoring Board (EMB).</li> <li>The Committee receives update reports on the work of Internal Audit including key findings, issues of concern, and action in</li> </ul>	4	<b>ACTION:</b> A further presentation on Performance Management and Project Management arrangements will be included in the Committee Work Plan.

Ref	Areas where the audit committee can add value by supporting improvement	Examples of how the audit committee can add value and provide evidence of effectiveness	Self-evaluation, examples, areas of strength and weakness	Overall assessment: 5 – 1 See key above	Comments/Actions for Improvement
		performance management arrangements.	response to the findings and recommendations. The reports include relevant information regarding Internal Audit reviews of projects and programmes.		
G	Supporting the development of robust arrangements for ensuring value for money.	<ul style="list-style-type: none"> <li>Ensuring that assurance on value for money arrangements is included in the assurances received by the audit committee.</li> <li>Considering how performance in value for money is evaluated as part of the AGS.</li> </ul>	<ul style="list-style-type: none"> <li>The Committee's Terms of Reference include explicit reference to its role in reviewing and scrutinising value for money arrangements.</li> <li>Annually the Committee considers the external audit conclusion on value for money. In December 2017 Grant Thornton confirmed that the Council had proper arrangements to ensure economy, efficiency and effectiveness in its use of resources except for weaknesses in arrangements for</li> </ul>	4	

Ref	Areas where the audit committee can add value by supporting improvement	Examples of how the audit committee can add value and provide evidence of effectiveness	Self-evaluation, examples, areas of strength and weakness	Overall assessment: 5 – 1 See key above	Comments/Actions for Improvement
			<p>acting in the public interest which had been identified during the year by the Council's Internal Audit Service; as a result they had qualified their value for money conclusion. However, due to ongoing investigations and a formal objection to the accounts, the certificate was not issued<sup>1</sup>.</p> <ul style="list-style-type: none"> <li>▪ Audit and Governance Committee receives regular reports on the quantity and reasons for "Waivers and Non Adherences (WARNS) to monitor compliance with Procurement rules.</li> </ul>		
H	Helping the authority to implement the	<ul style="list-style-type: none"> <li>▪ Reviewing arrangements against</li> </ul>	<ul style="list-style-type: none"> <li>▪ The Committee receives the Informing the Risk Assessment</li> </ul>	4	The proposed structure for internal audit will include

<sup>1</sup> Grant Thornton UK LLP, Annual Audit Letter 2016-17.

Ref	Areas where the audit committee can add value by supporting improvement	Examples of how the audit committee can add value and provide evidence of effectiveness	Self-evaluation, examples, areas of strength and weakness	Overall assessment: 5 – 1 See key above	Comments/Actions for Improvement
	values of good governance, including effective arrangements for countering fraud and corruption risks.	<p>the standards set out in CIPFA's <i>Managing the Risk of Fraud</i> (Red Book 2).</p> <ul style="list-style-type: none"> <li>▪ Reviewing fraud risks and the effectiveness of the organisation's strategy to address those risks.</li> <li>▪ Assessing the effectiveness of ethical governance arrangements for both staff and governors.</li> </ul>	<p>for Cheshire East report that includes assurance with regard to management processes in place to prevent and detect fraud and to ensure compliance with law and regulation.</p> <ul style="list-style-type: none"> <li>▪ There is an annual report to the Committee on the effectiveness of the Whistleblowing Policy.</li> <li>▪ Regular updates on anti- fraud arrangements.</li> </ul>		increased counter fraud resource.
I	Promoting effective public reporting to the authority's stakeholders and local community and measures to improve transparency and	<ul style="list-style-type: none"> <li>▪ Improving how the authority discharges its responsibilities for public reporting; for example, better targeting at the audience, plain English.</li> </ul>	<ul style="list-style-type: none"> <li>▪ The Committee reviews and approves a number of public facing documents e.g. Financial Statements, AGS, Annual Report, and the Internal Audit Charter. As part of producing these documents, they are</li> </ul>	5	No further actions proposed.

Ref	Areas where the audit committee can add value by supporting improvement	Examples of how the audit committee can add value and provide evidence of effectiveness	Self-evaluation, examples, areas of strength and weakness	Overall assessment: 5 – 1 See key above	Comments/Actions for Improvement
	accountability.	<ul style="list-style-type: none"> <li>Reviewing whether decision making through partnership organisations remains transparent and publicly accessible and encouraging greater transparency.</li> </ul>	<ul style="list-style-type: none"> <li>regularly reviewed against best practice and any required improvements are made to improve transparency and accountability.</li> <li>The Committee receives regular reports on the Council's performance in relation to its obligations under the Data Protection Act (1998), the Freedom of Information (2000) including the Environmental Information Regulations</li> <li>The Committee received a presentation in March 2018 on the upcoming GDPR and the Council's preparedness for the implementation of the new regulations.</li> </ul>		

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## **Audit & Governance Committee**

**Date of Meeting:** 31 May 2018

**Report Title:** Annual Risk Management Report

**Portfolio Holder:** Cllr Paul Findlow, Corporate Policy & Legal Services Portfolio Holder

**Author:** Joanne Butler, Business Governance & Risk Manager

**Senior Officer:** Daniel Dickinson, Acting Director of Legal Services & Monitoring Officer

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### **1.0 Introduction and Policy Context**

- 1.1 This is the annual report on Risk Management 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. This report records the work for the year in reviewing the development, maintenance and implementation of the Council's risk management framework, including monitoring and reporting arrangements. The report covers the financial year from 1 April 2017 to 31 March 2018 and includes any significant issues up to the date of the preparation of the report.

### **2.0 Background**

- 2.1 Risk management is central to good governance and effective strategic management. 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. Risk Management provides a structured, consistent and continuous process across the whole of Cheshire East Council for identifying, assessing, deciding on responses to, and reporting on opportunities and threats that affect the achievement of the Council's Corporate Plan objectives and outcomes.

### **3.0 Briefing Information**

- 3.1 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. This in turn gives confidence to both members and staff to support a higher appetite for risk, at a time when major change is necessary and desirable.

#### 4.0 Recommendation

- 4.1 The Audit and Governance Committee is requested to **consider and review** the annual report on risk management which is for information and discussion.
- 4.2 Part of the work on risk management this year includes a review of the Risk Management Policy Statement, Strategy and Framework. Although the risk strategy and framework remained fit for a purpose a number of amendments have been made to strengthen the Risk Management Policy Statement, with an inclusion of a Risk Appetite Statement. The Audit and Governance Committee is requested to **approve** the updated Risk Management Policy and Appetite Statement (*as attached at Annex A*), for **onward ratification** by Cabinet.
- 4.3 One of the specialist areas of risk management is business continuity; part of the work on business continuity this year has included drafting a Business Continuity Policy Statement and Strategy. The Audit and Governance Committee is requested to **approve** the Business Continuity Policy Statement and Strategy (*as attached at Annex B*), for **onward ratification** by Cabinet.

#### 5.0 Risk Report

- 5.1 Cheshire East Council is required to ensure that it maintains a sound system of internal control. As part of the work on risk management, the following key principles of effective risk management have been applied.

Effective risk management:

- covers all risks - governance, management, quality, reputation and financial, however it is focused on the most important key risks
- produces a balanced portfolio of risk exposure
- is based on a clearly articulated policy and approach
- requires regular monitoring and review, giving rise to action where appropriate
- needs to be managed by an identified individual and involve the demonstrable commitment of senior officers and members
- is integrated into normal business processes and aligned to the strategic corporate objectives of the Council

- 5.2 During the year, the Risk Management Policy Statement, Strategy and Framework were reviewed. The outcome of the review was that although the risk strategy and framework remained fit for a purpose a number of amendments have been made to strengthen the Risk Management Policy Statement, with an inclusion of a Risk Appetite Statement (*as attached at Annex A to this report*). The amendments were as follows:-

- the policy has a foreword from Cllr Paul Findlow as Portfolio Holder for risk management outlining the attitude of the Council to risk management
- there are 2 main overarching risk management and internal control objectives
- an overarching risk appetite statement for the Council

- a section on how risk capacity is determined has been included within the risk appetite section
- a section specifically about risk tolerance and thresholds in relation to value has also been included, this section is to encourage costing of risks and contingency for major areas of activity

5.3 Key Corporate Risks – Threats and Opportunities

At the majority of meetings during the year, the Audit and Governance Committee received a risk management update from the Acting Director of Legal Services and the Business Governance and Risk Manager, including an overview of the key corporate risks, corresponding risk ratings and the direction of travel of risks.

5.4 During the year, the Corporate Leadership Team considered and discussed the Council's key corporate risks to ensure that risks were assessed consistently across the Council and to monitor the implementation of actions to mitigate the risks to acceptable levels. A number of risks were added to and removed from the key corporate risk register during the year.

5.5 The Audit and Governance Committee also received a short risk briefing during the year from the Risk Manager for the following risk:-

- Opportunity Risk - EU Exit, Single Market and Local Growth

5.6 Operational and Decision Making Risks

During the year operational risks have been managed and monitored via risk registers within Team Plans and Directorates. Monthly highlight reports, identifying key risks and risk management actions have been prepared for programmes and projects and monitored via programme and project board meetings. Individual risk assessment sections have been included on business cases and included in decision reports to Cabinet prior to each decision.

5.7 Specialist Risk Areas – Insurance

During the year the Corporate Insurance Team requested review support from the Council's insurers on Motor Fleet Management, Managing Building Risk and Tree Risk Management. The aim of the reports, whilst providing a useful communication tool between the insurance team and the services themselves, was to provide a focus for service managers to address any improvements that may be evident in their processes and procedures. The improvements in risk assessment and awareness should contribute to a reduction in the volume of successful claims made against the authority, thereby improving the financial position of the Council.

5.8 Specialist Risk Areas – Business Continuity

The Council recognises the importance of having effective business continuity management arrangements to ensure the effective identification, evaluation

and management of business critical services. In order to achieve this, a Business Continuity Policy Statement and Strategy has been drafted (as *attached at Annex B*) and the Audit and Governance Committee is requested to consider and approve this for onward ratification by Cabinet.

- 5.9 During the year the Business Governance and Risk Manager led an initial session with colleagues from ICT and Cheshire West and Chester Council to begin work on compiling a playbook and Cyber Threat Response Plan. This work is ongoing with exercises planned to test resilience and improve existing business continuity plans. The next phase of business continuity work is exploring the potential for embedding business continuity planning into the business planning cycle, as well as the development of a Corporate Cheshire East Business Continuity Plan. The purpose of this plan will be to identify measures that would be taken in the event of a major cross service business interruption e.g. loss of a corporate building or loss of information technology services. A Senior Crisis Management Team will be established to determine priorities should the authority be unable to deliver all of its critical functions at once.
- 5.10 The Council has a Major Emergency Response Plan which includes contract-provided services fundamental to any corporate emergency response. In a major emergency, services could be deprived of certain staff that will be required in the Council's Major Emergency Control Centre or in an external liaison or functional capacity. An emergency response may be prolonged and will certainly place heavy demands on all staff involved. The Council will therefore need to maintain "service delivery as normal" as far as possible. In recognition of this, Terms of Reference for a Joint Business Continuity and Emergency Planning Liaison Group have been drafted, and membership of the Group is being established. The purpose of this group is to ensure there is an overarching view of the two sets of arrangements and to provide guidance and support in the development and maintenance of the Council's resilience.
- 5.11 During the year the Business Governance and Risk Manager also provided Business Continuity Training for a number of local businesses.
- 5.12 Specialist Risk Areas – Health & Safety  
Regular reports on Health & Safety matters are reported through the Council's Staffing Committee. The Health & Safety Team have delivered a number of training courses to Council staff over the last year including Leading and Managing Safely courses, these courses all help to improve risk assessment and awareness.

## 6.0 Implications

**6.1 Policy Implications**

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. This report includes an updated Risk Management Policy and Appetite Statement, and a Business Continuity Policy Statement and Strategy, both of which are for consideration by Audit and Governance Committee on route for approval by Cabinet.

**6.2 Financial Implications**

There are no direct financial implications in relation to this report. However, a risk around financial resilience is included as a corporate risk and general reserves are focused on the Council's potential exposure to risk. In addition, where a particular area has been identified as specific risk or investment opportunity, then an amount will be earmarked for that specific purpose as part of the Council's Financial Strategy process. The Council and its public sector partners are confronted with growing demand in particular in health and social care needs, this is in combination with severe resource constraints. There is considerable interest in the potential of innovation in service delivery and partnership working to help address such challenges and this may require an increased risk appetite which in turn may lead to increased financial risk.

**6.3 Legal Implications**

This report is aimed at addressing the requirement that the Council achieves its strategic aims and operates its business, under general principles of good governance and that it identifies risks which threaten its ability to be legally compliant and operate within the confines of the legislative framework.

**6.4 Human Resource Implications**

Human resource implications in relation to this report include:-

- the need for training on risk management and business continuity to improve skills and knowledge for staff to fulfil their responsibilities
- the need for managers to lead through a combination of positive attitude and behaviours towards risk management and business continuity

It is recognised that a corporate risk around employee engagement and retention is included on the corporate risk register, as is a risk around capacity and demand.

**6.5 Risk Management Implications**

This report relates to overall risk management; the Audit and Governance Committee should be made aware of the most significant risks facing the Council and be assured that the risk management framework is operating effectively. The content of this report seeks to achieve the following risk objectives:-

Key Risk Objectives
That Cheshire East Council properly develops, implements and demonstrates an effective risk management framework
That Cheshire East Council applies its risk management policy consistently across the Council
That Cheshire East Council recognises risks and makes correct decisions to tolerate, treat, transfer or terminate threats or to exploit, share, enhance or ignore opportunities



# **RISK MANAGEMENT**

## **POLICY AND APPETITE STATEMENT**

### **2018-2020**



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## **1.0 Foreword and Attitude to Risk Management by Cllr Paul Findlow, Corporate Policy and Legal Services Portfolio Holder**

- 1.1 This risk management policy and appetite statement forms part of Cheshire East Council's internal control and corporate governance arrangements. This policy, and the adoption of the overall risk process, including allocating appropriate resources to risk management, is owned by the Acting Director of Legal Services with delegated authority from the Chief Executive. The purpose of this policy is to clearly outline the council's commitment to risk management, describe the objectives of risk management and provide a framework for embedding risk management across the organisation, with defined roles and responsibilities and a structured process. Effective risk management is not about eliminating or avoiding risk, indeed with active risk management we may decide to take more risks on an informed basis to innovate as effectively and cost efficiently as possible as we continue to transform and achieve our ambition. Through the implementation and embedding of an effective risk management framework, and ensuring an appropriate risk appetite for Cheshire East Council, we will ensure that it is better placed to manage its performance, achieve its corporate objectives and provide an enhanced level of service and outcomes to the community.



### **Cheshire East Council**

### **Risk Management Policy and Appetite Statement**

## **2.0 Managing risk is part of good governance and good business management**

- 2.1 As the Council looks towards 2020, even over this relatively short period of time, there will be a host of factors which influence the nature of the Council's relationships with its residents, businesses, communities, neighbouring authorities, and other key partners. These factors challenge the Council to continually review its systems and approaches, and to experiment with new ideas allowing mixed and flexible use of its resources. In this constantly evolving environment, with a need to continually adapt internal organisation to meet legal requirements, economic challenges, urban changes, demographic and social changes, managers and decision makers will face risk.
- 2.2 Consideration and response to existing and new threats, and the ability to recognise and seize new opportunities, is fundamental to achieving the Council's desired corporate objectives and outcomes in the Corporate Plan 2017-2020. Underlying this is a commitment from the Council to transparency and good governance. Decisions of the Council are evidence based and subject to appropriate challenge, this encompasses having high standards of governance. Effective risk management is a key principle of corporate governance and a key contributor to a sound control environment.
- 2.3 A risk is an expression of uncertainty and can be a threat or an opportunity. A threat is a possible future event or action which will adversely affect the Council's ability to achieve its

stated objectives and to successfully deliver approved strategies. An opportunity is an event or action that will enhance the Council's ability to achieve its objectives and deliver approved strategies. Risk is part of everything we do. Managing risk improves the way we deliver our business. It is acknowledged that some risks will always exist and will never be eliminated but through risk identification we anticipate eventualities and it helps us to respond to changes in need.

2.4 There are two principal objectives detailed below which outline the Council's approach to risk management and internal control:

**2.4.1 Objective 1: Risk Governance and Culture:** Embed risk management into the ethos, culture, policies and practices of the council so that risk management is an integral part of the council's decision making, management and governance practices.

2.4.2 Risk management plays a key role in helping us achieve our corporate objectives and outcomes. It helps ensure decision-making is better informed; precious resources are used efficiently and it helps us to avoid unwelcome surprises. Good risk management should be an integral part of everyday business, including performance management, business planning and assurance activity.

**2.4.3 Objective 2: Risk Management Arrangements:** Ensure the council successfully manages risks and opportunities at all levels – strategic, operational, programme, project and partnership so that it increases the probability of achieving its objectives and outcomes.

2.4.4 Accountability for business delivery brings with it responsibility for identifying, assessing, owning, managing and communicating key risks to that delivery. This requires the collaborative effort of our Members, all our staff and our key partners.

2.5 This Statement sets out Cabinet and the Corporate Leadership Team's commitment to managing risks effectively across the Council, and the standard of risk management we expect across the Council. It seeks to demonstrate the explicit commitment to effective risk management from the top of our organisation and is inclusive to the rest of the organisation. The Policy Statement aims to sets the right tone for the organisation and to increase the likelihood that the management of risk will be given appropriate consideration.

### **3.0 Cabinet and the Corporate Leadership Team will ensure we have an environment that will allow well managed risk taking to excel**

3.1 We will:

- Lead by example with a combination of positive attitudes, behaviours and activities to create an environment where consideration of risk is part of everything we do
- encourage innovation and considered risk-taking, and in doing so improve delivery of services and secure better value for money for our residents

- promote open, honest and collaborative discussions about our risks and encourage a culture where our staff feel comfortable in escalating risks and concerns
- communicate clear messages, ensuring everyone understand the role they have to play in identifying and managing the key risks and opportunities we face in the successful delivery of our business objectives
- create a no-blame risk environment to support the effective management of risk
- engender a continuous improvement mind-set towards the way we manage risk, learning lessons along the way.

#### **4.0 Cabinet and the Corporate Leadership Team will ensure that staff have the skills and knowledge they need to fulfil their risk management responsibilities**

##### **4.1 We will support risk management by:**

- ensuring all managers have a good understanding and awareness of risk management to enable them to fulfil their duties
- equipping our staff with the tools, skills and time they need to fulfil their risk management responsibilities for example through the provision of training, guidance, templates, and by allowing time on meeting agendas for risk discussion
- encouraging and supporting staff in the identification and discussion of risk in their everyday business; and pro-actively dealing with risks that come to their attention
- ensuring that key risks are visible; are owned at the right level of the organisation; and are actively addressed

#### **5.0 Cabinet and the Corporate Leadership Team are committed to the consistent application and embedding of the agreed risk management behaviours and approach across the Council.**

##### **5.1 We will:**

- lead by example in taking ownership and being accountable for Corporate and Directorate level risks, ensuring that effective and proportionate action is taken to mitigate those risks
- implement a standard approach to risk management throughout Cheshire East Council
- integrate the management of risk into our business processes including finance, planning, performance management, key decision-making processes, project and programme management and major change initiatives.

## 6.0 Cheshire East Council Risk Appetite Statement

- 6.1 Understanding and setting a clear risk appetite level is essential to achieving an effective risk management framework and should be done before managers consider how to treat risks. Establishing and articulating the risk appetite level helps to ensure that consideration in the way management, Cabinet and Council respond to risk is consistent and that there is a shared vision for managing risk. There are risks for which the Council is custodian on behalf of the public and the environment, where risk appetite may be very low, and there may be risks with choices about investment in projects, research and delivery roles, where risk taking may be encouraged.
- 6.2 This risk appetite statement sets out how Cheshire East Council balances threats and opportunities in pursuit of achieving its objectives. The statement forms a key element of the Council's assurance and governance framework and is set by Cabinet. Breaches of risk appetite, or tensions arising from its implementation will be dealt with by the Cabinet and may reflect a need to review the risk appetite statement. In determining the statement, it is recognised that risk appetite is subject to change and needs to flex in line with the organisation's strategic environment and business conditions; and as such the statement will be reviewed on a regular basis.
- 6.3 The Council distinguishes between those risks which are operational in nature and as such are within our control (such as Employee Engagement and Retention) and those external risk factors (such as exiting the European Union) which are not directly within our control but which nevertheless must be identified and considered to address those risks we can influence or contingency plans we need to make.

### 6.4 Overarching Risk Appetite Statement

- 6.4.1 Cheshire East Council recognises that in pursuit of its objectives and outcomes it may choose to accept an increased degree of risk. The council will establish and articulate risk appetite for the differing areas of its business. Where the council chooses to accept an increased level of risk it will do so, subject always to ensuring that the potential benefits and threats are fully understood before developments are authorised, that it has sufficient risk capacity and that sensible measures to mitigate risk are established.
- 6.4.2 The Council is **not averse** to taking risks; our approach is based on judgement and the circumstances of each potential action, and an assessment of its impact. This means we will not seek to intervene in all risk situations, rather we prioritise in terms of the risk, cost and perceived benefits in a consistent and transparent way, choosing the most appropriate course of action from our risk management tools. In determining the risk appetite for an activity we take account of anticipated outcomes and benefits, internal and external drivers for the activity, risk exposure, and the Council's risk capability and capacity to manage risk. This includes key questions around financial and reputation capability; sufficiency of infrastructure, knowledge, people and skills; and political and stakeholders views.
- 6.4.3 Statutory / External Regulatory: The public sector is undergoing reform, involving new legal frameworks, the creation of new delivery models, and new entities for the Council to engage with. We are regulated and we are also regulators. We are **averse** to risks to our

statutory obligations and to our objectives relating to those we regulate that must meet standards required by law. We have an **open** appetite for taking well managed risks where innovative and change creates opportunities for discernible benefits and clear improvement in our ability to achieve our objectives.

- 6.4.4 Operational: In acknowledgement of the maturity of our multiple service areas, we maintain a **cautious** risk appetite towards sustaining appropriate operational processes, systems and controls to support delivery but adopt a more **open** appetite for the development and enhancement of these systems. As the Council looks to set a Commercial Strategy and detailed commercial objectives these will be risk assessed and a risk appetite defined.
- 6.4.5 We are heavily reliant upon information and data to be able to operate as an effective Council and therefore have a **minimalist** appetite for risks to information and data objectives. The accidental or deliberate wrongful disclosure of sensitive or restricted information has the potential to erode trust, damage our reputation and ultimately prevent us from being able to function.
- 6.4.6 Countering Fraud and Corruption: We are **averse** to the risks of internal fraud and corruption and will maintain appropriately robust controls and sanctions to maximise prevention, detection and deterrence of this type of act or behaviour.
- 6.4.7 Legal: Where we are working with relatively untested legislation we are willing to adopt an **open** risk appetite to achieve our statutory objectives and to determine the extent of the Council's powers and our jurisdiction. We retain an **averse** risk appetite to behaving in an illegal, unreasonable or irrational way or any other way which would likely give rise to a successful judicial review.
- 6.4.8 Reputational: We rely on our reputation in order to secure the engagement of our key stakeholders, businesses, partners, communities and residents. The support of these parties is essential to achieving the Council's Corporate Plan and our objectives and we have a strong commitment to being seen as a responsible, efficient and effective organisation and retain an overall **cautious** risk appetite with regard to our reputation. We are however prepared to take a stance which may be opposed to some of our audience where we believe it is necessary for the achievement of one or all of our statutory objectives.

## 6.5 Risk Capacity

The Council's risk capacity is determined through understanding the following areas:-

- Reputation – can the council withstand pressures as they arise as a result of the activity
- Financial – is there sufficient financial contingency for the activity
- Political – what political tolerance is there for any adverse risk events materialising
- Infrastructure – is there sufficient infrastructure to manage risk
- People – is there sufficient trained and skilled individuals
- Knowledge - is sufficient knowledge available to the council

## 6.6 Risk Tolerance and Thresholds

6.6.1 Tolerance levels will be established for organisational activities at different levels across the Council and a risk contingency will be determined and defined for different business areas. Access to contingency has to be approved by the budget holder or the Interim Executive Director of Corporate Services. Where analysis indicates that the returns or outcomes will deviate by more than acceptable limits these will have to be referred as soon as the deviation is forecast. This includes forecasts that may enhance objectives as well as those that may erode objectives.

## 6.7 Definitions

Appetite	Description
<b>Hungry</b> / High Risk Appetite 5	Eager to be innovative and choose activities that focus on maximising opportunities to achieve objectives (with additional benefits and goals) and offering potentially very high reward, even if these activities carry a very high residual risk that may result in reputation damage, financial loss or exposure.
<b>Open</b> / Moderate Risk Appetite 4	Willing to undertake activities seeking to achieve a balance between a high likelihood of successful delivery and a high degree of reward and value for money. Activities themselves may potentially carry, or contribute to, a high degree of residual risk.
<b>Cautious</b> / Modest Risk Appetite 3	Willing to accept / tolerate a degree of risk in certain circumstances when selecting which activities to undertake to achieve key objectives, deliverables or initiatives, where we have identified scope to achieve significant reward and/or opportunity. Activities undertaken may carry a high degree of inherent risk that is deemed controllable to a large extent.
<b>Minimalist</b> / Low Risk Appetite 2	Preference to undertake activities considered to be very safe in the achievement of key deliverables or initiatives. Activities will only be taken where they have a low degree of inherent risk. The associated potential for reward / pursuit of opportunity is not a key driver in selecting activities.
<b>Averse</b> / Zero Risk Appetite 1	Avoidance of risk and uncertainty in achievement of key deliverables or initiatives is paramount. The Council is not willing to accept risks under any circumstances and activities undertaken will only be those considered to carry virtually no inherent risk.

## BUSINESS CONTINUITY POLICY STATEMENT

Cheshire East Council's Corporate Plan sets out the Councils' corporate objectives, priorities and outcomes. In this regard the Council recognises it has a duty of care to its stakeholders, residents, employees, members and partners. It is therefore essential that the Council protects and preserves its ability to provide services and achieve its long-term strategic goals.

The Civil Contingencies Act 2004 places a statutory requirement for Local Authorities to maintain plans for the continuation of services in the event of an emergency, so far as is reasonably practicable. Therefore, the Council is committed to ensuring it can deliver continuity and restore key services as efficiently as possible in the event of a disruption, such as fire, flood, staff absence, power and communication failure.

In order to achieve this, the Council recognises the importance of having effective business continuity management arrangements to ensure the effective identification, evaluation and management of business critical services.

This policy has the full support of the Council's Cabinet and Corporate Leadership Team. As such, they see effective business continuity management as part of our responsibility to deliver an effective service to the residents of Cheshire East.

## BUSINESS CONTINUITY STRATEGY

### **1.0 Introduction**

- 1.1 The Council's has adopted a Business Continuity policy statement, strategy and framework to ensure a focused and structure approach to business continuity arrangements. The policy statement sets out the rationale and mandate for business continuity and the strategy aims to set the priorities for business continuity.
- 1.2 The main purpose of Business Continuity Management is to ensure continuity of service delivery following an unexpected disruption to normal working. This document defines how the Council will plan for maintaining continuity of service delivery in the event of serious interruption or disruption. Further details are embodied in the Business Continuity Management Framework.
- 1.3 The policy statement, strategy and framework have the full support of Cabinet and the Corporate Leadership Team.

### **2.0 What do we mean by "Business Continuity"?**

#### **2.1 Business Continuity**

The capability to continue delivery of products or services at acceptable predefined levels following a disruptive incident.

## 2.2 Business Continuity Management

A holistic management process that identifies potential threats to an organisation and the impacts to business operations those threats, if realised, might cause, and which provides a framework for building organisational resilience with the capability of an effective response that safeguards the interests of its key stakeholders, reputation, brand and value-creating activities. (Source: ISO 22301:2012)

## 2.3 Business Continuity Plan

A plan that when activated provides for the orderly cost-effective continuity of an organisation's essential services, programs and operations if and when a disruption occurs. Plans may be for use at the operational level (Service Plans) or at a strategic level (The Corporate Business Continuity Plan).

## 2.4 Critical Activity

An activity, the continuity of which, an organisation needs to ensure, in order to meet its business objectives. Activities can be categorised into the following:

Priority:	Activity must be restored by:
1 – Critical	0 – 24 hours
2 - Serious	2 – 5 days
3 – Non Urgent	Can be suspended up to 14 days

## 2.5 Business Impact Analysis

The process of analysing activities, and the effect that a business disruption may have upon them. The Business Impact Analysis identifies consequences of an incident in terms of loss of operations or services, revenue loss, confidence/reputation, and the expected length of the interruption.

## 3.0 Principles of Business Continuity Management

### 3.1 Business Continuity Management should:

- Use a risk based approach to strike the right balance between increasing resilience and tying up resources
- Identify and prioritise the business critical activities with the aim of responding to an incident and ensuring all critical activities are up and running to an acceptable level within 24 hours
- Ensure arrangements can integrate with the Council's Major Emergency Response Plan for external incidents, but be capable of operating as a stand-alone process for those incidents that affect the Council
- Ensure business continuity plans are in place for all services and are regularly tested to give assurance as to their effectiveness and to incorporate lessons learned from their application
- Help to ensure the Council complies with its duties under the Civil Contingencies Act 2004 and with current best practice.

**4.0 What are the real benefits of Business Continuity Management?**

4.1 Effective Business Continuity Management will:

- Ensure the Council can maintain its business critical activities in the event of disruption
- Ensure the welfare, safety and security of staff, their environment and members of the public who use those services

**5.0 What do we want to achieve with Business Continuity?**

5.1 To embed the business continuity culture within the Council in order to:

- Comply with legislation
- Improve resilience against disruption to services and;
- Minimise costs in the event of a disruption
- Ensure effective business continuity arrangements are in place in the event of a disruption

**6.0 Business Continuity priorities over the next 12 months;**

6.1 In order to develop and embed effective business continuity management arrangements across the Council, the following actions are priorities for the next 12 months;

6.2 Development of a business continuity framework underpinning the policy statement and strategy that clarifies;

- how the Council's Senior Managers and elected members intend to manage business continuity – being explicit about what needs to be accomplished, how, by when, and who is responsible for what, recognising that embedding the business continuity culture and strong controls in the daily and regular business of the Council is an iterative process.
- the scope of the business continuity management activity in the Council – being explicit about how all services plan for continuity of business in the event of a disruption.
- how the Council will identify its critical activities and ensure business continuity plans are developed for these areas
- a consistent approach to the development of business continuity plans and ensuring the plans are shared with the appropriate people and can be easily accessed in the event of disruption.
- Identify 'business continuity champions', who will be responsible for co-ordinating and communicating the directorate's business continuity planning arrangements.

6.3 These will be achieved by:

- The Corporate Leadership Team (CLT) having primary responsibility for ensuring that the Council's business continuity management framework is fit for purpose and operates as intended.
- CLT providing leadership and direction to the employees in respect of business continuity management.

- Heads of service and service managers taking ownership, responsibility and accountability for business continuity in their own area of activity in accordance with the requirements of the framework.
- Establishing a centralised business continuity framework with the Business Governance and Risk Manager monitoring and facilitating the implementation of effective business continuity management
- Reporting the relevant BC information up and down the organisation
- Review the current business continuity planning template to ensure it is fit for purpose
- The introduction of a quality review and testing regime of business critical business continuity plans.
- The Business Governance and Risk Manager will objectively examine, evaluate and report on the adequacy of the Council's business continuity management arrangements
- Encouraging the Council's ASDV's, key external providers and partners to adopt robust business continuity management processes
- Ensuring appropriate guidance is readily available to staff on business continuity planning and devising a training programme to suit the needs of staff involved with business continuity.



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## **Audit & Governance Committee**

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**Date of Meeting:** 31 May 2018

**Report Title:** Draft Pre-Audit Statement of Accounts 2017/18

**Portfolio Holder:** Councillor Paul Bates

**Senior Officer:** Interim Executive Director of Corporate Services

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### **1. Report Summary**

- 1.1. This report confirms that the Council will publish, on its website, its pre-audit Statement of Accounts for year ended 31<sup>st</sup> March 2018, alongside its draft Annual Governance Statement, by the 31<sup>st</sup> May 2018 deadline.
- 1.2. Information on the 2017/18 pre-audit Statement of Accounts, for the Cheshire East Group of Companies and for the single entity of Cheshire East Borough Council will be presented to the committee. This step is taken to provide committee members with an early summary of the accounts, which will help them in advance of any formal responsibility to approve the accounts.
- 1.3. The Council produces an Outturn Report for the year that reflects the Council's financial and non-financial performance. The report which includes the narrative to the Statement of Accounts, alongside additional information, will be reported to Cabinet on 12<sup>th</sup> June 2018.

### **2. Recommendation/s**

- 2.1. Members' note the summarised position of the accounts for year ended 31<sup>st</sup> March 2018 based on the presentation provided at this meeting.
- 2.2. Members' note the important dates in relation to the approval process for the Statement of Accounts.

### **3. Reasons for Recommendation/s**

- 3.1. The Accounts and Audit Regulations 2015 require the Audit and Governance Committee to approve the Statement of Accounts after the external audit is completed and before the deadline of 31<sup>st</sup> July 2018.

- 3.2. To support this responsibility the Committee is provided with an overview of the key issues within the draft Statement of Accounts before the external audit work is completed. This allows committee members adequate time to scrutinise the statements ahead of the deadline for approval.
- 3.3. The deadline for reporting the Statement of Accounts has changed; from 2017/18 the deadline for producing the draft has been brought forward to 31<sup>st</sup> May and for the final audited version 31<sup>st</sup> July.

#### **4. Other Options Considered**

- 4.1. Not applicable.

#### **5. Background**

- 5.1. The Statement of Accounts for 2017/18 is prepared in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom ("the Code"), issued by the Chartered Institute of Public Finance and Accountancy (CIPFA).
- 5.2. The Group statements consolidate the accounts of: Cheshire East Council and six wholly owned subsidiaries (Ansa, Orbitas, TSS, EotN, Civicance, Skills & Growth Co); The accounts of a seventh wholly owned subsidiary (TPE), and one associate organisation (CWLEP), although part of the Group, are not consolidated on the grounds of materiality. This mirrors treatment of these organisations in 2016/17. The single entity statements for Cheshire East Borough Council will also be presented to the Committee for approval on 31<sup>st</sup> July 2018.
- 5.3. The objective of the Statement of Accounts is to provide information about the organisation's financial performance that is useful to a wide range of interested parties. Its purpose is to give readers and stakeholders clear information about the Group's consolidated finances and to answer questions such as: what did services cost; where the money came from; what are the significant events this year; and what is the Group's net worth?
- 5.4. Members are not required to approve the pre-audit statement of accounts for the Group or for the Council as a single entity. But the Interim Executive Director of Corporate Services (Section 151 Officer) is providing the committee with an early indication of the key messages from these accounts before she signs them for publication. The Pre-Audit Statement of Accounts will be published on the 31<sup>st</sup> May 2018 and the certified Statement of Accounts will be published by the 31<sup>st</sup> July 2018, meeting all the statutory deadlines and reporting requirements.

- 5.5. The accounts will be available for public inspection for 30 working days between the dates of 1<sup>st</sup> June to 12<sup>th</sup> July 2018.
- 5.6. The Council's external auditors are Grant Thornton. Their formal audit will be completed by the end of July.
- 5.7. The final audited Statement of Accounts will be presented to this Committee for approval in time for publication by the deadline of 31<sup>st</sup> July 2018.

## **6. Implications of the Recommendations**

### **6.1. Legal Implications**

- 6.1.1. The regulations arising out of the Local Audit & Accountability Act 2014 (Accounts and Audit Regulations 2015) prescribe statutory provisions regarding the overall format and approval procedures for authorities' financial statements. The detailed format of the Statement of Accounts is laid out annually by the Chartered Institute of Public Finance and Accountancy (CIPFA) in the form of the Code of Practice on Local Authority Accounting in the UK (the Code).
- 6.1.2. The pre-audit Statement of Accounts must be signed by the Council's Section 151 officer and published by the end of May following the financial year end. The pre-audit statements do not require committee approval, however it is deemed to be good practice to present the accounts to members before publication.
- 6.1.3. The audited statements are to be approved by this Committee and published by the 31<sup>st</sup> July 2018.

### **6.2. Finance Implications**

- 6.2.1. The Statement of Accounts summarises the financial activities of the Council for the preceding financial year and its position at the year end. It summarises the Council's income and expenditure, assets and liabilities, and its level of reserves and indebtedness. As the statements are subject to external audit and opinion they present a key measurement of the overall financial performance of the authority. The Statement of Accounts is an important part of the Council's financial governance and stewardship arrangements.

### **6.3. Policy Implications**

- 6.3.1. None.

### **6.4. Equality Implications**

6.4.1. None.

**6.5. Human Resources Implications**

6.5.1. None

**6.6. Risk Management Implications**

6.6.1. 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. Failure to do so could result in a qualification of the accounts which may lead to further audit costs in future as well as an adverse impact on the Council's reputation.

**6.7. Rural Communities Implications**

6.7.1. There are no direct implications for rural communities.

**6.8. Implications for Children & Young People**

6.8.1. There are no direct implications for children and young people.

**6.9. Public Health Implications**

6.9.1. There are no direct implications for public health.

**7. Ward Members Affected**

7.1. Not applicable.

**8. Consultation & Engagement**

8.1. In accordance with Regulation 15(2) (b) of the Accounts and Audit Regulations 2015 the accounts and other documents will be available for inspection from 1<sup>st</sup> June 2018 to 12<sup>th</sup> July 2018, between 10 am and 4 pm Monday to Friday.

8.2. Any person may inspect, and make copies of the accounts and all books, deeds, contracts, bills, vouchers, receipts and other related documents of the Council for the year ended 31<sup>st</sup> March 2018, as stipulated in Section 25 of the Local Audit and Accountability Act 2014.

**9. Access to Information**

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

**10. Contact Information**

10.1. Any questions relating to this report should be directed to the following officer:

Name: Alex Thompson

Job Title: Head of Finance and Performance (Deputy S.151. Officer)

Email: [alex.thompson@cheshireeast.gov.uk](mailto:alex.thompson@cheshireeast.gov.uk)

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## **Audit & Governance Committee**

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**Date of Meeting:** 31 May 2018

**Report Title:** Draft Annual Governance Statement (AGS) 2017/18

**Senior Officer:** Jan Willis, Interim Executive Director of Corporate Services

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### **1. Report Summary**

- 1.1. Each year, Cheshire East Council produces an Annual Governance Statement that explains how it makes decisions, manages its resources and promotes values and high standards of conduct and behaviour. The draft Statement, at Appendix A, reflects activity over the 2017/18 financial year, and by the final version, will include activity up to the date of the approval of the Council's Statement of Accounts.
- 1.2. The purpose of this report is for the Committee to consider the draft Annual Governance Statement 2017/18. The assurances considered in producing the Annual Governance Statement are key indicators and contributors to the Council's corporate objective of being a responsible, effective and efficient organisation.

### **2. Recommendations**

- 2.1. The Committee is asked to:
  - 2.1.1. Consider and comment upon the draft Annual Governance Statement 2017/18 (Appendix A); and
  - 2.1.2. Note that the final statement will be considered by this Committee by the end of July 2018, prior to its approval and publication on the Council's website.

### **3. Reasons for Recommendation/s**

- 3.1. In accordance with the Accounts and Audit Regulations 2015, the final Annual Governance Statement should be approved by Members of the Council meeting as a whole, or by a Committee by 31<sup>st</sup> July 2018. The

Audit and Governance Committee has delegated authority to approve the Annual Governance Statement.

- 3.2. In the interests of best practice and early engagement, this draft of the 2017/18 Annual Governance Statement is brought to the Committee for information and to receive comment from Members.
- 3.3. The final statement will be considered by this Committee by the end of July 2018, prior to its approval and publication on the Council's website.

#### **4. Other Options Considered**

- 4.1. Not applicable; this is a statutory requirement of the Accounts and Audit Regulations 2015.

#### **5. Background**

- 5.1. There is a strong correlation between effective governance and effective service delivery. Whilst the statement by its nature is only signed off once a year, the process of review is continuous, so as to give assurance on the effectiveness on the processes and/or to address identified weaknesses, supporting the continuous improvement of the Authority.
- 5.2. The Corporate Assurance Group is responsible for drafting the AGS and the draft has also been considered by the Corporate Leadership Team. The review of governance arrangements in place for 2017/18 has been informed by the work of Internal Audit, Senior Managers, comments made by the External Auditors and other review agencies/inspectionates. Further detail on the sources of assurance is provided in the draft Statement.
- 5.3. In order that Members may discharge their duties, the Committee received reports, information and training throughout the period under review, including but not limited to;
  - Progress updates on items included in previous Annual Governance Statements
  - Internal Audit Annual Report for 2017/18, which includes the Annual Audit Opinion.
  - Interim update reports from Internal Audit and Risk Management

A workshop for Members to examine the draft AGS and supporting documentation will be offered prior to the final AGS being considered by the Committee.

- 5.4. Once approved, the AGS will be signed by the Leader and the Chief Executive and the AGS will then be published on the Council's website, along with the Statement of Accounts by the 31<sup>st</sup> July deadline to be

available for the public, members, officers, partners and other stakeholders to view.

- 5.5. Updates on progress against issues raised in the 2017/18 Statement will be brought to the Committee during 2018/19.

## **6. Implications of the Recommendations**

### **6.1. Legal Implications**

6.1.1. The production of the Annual Governance Statement is required by Regulation 6(1) (b) of the Accounts and Audit Regulations 2015, which sets out the timescales by which they must be published.

6.1.2. The preparation and publication of the draft Annual Governance Statement has been carried out in accordance with the guidance produced by the Chartered Institute of Public Finance (CIPFA): “Delivering Good Governance in Local Government (2016)”. The Council’s Code of Corporate Governance has been reviewed and updated in light of the guidance, and was approved by Cabinet in January 2017. It is against the updated Code of Corporate Governance that the annual review has been carried out.

### **6.2. Finance Implications**

6.2.1. There are no specific financial implications. The production of the AGS aligns with the production of the Annual Accounts and will be published alongside the audited accounts.

### **6.3. Policy Implications**

6.3.1. There are no policy implications identified.

### **6.4. Equality Implications**

6.4.1. There are no equality implications identified.

### **6.5. Human Resources Implications**

6.5.1. There are no human resource implications identified.

### **6.6. Risk Management Implications**

6.6.1. The Authority is required to prepare and publish an Annual Governance Statement to meet the statutory requirement set out in Regulation 6 of the Accounts and Audit Regulations 2015. Failure to do so could result in non-compliance with the requirements of the Regulations.

6.6.2. The draft Annual Governance Statement identifies any significant governance risks and the action plan details the mitigation to those risks.

**6.7. Rural Communities Implications**

6.7.1. There are no direct implications for rural communities.

**6.8. Implications for Children & Young People**

6.8.1. There are no direct implications for children and young people.

**6.9. Public Health Implications**

6.9.1. There are no direct implications for public health.

**7. Ward Members Affected**

7.1. All Ward Members are affected as the Annual Governance Statement is a statutory requirement for the Council.

**8. Access to Information**

8.1. Progress on managing and monitoring the discrete actions identified to manage and resolve issues has previously included in the Annual Governance Statement is regularly reported upon to the Audit and Governance Committee. These updates are provided through previous Annual Governance Statements, and most recently in an update provided to the Committee in December 2017.

**9. Contact Information**

9.1. Any questions relating to this report should be directed to the following officer:

Name: Josie Griffiths

Job Title: Principal Auditor

Email: [josie.griffiths@cheshireeast.gov.uk](mailto:josie.griffiths@cheshireeast.gov.uk)

# Proposed DRAFT Annual Governance Statement 2017/18

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### 1. Executive Summary and Approval

- 1.1. Each year the Council produces an Annual Governance Statement that explains how it manages its corporate governance arrangements, makes decisions, manages its resources and promotes values and high standards of conduct and behaviour.
- 1.2. The Annual Governance Statement reports on:
- how the Council complies with its own governance arrangements;
  - how the Council monitors the effectiveness of the governance arrangements;
  - improvements or changes in governance arrangements proposed for the forthcoming year.
- 1.3. The Council's Section 151 Officer, has reviewed this statement together with the more detailed assessments that support its conclusions and endorses the Internal Auditor's opinion on the Council's control environment:

**The Council's framework of risk management, control and governance is assessed as adequate for 2017/18**

- 1.4. 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 that the arrangements continue to be regarded as fit for purpose in accordance with the governance framework.

- 1.5. Our assessment of the effectiveness of our governance arrangements for 2017/18 has identified governance issues as described in Section 8.
- 1.6. The Council has previously recognised a number of significant governance issues in previous Statements, some of which have continued or further developed over the course of 2017/18. Progress updates on these items are described in Section 7. In 2015/16 the Council recognised Health and Social Care Integration and Council Funding, as "continuing governance" issues, and these are reported on again within Section 7 of this Statement.
- 1.7. We propose over the coming year to take all appropriate action to address the matters outlined in this Statement and any other issues to further enhance our overall governance and stewardship arrangements. We are satisfied that our plans will address the improvement areas identified in our review of effectiveness. We will monitor their implementation and operation as part of our next annual review.

**THIS SECTION WILL BE SIGNED BY THE LEADER AND CHIEF EXECUTIVE AFTER THE FINAL AGS IS AGREED**

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### 2. Introduction

2.1. The Accounts and Audit Regulations 2015 require that

- The Council must conduct a review, at least once a year, of the effectiveness of its system of internal control
- Findings of this review should be considered by the Council
- The Council must approve an Annual Governance Statement; and
- The Annual Governance Statement must accompany the Statement of Accounts.

2.2. For Cheshire East Council, the Audit and Governance Committee has delegated authority to undertake these duties on behalf of the Council.

### 3. Scope of Responsibility

3.1. The 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. The Local Government Act 1999 also places a duty on all councils to secure continuous improvement and to demonstrate economy, efficiency and effectiveness.

3.2. In discharging this overall responsibility, the 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.

3.3. In [January 2017](#), Cabinet approved and adopted an [updated Code of Corporate Governance](#) that is consistent with the principles and requirements of the Chartered Institute of Public Finance and Accountancy (CIPFA) and Society of Local Authority Chief Executives (SOLACE) Framework [Delivering Good Governance in Local Government](#) (2016). These are outlined below and summarised in Figure 1.

- A. Behaving with integrity, demonstrating strong commitment to ethical values and respecting the rule of law
- B. Ensuring openness and comprehensive stakeholder engagement
- C. Defining outcomes in terms of sustainable economic, social and environmental benefits
- D. Determining the interventions necessary to optimise the achievement of the intended outcomes
- E. Developing the entity's capacity including the capacity of its leadership and the individuals within it

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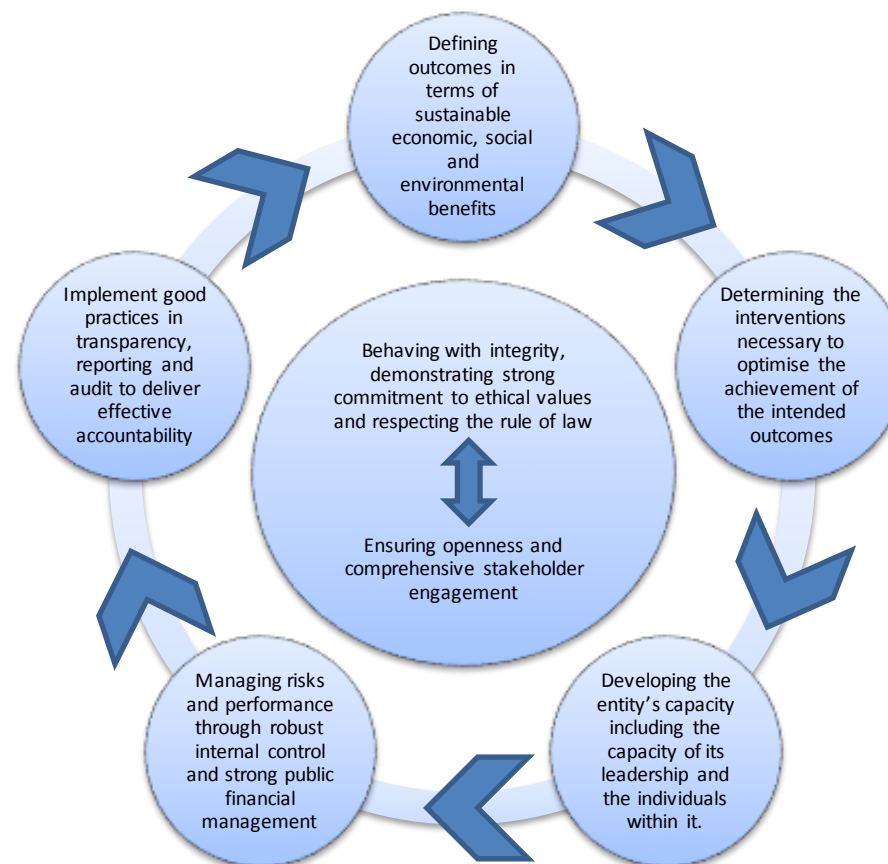
F. Managing risks and performance through robust internal control and strong public financial management

G. Implement good practices in transparency, reporting and audit to deliver effective accountability

3.4. The annual review of effectiveness has been carried out against the updated Code of Corporate Governance. The draft AGS will be considered by the 31<sup>st</sup> May 2018 Audit and Governance Committee. It will be updated as necessary in response to suggestions from Members and Senior Officers, to ensure the Statement remains current for when the Audit and Governance Committee consider it as Final on 31<sup>st</sup> July 2018.

3.5. Once approved by the Audit and Governance Committee it will be signed by the Leader and Chief Executive. It will then be published alongside the Statement of Accounts.

**Figure 1: Principles in the Council's Code of Corporate Governance**



3.6. The Annual Governance Statement provides assurance that:

- governance arrangements are adequate and operating effectively in practice; or
- where reviews of the governance arrangements have revealed improvements required, action is planned to ensure effective governance in future.

### 4. The Purpose of the Governance Framework

- 4.1. The Governance Framework comprises the systems, processes, cultures and values by which the Council is directed and controlled. It also includes the activities through which it is accountable to, engages with and leads the community. This covers services provided and managed directly by the Council, and arrangements delivered through external partners, including the Council's wholly owned companies.
- 4.2. The framework enables the Council to monitor the achievement of its strategic objectives and to consider whether those objectives have led to the delivery of appropriate, cost effective services.
- 4.3. 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 and can therefore only provide reasonable and not absolute

assurance of effectiveness. It is based on an ongoing process designed to:

- identify and prioritise the risks to the achievement of the 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.

### 5. The Governance Framework

- 5.1. The Council's Code of Corporate Governance includes examples of how the Council demonstrates the principles in practice and operation. Therefore, to minimise duplication, it is only supplementary examples and features of the Council's governance framework, specific to 2017/18 which are set out below.
- 5.2. The Governance Framework described below and also shown in **Appendix 1** has been in place for the year ended 31<sup>st</sup> March 2018 and to the time of the AGS being approved by Audit and Governance Committee in September 2017 unless otherwise indicated.

#### ***Defining outcomes in terms of sustainable economic, social and environmental benefits***

- 5.3. Cheshire East Council's priorities are outlined in the Council's Corporate Plan. The updated [Corporate Plan for](#)

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[2017/20](#) was agreed by full Council on 23<sup>rd</sup> February 2017. The updated Corporate Plan forms the basis for developing proposals within the Medium Term Financial Strategy (MTFS).

- 5.4. The Corporate Plan recognises that the Council is a commissioning organisation, but that it does not have a fixed ideology on how best to deliver services, and will instead adopt a “best fit” approach for the most appropriate delivery mechanism for our services to enable us to achieve our corporate outcomes.
- 5.5. The [MTFS 2018-21](#) was agreed at the February 2018 Council meeting. The report sets out the Council’s plan and required funding to ensure Cheshire East remains one of the best places to live in the North West.
- 5.6. Progress against the Corporate Plan is reported to [Cabinet](#) on a quarterly basis. The reports demonstrate performance of the Council aligned to the outcomes defined in the Corporate Plan, and how priorities are being managed to achieve the best results for local residents. Performance reports are also considered by the Overview and Scrutiny Committee who provide comments to Cabinet.
- 5.7. The 2017/18 Final Outturn of Performance will be reported to Cabinet and to the Corporate Overview and Scrutiny Committee in June 2018.

- 5.8. Delivery of the Corporate Plan is supported by service plans, team plans and individual performance development reviews. An updated business planning process was introduced to support planning for 2017/18, with a view to allowing greater alignment between delivery objectives, performance targets, risk management and the expectations around values and standards set by the organisation. The process continues to be reviewed, refined and developed.
- 5.9. [Council](#) approved the adoption of the Local Plan Strategy on 27<sup>th</sup> July 2017. The Local Plan sets planning policy and allocates sites for development. The adoption of the Local Plan represents greater certainty about growth and development within the plan area.
- 5.10. In [April 2017](#), Cabinet received a report on the Council’s plans to connect with the Voluntary, Charity and Faith (VCF) sector. The aim outlined in the report was to ensure the VCF sector had a voice, support the VCF sector to work with us to deliver services and activities to our most vulnerable communities and deprived neighbourhoods to prevent demand and intervene at an early stage and provide a clear understanding to the VCF sector on their relationship with the Council.
- 5.11. Following a competitive process, the Council awarded a contract for VCF infrastructure to Cheshire East Council

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for Voluntary Service (CVS), for a term of three years, beginning on 1<sup>st</sup> April 2017.

- 5.12. [“Connected to Decision Making”](#) was considered by Cabinet in November 2017. This report outlined opportunities for local people to influence policy and decision making, developing community working and the co-production of local services with residents.
- 5.13. The report set out a work plan for the Council to apply the principles of participatory budgeting in the mainstream commissioning cycle when appropriate, allowing communities to be better informed and part of the decision making process. The development of participatory budgeting will ensure residents and key stakeholders are better informed on the use of public money via the commissioning of services, and co-produce community based solutions.
- 5.14. During 2017/18 the Council has also approved a number of infrastructure improvements and developments across the Cheshire East area. Town centre regeneration schemes for Macclesfield, Crewe, and Congleton and have been considered and approved by Cabinet. These major regeneration schemes are critical elements in delivering the ambitious economic growth targets outlined in the emerging Constellation Growth Strategy for the sub-region.

- 5.15. Proposals, business cases, and progress reports on a variety of transport schemes were considered and endorsed during 2017/18. This includes the Middlewich Eastern Bypass, Sydney Road Replacement Bridge, Crewe Green Roundabout improvements, Poynton Relief Road, and the Supported Local Bus Service Review amongst others.
- 5.16. These schemes are all linked to the key outcomes in supporting economic, physical and social regeneration, improving the reliability of public transport and the delivery of key infrastructure developments to improve the efficiency and reliability of the highway network.
- 5.17. The sustained and increasing financial pressures on health and social care services continue to present governance challenges to the council. These are captured as high scoring risks in the Council’s Corporate Risk Register, and have been recognised by the Council in previous Annual Governance Statements, with the inclusion of “Health and Social Care Integration” as a continuing governance issue. An update on the actions undertaken during 2017/18 to manage this issue is provided later in this Statement.

### ***Determining the interventions necessary to optimise the achievement of the intended outcomes***

- 5.18. The Council's [Constitution](#) sets out comprehensively the rules conducting business undertaken by the Council, including executive arrangements, committee structures, finance and contract procedure rules and schemes of delegation.
- 5.19. During 2017, the Council's Constitution was subject to an extensive and systematic review. This process began at officer level, and as proposals developed, a sub committee of the Constitution Committee was convened, to consider changes to the Constitution and make recommendations to the Committee.
- 5.20. The review was undertaken to ensure that the Council's Constitution complied with all statutory requirements, and to examine how the current processes and procedures could be altered to improve organisational efficiency and achieve stronger governance. An external solicitor was appointed to support the review process. At its meeting in August 2017, the Constitution Committee endorsed seven principles for the review of, and production of a revised Constitution;
- Recognise the Council's Democratic leadership role

- Support, not hinder the efficient exercise of democratic decision making, good governance and the delivery of services
- Be modern in its language, format and presentation
- Be concise, covering only those essential issues which need to be in the formal Constitution and sign-posting to other documents and sources.
- Recognise the varied ways in which the Council operates (for example, through ASDVs and shared services);
- Delegate decision making to the most appropriate level with the right checks, balances and scrutiny; and
- Be future proof, not requiring constant revisiting and updating.

5.21. Progress reports were provided to the Constitution Sub Committee and Committee throughout the process, which included a joint officer/member workshop and drop in sessions for Members to cover the review process and the key changes being proposed.

5.22. Council approved the recommendation from Constitution Committee to approve the revised Constitution at its meeting on 14th December 2017, and the revised Constitution came into operation on 1st January 2018.

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Since adoption, a number of “Living Document Changes” have been identified. The first of these were considered by the Constitution Committee in March 2018.

- 5.23. As changes are made to the [Constitution](#) it is updated on the Council's website. Previous versions of the Constitution are also available for reference. During the review of the Constitution, consideration was given to the content and format of the document, with opportunities to make the Constitution easier to navigate and to understand being taken; for example, increasing the use of hyperlinks to direct the reader to content available elsewhere on the Council's websites, avoiding duplication in the Constitution document.
- 5.24. The Terms of Reference for the Health and Wellbeing Board were approved by Council in [May 2017](#), on the recommendation of the Constitution Committee. The Board's Terms of Reference require that they are reviewed annually to ensure they remain fit for purpose.
- 5.25. The Council facilitated extensive [pre-budget consultation](#), setting out proposals to change for the period 2018/21 in a consultation launched in November 2017, and open through to the Council meeting approving the budget in [February 2018](#).
- 5.26. The results of the consultation formed part of the consideration of the [Medium Term Financial Strategy](#)

[2018/21](#) by Council at its February 2018 meeting. The Medium Term Financial Strategy clearly identifies how resources will be matched against the delivery of priorities established in the Council's Three Year Plan.

- 5.27. The Strategy also provides information on delivering financial stability, the budget setting process, and the Council's Reserves Strategy. As part of the MTFS, [High Level Business Cases](#) have been made available on the Council's website.

***Developing the entity's capacity including the capacity of its leadership and the individuals within it.***

- 5.28. The Chief Executive, Executive Directors and Statutory Officers meet weekly as the Corporate Leadership Team (CLT), receiving assurance reports and updates from across the Council. CLT is supported by service/departmental management team meetings, and a number of cross functional officer, and officer/member groups. The reporting lines between these and relevant Committees are shown in the Governance Framework diagram in Appendix 1.
- 5.29. The Council's Constitution defines the standards of conduct and personal behaviour expected of, and between, members, staff, associated partners and the community, defined and communicated through Codes of Conduct and protocols. The Constitution includes a

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Member/Officer Relations Protocol, which was established to encourage effective communication between members and officers.

5.30. In [March 2018](#) the Constitution Committee received and approved “A Member-led Council: Developing Effective Member and Officer Relations” as a supplement to the Member/Officer Protocol. The Corporate Overview and Scrutiny Committee, which considered the document in [April 2018](#) and supported the approach set out in the document, and endorsed its importance as a supplement to the Council’s Member/Officer Protocol.

5.31. In summary, the document;

- Makes clear the democratic mandate which elected Members have and their responsibility for setting the policy framework, upon which the officers provide professional advice and expertise in order to deliver it.
- Clarifies the role of officers as employees who put policies into effect and who deliver the Council’s services, utilising powers and performing responsibilities delegated to them by Members.
- Underlines the importance of officers acting with political impartiality, serving the whole Council rather than particular groups or Member providing unbiased professional advice to Members

5.32. The statutory roles of the Head of Paid Service, Monitoring Officer and Section 151 Officer are described in the Constitution, as are their responsibilities for providing robust assurance on governance, ensuring lawful expenditure in line with approved budgets and procurement processes.

5.33. The Council publishes a [Pay Policy Statement](#) by 31st March on an annual basis. This provides transparency with regard to the Council’s approach to setting the pay of its employees and is in accordance with Section 38 of the Localism Act 2011. The Pay Policy in effect for 2017/18 was agreed by Council on [23rd February 2017](#).

5.34. The [2018/19 Pay Policy Statement](#) recommended to Council on 22<sup>nd</sup> February 2018 from Staffing Committee, included a number of changes from the 2017/18 Statement. These included updates on the development of a new national NJC pay structure and outlined the Mutually Agreed Resignation Scheme, agreed at Cabinet in February 2018.

5.35. In October 2017 the Council launched a programme of work, designed to improve staff wellbeing and resilience. “Wellbeing in Work” as reported to the [October 2017](#) Staffing Committee, is a framework based on five interconnected areas, which together support and strengthen employee wellbeing; Physical and Mental

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Health, Family and Finances, Personal Growth,, Work and Environment and Culture and Climate.

- 5.36. To further develop and shape the programme, a staff forum and contributor's group were established, bringing together staff and managers from across the council. Progress on the Wellbeing in Work programme has been reported to the Staffing Committee in [April 2018](#). The programme will be shaped as necessary to support the wider actions of the Cultural Review.
- 5.37. At the invitation of the Leader and Acting Chief Executive, the Local Government Association undertook an independent review into the organisational culture of the council, with particular focus on bullying and harassment. A full report on the review was received in January 2018 and is available on the Council's [website](#).
- 5.38. Following the receipt of the LGA report a Cultural Review programme has been implemented. This includes the use of an external change management company to support the delivery of the "Brighter Future Transformation Programme". A report to Staffing Committee on [21<sup>st</sup> March 2018](#) provided further details of the Programme, including the proposed governance arrangements, which will see the Staffing Committee providing scrutiny of the Programme and receive progress reports.

### ***Managing risks and performance through robust internal control and strong public financial management***

- 5.39. [Audit and Governance Committee](#) have received regular risk management update reports during 2017/18. The Committee received a focused briefing on Brexit and the opportunities this presents to the Council in June 2017.
- 5.40. As part of the development of the Council's business planning process, risk registers have been included in the department and team plans. These are reviewed by the team plan owners, and risks are considered for escalation to the Corporate Risk Register as necessary.
- 5.41. In October 2017 the Council received the [Overview and Scrutiny annual report for 2016/17](#). This summarised the activity of the four scrutiny committees during the municipal year. The annual report for 2017/18 is scheduled to be taken to Council later in 2018. All committees scrutinised areas of budget within their remits.
- 5.42. During 2017/18 the [Children and Families Overview and Scrutiny Committee](#) scrutinised issues including Child Sexual Exploitation, Transport Policies, and Annual Reports for Education, the Local Safeguarding Children's Board and the Local Authority Designated Officer. The Committee also undertook a Task and Finish review of Special Educational Needs Disability (SEND).

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- 5.43. The [Health and Adults Social Care and Communities Overview and Scrutiny Committee](#) scrutinised issues including Delayed Transfer of Care, the Integrated Carers Hub, Health and Social Care Performance Scorecard, the Annual Local Safeguarding Adults Board. The Committee also conducted a one day spotlight review on Mental Health Service provision across Cheshire East, amongst other items on the work programme.
- 5.44. The [Environment and Regeneration Overview and Scrutiny Committee](#) received presentations and reports on Flood Risk Management, Homelessness, the Supported Local Bus Service Review and Food Waste Recycling and Compositing Plant, amongst other items.
- 5.45. The [Corporate Overview and Scrutiny Committee](#) received updates and presentations on a variety of issues, including Digital Customer Services, the Best 4 Business Oracle replacement, Crewe Fire Station Second Pump, New Homes Bonus, as well as scrutiny of the quarterly performance reports,
- 5.46. A project was started in 2016/17 to identify the changes required to ensure compliance with the requirements of the General Data Protection Regulation, which replaces the Data Protection Act from 25<sup>th</sup> May 2018. A presentation was given to the Audit and Governance Committee in [March 2018](#) to provide assurance on the readiness of the Council to meet the requirements.
- 5.47. The Information Governance Group met regularly throughout 2017/18, managing a programme of proactive improvement and responding to reported data related incidents, providing updates to the SIRO (Senior Information Risk Owner), Corporate Assurance Group, and the Corporate Leadership Team. An update report on Information Governance will be provided to the Audit and Governance Committee at its May 2018 meeting.
- 5.48. Project activity is monitored through the Executive Monitoring Board and incorporated within the Constitution; Finance Procedure Rules. The Council's Finance Procedure Rules will always apply should changes in spending requirements be identified.
- 5.49. Following a 'maturity assessment' of Procurement and Commissioning, carried out by external consultants (Ameo) which concluded in September 2017 a Commissioning & Procurement Delivery Group and also the Commissioning & Procurement Delivery Board have been established.
- 5.50. There is a Project Board which supports the Group, chaired by the Corporate Manager Finance and Performance and the Board is chaired by the Interim Executive Director of Corporate Services.

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- 5.51. The Group meets on a monthly basis and has done since the turn of the year, with the Board meeting a couple of weeks after the Group. Whilst initially looking at the Commissioning Cycle & Contracts/Procurement, the scope of the Programme has grown to encompass the Business Planning Process and the PMO Project Gateway process.
- 5.52. Changes to the Council's Contract Procedure Rules were considered by the Constitution Committee in March 2018. The changes considered were of an operational nature, designed to further improve efficiency and governance.
- 5.53. The [Audit and Governance Committee](#) plays a key role in the Council's review of the effectiveness of its governance framework. It seeks assurance on the adequacy of the Council's risk management, control and governance arrangements and it monitors the implementation of the AGS action plan.
- 5.54. During 2017/18 the Audit and Governance Committee received or approved a broad range of reports and assurances, including;
- Approval of the Internal Audit Plan and subsequent progress reports, the Committee's Annual report and the External Audit Plan and progress reports
  - Updates on Risk Management and Treasury Management
  - Annual reports on Customer Feedback (Complaints, Compliments and the Local Government Ombudsman), Compliance with the Regulation of Investigatory Powers Act (RIPA), Compliance with Data Protection Act (1998), Freedom of Information Act (2000) and Environment Information Regulations (2004)
- 5.55. The Audit and Governance Committee's draft self-assessment against the CIPFA guidance will be discussed at the May 2018 meeting.
- 5.56. The 2016/17 Annual Report of the Audit and Governance Committee was received by Council on [19th October 2017](#). The Annual Report for 2017/18 will be presented to the July 2018 Audit and Governance Committee and then taken to Council.
- 5.57. The 2016/17 Annual Governance Statement was approved at the [September 2017](#) meeting of the Audit and Governance Committee, following independent assessment by the External Auditors. The Statement was signed by the Leader of the Council and the Chief Executive and published on the Council's website.
- 5.58. An update on progress made in managing issues raised in the 206/17 Statement was taken to the Audit and Governance Committee meeting in [December 2017](#). The

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Committee agreed that a number of the issues previously reported on in the Statement would be removed, and monitored through local management arrangements. Progress made in managing issues noted as “requiring further attention” in previous Statements, is covered later in the Statement.

### ***Implement good practices in transparency, reporting and audit to deliver effective accountability***

- 5.59. The Council’s internal and external auditors are key sources of assurance. The Internal Audit opinion on the Council’s control environment is set out in the Internal Audit Annual Report for 2017/18, received by the Audit and Governance Committee on [June 1<sup>st</sup> 2017](#) and is as follows:

#### **Internal Audit Opinion**

The Council’s framework of risk management, control and governance is assessed as adequate for 2017/18

- 5.60. The Internal Audit Annual Report for 2017/18 has been prepared by the Council’s Principal Auditors who currently have management responsibility for Internal Audit and cover the role of the Head of Internal Audit. Support and sign off has been provided by the Interim Director of Corporate Services who has line management responsibility for Internal Audit and the approach has been validated with the Council’s External Auditors.

- 5.61. Updated Public Sector Internal Audit Standards (PSIAS) have been implemented from 1st April 2017. A requirement of the PSIAS is for an external assessment against the Standards to be undertaken at least once every five years. All local authorities should have had their first external assessment by 31<sup>st</sup> March 2018.

- 5.62. As reported to the Audit and Governance Committee in [September 2017](#), the Council’s internal audit function participated in a peer review process led by the North West Chief Audit Executive’s Group. The external assessment was undertaken at the end of January 2018 and a draft report has been received. The Audit and Governance Committee will receive the results of the external assessment at a future committee.

- 5.63. The Council has a number of wholly owned companies, which operate under the holding company of Cheshire East Residents First Limited (CERF Ltd). The following have been in operation during 2017/18;

- Orbitas
- Ansa
- Transport Service Solutions Ltd. (TSS Ltd)
- Civicance
- Engine of the North (EoTN)
- Tatton Enterprises Limited
- The Skills and Growth Company (SAGC)

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- 5.64. Reports on the performance and progress of the ASDVs have been scrutinised during the year by the Council's Overview and Scrutiny Committees.
- 5.65. Everybody Sports and Leisure (ESAR) is a charitable trust which delivers recreation and leisure facilities. The Council retains ownership of significant assets such as buildings. ESAR deliver services for the Council as set out in the operating contract, which is monitored through client commissioning arrangements, including contract management meetings and monitoring visits. The annual performance report for ESAR 2016/17 was reported to Cabinet in [October 2017](#).
- 5.66. The operational overview of services has been delivered by the CERF Ltd group of companies through client commissioning arrangements, based upon operating agreements/contracts between the Council and the individual company. During 2017/18 governance mechanisms have broadly operated as expected and include regular meetings with the commissioners, performance reporting and financial challenge meetings. Each company produces a year end set of accounts which are independently audited
- 5.67. A review of the Council's ASDVs was completed in November 2017 to assess the effectiveness and appropriateness of the existing governance arrangements for the wholly owned companies and to clarify the expectations of CERF as a company in its own right.
- 5.68. The review was reported to Cabinet in [March 2018](#), "Edge Public Solutions Limited (Edge), identified that improvements could be made to how the Council commissioned services from its ASDVs and how the ASDVs were governed. Cabinet endorsed the findings of the report, and approved the creation of a Cabinet Committee, to be called the "Shareholder Committee".
- 5.69. This Committee will give advice and direction to the Cabinet member(s) with legal responsibility for making ASDV shareholder decisions. The Shareholder Committee will design, implement and oversee the ASDV change programme.
- 5.70. The [Shared Services Joint Committee](#) oversees the management of the services provided pan-Cheshire on behalf of Cheshire East and Cheshire West and Chester Councils, to ensure effective deliver of services and strategic direction. Regular reports on performance and progress have been received during the year by the Committee from ICT Services, the Transactional Service Centre, and progress in replacing the Finance and HR System and the Archives project.
- 5.71. In preparing the AGS we have examined reports, feedback and action plans from other agencies and

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inspectorates, which review the services provided by the Council.

- 5.72. In March 2018, Ofsted and the Care Quality Commission carried out an inspection that looked at how well education, care and health services work together to identify, assess and meet the needs of children and young people with special educational needs and/or a disability. As a result of the inspection, the local area is required to produce and submit a Written Statement of Action to Ofsted that explains how we will tackle two areas identified for improvement.

***Behaving with integrity, demonstrating strong commitment to ethical values and respecting the rule of law***

- 5.73. The [Audit and Governance Committee](#) promotes high standards of ethical behaviour by developing, maintaining and monitoring a Code of Conduct for Members of the Council. Complaints are considered by the Monitoring Officer and an Independent Person. Complaints can be received about Cheshire East Councillors, co-opted members and Town and Parish Councillors.
- 5.74. The promotion of high standards of conduct, and of strong ethical governance among elected members, co-opted Members, and Town and Parish Council Members within the Borough, is critical to the corporate governance of the

authority and to the Council's decision making process across the organisation.

- 5.75. During 2017/18 the [Audit and Governance Committee](#) received two update reports from the Monitoring Officer, advising on the number of complaints received under the Code against each category, the paragraph(s) of the Code alleged to have been breached, and the outcome of each complaint, once completed.
- 5.76. In light of the continuing police investigation, "Operation Stones" into the awarding of contracts to Core Fit (recognised as a governance issue in the 2015/16 AGS), the suspension of the Chief Executive and the Director of Legal Services, the Council has interim senior management arrangements in place.
- 5.77. These include the appointment of the Executive Director for People and Deputy Chief Executive as Acting Chief Executive and the appointment of an interim Executive Director for Corporate Services (Section 151 Officer).
- 5.78. Section 151 responsibilities were covered by the Chief Operating Officer and thereafter the Interim Executive Director for Corporate Services. The governance arrangements for the Council's Chief Operating Officer complied with the arrangements set out in CIPFA's Statement on the Role of the Chief Financial Officer in Local Government (2010).

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- 5.79. The Director of Legal Services and Monitoring Officer is responsible to the Council for ensuring that agreed procedures are followed and that all applicable statutes and regulations are complied with. Following the suspension of the Director of Legal Services and Monitoring Officer in July 2017, interim arrangements were implemented, and an acting Director of Legal Services appointed. This arrangement has continued following the resignation of the Director of Legal Services in December 2017.
- 5.80. The Council's [Investigation and Disciplinary Committee](#) met regularly during the year to consider concerns about officer conduct raised in early 2017. The council's external auditors confirmed that the external audit certificate for 2016/17 will be held open until the completion of these investigations.
- 5.81. In [April 2018](#), the Chair of the Council's Investigation and Disciplinary Committee was asked to stand down from his committee duties because of concerns about actions taken whilst serving on the authority's Investigation and Disciplinary Committee.
- 5.82. This is a neutral act, intended to protect the Councillor and the council from concerns of a similar nature arising whilst the matter is considered further. The vice-chairman of the IDC will act as IDC chairman on an interim basis while these matters are resolved.
- 5.83. As reported to Audit and Governance Committee in [September 2017](#), the Council's whistleblowing arrangements have been independently reviewed by Public Concern at Work. The report, alongside information on the number of reports received in 2016/17, also provided details of additional support to staff in relation to Whistleblowing concerns; this includes access to an independent advice line by phone and email, providing safe and confidential advice to staff, should they ever find themselves in a dilemma about what to do if they witness wrongdoing in the workplace.
- 5.84. The outcome of the review was reported back to the Committee in [March 2018](#). In recognition of the comments and feedback from Public Concern at Work on the length of the existing policy, the potential for mixed messages and the benefits of a uniform definition of whistleblowing, a revised Whistleblowing Policy, based on the model policy provided by Public Concern at Work, was approved by the Committee.
- 5.85. The updated Whistleblowing Policy and details of the further advice and support available can be found on the Council's [website](#).

## ***Ensuring openness and comprehensive stakeholder engagement***

- 5.86. The Council has stated its commitment to being open, honest and accountable regarding all decisions, actions and outcomes. The 'Transparency Project' has continued to make significant progress to achieve this aim and the Council has achieved compliance with all mandatory requirements of the [Local Government Transparency Code 2015](#) and is now [publishing information](#) over and above mandatory requirements.
- 5.87. The Council's [open data portal](#) continues to facilitate the process of uploading data and make it available in meaningful, easily accessible and re-usable formats for the public.
- 5.88. In [March 2017](#) the Constitution Committee resolved that for the 2017/18 municipal year, an enhanced audio recording system would be introduced for all of the Council's formal decision making bodies and the webcasting of Cabinet meetings was discontinued. A review of the arrangements will be considered by the Constitution Committee in June 2018. Recordings can be found on the relevant Committee pages.
- 5.89. The Council publishes delegated officer decisions on its [website](#), demonstrating how the provisions of the Constitution have been exercised.
- 5.90. Engaging with our communities is essential to ensure that we are a resident led Council. [Consultation exercises](#) are carried out as required, including statutory consultation processes for areas such as [Planning](#) and [Licensing](#). Information is available on the Council's website in relation to [current consultations](#) and the feedback received on [previous consultations](#) and the subsequent decisions made are also available.
- 5.91. Council employees receive a weekly internal newsletter (Team Voice) in addition to service specific communication and briefings. Information is cascaded from the Corporate Leadership Team meeting through Department Management Team meetings to Team/Unit meetings as necessary.
- 5.92. Staff can provide feedback through line management supervision, team meetings, and an online "Staff Suggestion Box". Members of staff are encouraged to participate in the "Making a Difference" recognition scheme, nominating colleagues for an instant recognition "Made my day" message, or for nomination in the monthly and annual awards. The recognition panel itself includes volunteers from across the organisation.
- 5.93. Council services use various forms of [social media](#), to engage and inform communities and stakeholders. The main Council website has a [Media Hub](#) page, where a

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variety of information about the Council is published. The Communications team also provide related media releases, where appropriate. [Statutory public notices](#) are also shared online.

- 5.94. During 2017/18 the Council launched a new magazine for residents – The VoiCE. This was provided to households and is available [online](#). The magazine provides articles about services provided by the Council and information about what is happening around the borough.

### 6. Review of Effectiveness

- 6.1. The Council undertakes an annual review of its governance arrangements co-ordinated by the Corporate Assurance Group. This process is informed by a range of sources. The various sources of assurance which inform the annual review are described below and also referenced in the Governance Framework in Appendix 1.
- 6.2. Examples of the sources of assurance considered in preparing the Annual Governance Statement include:
- **Line Management** - Assurance on individual line managers' areas of responsibility are provided by Disclosure Statements, Partnership Governance Reviews and informed by the acceptance and implementation of recommendations from internal and external audit.

- **Management Review** - Assurance on the effective management of core function activities is provided by reviewing compliance with policies, including how this information is used to drive improvement, and how relevant risk management information is escalated up or cascaded down through the Council.
- **Internal Review** - The performance of Internal Audit and the Audit and Governance Committee, along with their assessments of the performance of individual service areas, and cross function service areas informs the preparation of the Statement.
- **External Review** - The findings and feedback from external inspectorates and peer reviews of the Council also provide assurance which is considered in preparing the Statement.

- 6.3. The review has considered the effectiveness of the Council's governance arrangements against the principles set out in the revised Code of Corporate Governance
- 6.4. Whilst there have been significant governance issues recognised in previous years which have provided continuing challenge, overall, it is considered that the Council's governance arrangements are fit for purpose in accordance with the governance framework. The Council continues to progress actions and changes to resolve these issues.

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- 6.5. Section 7 sets out the progress made against the issues identified previous Annual Governance Statements, which have been monitored through 2017/18. This includes;
- Items included in the 2013/14 Annual Governance Statement, which were not identified as significant governance issues, but required further attention during 2014/15.
  - Emerging issues identified in the 2013/14 Annual Governance Statement which required further attention and monitoring to ensure they did not become significant governance issues
  - Issues identified in the 2015/16 Annual Governance Statement, including the two issues recognised in this Statement as “Continuing Governance Issues”.
  - Significant governance Issues identified in the 2016/17 Annual Governance Statement.
- 6.6. Progress on managing and monitoring the discrete actions identified to manage and resolve these issues has previously been reported upon to the Audit and Governance Committee, through previous Annual Governance Statements, and most recently in an update provided in [December 2017](#). The Committee agreed that the issues of Project Management and Air Quality Data would be removed from the AGS and progress monitored under local arrangements.
- 6.7. The progress updates provided to the December committee are not repeated here. An update on progress since the December 2017 update is provided in Section 7
- 6.8. Although they have been identified in previous Statements, the issues of “Council Funding” and “Health and Social Care Integration” have been included again as continuing areas of concern issues for 2017/18 in the updates in Section 7. This is to recognise the continuing significance of these two specific areas, at national and local levels.

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### 7. Progress against issues identified in previous Annual Governance Statements

<b>Business Continuity Planning</b> <i>Identified in 2013/14 AGS as requiring further attention in 2014/15</i>	
<b>Description of Issue</b>	Current and tested business continuity plans are not consistently in place across all service areas.
<b>Responsibility</b>	Director of Legal Services
<b>Action proposed at the time of inclusion in the AGS</b>	Develop Business Continuity Planning to ensure service delivery in the event of business disruption
<b>Progress Update for Draft AGS 2017/18</b>	<p>Terms of Reference for a Joint Business Continuity and Emergency Planning Liaison Group have been drafted and membership of the Group is being established. The purpose of this group is to ensure there is an overarching view of the two sets of arrangements and to provide guidance and support in the development and maintenance of the Council's resilience.</p> <p>A draft Business Continuity statement outlining the Council's commitment to Business Continuity Management and a framework identifying minimum standards has been drafted; this is on route for approval. This will be supported by a programme of testing to evaluate the quality and effectiveness of the Business Continuity Plans in place.</p> <p>An updated Business Continuity template has been drafted for Services and a joint Emergency Planning and Business Continuity Template for schools has also been drafted, both are presently being piloted and following feedback and any necessary amendments will be communicated and issued appropriately.</p> <p>The Group will be looking at planning Business Continuity exercises, the first of which is a Cyber Breach Exercise. Business Continuity planning work has been undertaken with the Council's Information Governance Group with work begun on drafting Communication Templates. This helps with preparedness in terms of pre-</p>

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	<p>planned communication which is pre-approved should an incident arise and will help provide clarity.</p> <p>Draft Business Critical Activities have been identified and will be reviewed by the Joint Business Continuity and Emergency Planning Group. Work is underway at providing a Business Continuity training module for promotion to staff through the Council's eLearning lounge.</p> <p>Included within the Civil Contingencies Act are two distinct Business Continuity Management related duties, the first is to develop and maintain plans that will ensure they can continue to deliver their functions in an emergency so far as is reasonably practicable. The second is to promote and provide general BCM advice to commercial and voluntary organisations in their area. This duty is directly linked to the Government's overall resilience agenda. To assist with this the Council's Business Continuity Officer has given a Business Continuity presentation to a number of local businesses, giving advice on resilience and tips on how to prepare for an incident.</p>
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<b>Local Economic Partnerships</b>	
<i>Identified in 2013/14 AGS as requiring further attention in 2014/15</i>	
<b>Description of Issue</b>	Governance arrangements outlining the relationship between the Council, as accountable body, and the Local Economic Partnership (LEP) are out of date
<b>Responsibility</b>	Executive Director of Place
<b>Action proposed at the time of inclusion in the AGS</b>	Governance arrangements need to be developed that are sufficiently "future proofed" to accommodate further anticipated changes to the role of the LEP and its sub groups and the Council's relationship with it.
<b>Progress Update for Draft AGS 2017/18</b>	Actions for C&W LEP included making certain Sub Committee meetings open to the public and establishing an Overview & Scrutiny Committee. An Overview and Scrutiny Committee has now been established and met for the first time on Thursday 1st March. This meeting was used to set out terms of reference and select a Chair. Cheshire East is represented by Cllr Harold Davenport.

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	<p>As part of our Finance and Accountable Body services provided to the LEP we assist in preparation of the financial information for inclusion in the final version of the Annual Report. This includes information not only in respect of the LEP Company's operating accounts, but also financial summaries relating to the Local Growth Fund, Growing Places Fund, and other reserves and balances in order to present a more comprehensive picture of the LEP's financial affairs.</p> <p>The Mary Ney Review has made further recommendations for improving the governance and transparency of LEP's and this has resulted in further revisions to the National Assurance Framework for LEP's to adopt.</p> <p>As part of our Accountable Body role, Cheshire East's Internal Audit Team assisted with the review of the LEP's Local Assurance Framework and prepared a report with recommendations. Internal Audit is developing a plan of work in discussion with the LEP.</p> <p>The "Annual Conversation" (meeting of LEP with Government officials) took place in December 2017 and this process has been followed by a Performance Review undertaken by BEIS/MHCLG. The Annual Conversation was generally very positive reporting that governance and systems and processes are improved. There are some concerns around delivery and capacity.</p> <p>As part of the pack submitted to Government in advance, the required statement from CEC S151 Officer was included stating that we are satisfied with LEP's governance and transparency arrangements and that there are no issues of concern. The statement also commented that going forward, as part of strengthening arrangements in this regard, CEC S151 Officer and the LEP Chief Executive will meet quarterly, to help ensure we are sighted on developments/ proposals before key decisions are made (including receiving Strategy Committee papers).</p> <p>Following the Ney Review, CIPFA and MHCLG are developing fresh guidance on the role of the S151 Officer of the Accountable Body for LEPs. The CIPFA guidance is out for consultation with a response date of 30 May 2018. The subsequent guidance from CIPFA will be helpful in providing further clarity on any actions required by the Council or the LEP to ensure effective financial management.</p>
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<b>New Service Delivery Models</b> <i>Emerging issue identified in the 2013/14 Annual Governance Statement which required further attention and monitoring to ensure it did not become significant governance issues</i>	
<b>Description of Issue</b>	<p>The Council launched four new service delivery vehicles in April and May 2014. Service areas transferred to these new companies were initially completed on a 'lift' and 'shift' basis to maintain existing arrangements. Further work is now being done to ensure that the Council maximises the benefit of these new arrangements.</p> <p>Two additional vehicles were launched in early 2015: Transport Service Solutions Ltd (1st January 2015) and Civacance (1st April 2015)</p>
<b>Responsibility</b>	Interim Executive Director of Corporate Services and Executive Director of Place
<b>Action proposed at the time of inclusion in the AGS</b>	Senior Officers to continue to work with the directors of the new companies and the Leisure Trust to clarify roles and responsibilities and to ensure that the requirements of the new commissioning plans and new contracts – and the benefit to residents – are fully achieved.
<b>Progress Update for Draft AGS 2017/18</b>	<p>The findings of a review to assess the effectiveness and appropriateness of the existing governance arrangements for the ASDVs and CERF were reported upon to Cabinet in March 2018.</p> <p>The report found that improvements could be made to how the Council commissioned services from its ASDVs and how the ASDVs were governed.</p> <p>Cabinet endorsed the findings of the report, and approved the creation of a Cabinet Committee, the "Shareholder Committee".</p> <p>This Committee will give advice and direction to the Cabinet member(s) with legal responsibility for making ASDV shareholder decisions. The Shareholder Committee will design, implement and oversee the ASDV change programme.</p>

### Review of Contract Awards re Core Fit

*Recognised as a governance issue in 2015/16*

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<b>Description of Issue</b>	Following concerns raised about the awarding of contracts by the Council, the Council's Internal Audit team were asked by the Chief Executive to consider the issues raised as part of an ongoing audit of the Council's procurement arrangements. This work was underway in the third quarter of 2015/16. However, in late December 2015, following the launch of a police investigation by Cheshire Constabulary regarding alleged misconduct in public office, the internal audit work was suspended, pending the outcome of the police investigations which is ongoing at this time. The internal audit work will continue once the police investigation concludes.
<b>Responsibility</b>	Interim Executive Director of Corporate Services
<b>Action proposed at the time of inclusion in the AGS</b>	<p>A number of improvements increasing the transparency of the Council's procurement arrangements have already been made. For example;</p> <ul style="list-style-type: none"> <li>• Waivers and Records of Non Adherence (WARN) forms are reported individually and in full to the Audit and Governance Committee.</li> <li>• The Audit and Governance Committee receive reports on the quantity and reasons for Waiver's and Non Adherences (WARNs) approved.</li> <li>• The Council has both introduced and strengthened the operation of the Procurement Board, with membership of the Council's Portfolio Holder for Corporate Policy and Legal Services.</li> <li>• The Audit and Governance Committee Anti-fraud Member/Officer Sub Group carries out sample checking on procurement activity ahead of each meeting and reports back on any non-compliance issues; there have been none found to date.</li> <li>• The Council has developed its Contracts Register to allow an earlier assessment of those services/functions that need to be re-commissioned.</li> <li>• The Procurement Team have reduced the threshold to £5,000 for requisitions that have to be approved, in order to prevent procurement activity being undertaken without appropriate approvals.</li> <li>• A £5,000 expenditure report is run monthly and sent to CLT members to scrutinise. From this a sample of transactions are selected and managers asked to provide details of budgetary controls applied.</li> <li>• National reporting requirements include £500 spend report which is completed monthly. Contracts awarded over £5,000 to be reported quarterly. Invitation to tenders and quotes above £5,000 to be reported quarterly.</li> </ul>
<b>Progress</b>	The Audit and Governance Committee received reports (thematic report and individual review) on WARNs

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<b>Update for Draft AGS 2017/18</b>	<p>throughout their meetings in 2017/18.</p> <p>Following a 'maturity assessment' of Procurement and Commissioning, carried out by external consultants (Ameo) which concluded in September 2017, a Commissioning &amp; Procurement Delivery Group and Commissioning &amp; Procurement Delivery Board were established. A Project Board supports the Group. The Group meets on a monthly basis, with the Board meeting a couple of weeks after Group.</p> <p>Whilst Initially looking at the Commissioning Cycle &amp; Contracts/Procurement, the scope of the Programme has grown to encompass the Business Planning Process and the PMO Project Gateway process.</p> <p>Procurement have developed a Pipeline Dashboard, utilising the Contracts Register for existing contracts due to come to an end for the next rolling 36 months as well as new contracts/procurements to be identified. This permits the Group to identify forthcoming contracts/procurements to be highlighted and scrutinised as appropriate, with observations/assurance to Board prior to Reports being scrutinised at CLT. The Contracts Register will be built into the Business World system to provide greater transparency over spending against contracts. It will also allow for workflows and reminders to be built into the system.</p> <p>There is a quarterly highlight reporting process for 'Platinum' Contracts i.e. contracts in excess of £1m per annum. This is one element of a Toolkit under development designed to equip Contract Managers with the requisite tools and techniques to robustly contract manage and where practicable realise savings within the Contract. This will in time be extended to Gold contracts and potentially Silver &amp; Bronze contracts (subject to approval at Group/Board). We have now identified an officer from within Finance to own the Savings Tracker which will capture and monitor savings and benefits including non-cashable benefits.</p>
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<b>Council Funding</b>	
<i>Recognised as a Continuing Governance Issue in the 2015/16 AGS</i>	
<b>Description of Issue</b>	Ongoing and future changes to the financial framework - including several changes to national funding regimes - will increase the Council's reliance on self-financing. Many of these arise from changes to benefit administration,

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	<p>reductions in government grant and more schools becoming academies.</p> <p>While the Council is in a strong position it needs to accelerate its transition to a full commissioning model to ensure that the quality and cost base of services are appropriate and meet the needs of local residents and businesses within the future level of available resources.</p>
<b>Responsibility</b>	Interim Executive Director of Corporate Services
<b>Action proposed at the time of inclusion in the AGS</b>	<p>The Council's approach to the continuing financial challenges, linked to austerity, are being addressed through a range of activities and communication channels.</p> <p>Senior accountants are fully engaging, with government and professional bodies (such as CIPFA, SCT, RSN and UTS), in the review of local government finance. Responses have been provided to consultations and regular seminars and meetings have been attended to ensure that issues relevant to Cheshire East Council are being discussed.</p> <p>Estimates have been developed with the Portfolio Holder, and Cabinet members, around the main funding sources. This includes Council Tax levels, tax base growth, potential Business Rates growth and the diminishing grant position. The revised Corporate Plan also introduces the Council's commitment to developing a self-financing approach to achieving outcomes.</p> <p>The Council's increasing level of collaboration with public sector partners, such as health services and neighbouring local authorities, is also subject to significant review and work is ongoing in line with CIPFA's Aligned Public Services model.</p> <p>The best fit of service providers, also described in the Corporate Plan, remains a key element of the Council's approach. Contract management, with its strong links to achieving outcomes, is also developing as a key feature of the Council's control framework.</p>
<b>Progress Update for Draft AGS 2017/18</b>	<p>The Council achieved a balanced outturn position for 2017/18.</p> <p>The pre budget consultation undertaken received the largest number of responses to date.</p>

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	<p>The Local Government settlement received in December 2017 provided no surprises, and a balanced budget for 2018/19 was approved by Council on 22<sup>nd</sup> February 2018. Adjustments were made in relation to the Highways Budget following consultation responses. The adjustments were affordable within contingency levels and the reserves strategy.</p> <p>In year budget monitoring will continue, with improvements anticipated when the B4B project goes live.</p> <p>Based on the level of consultation and engagement last year, we will look to extend the consultation period for the next pre-budget consultation to allow more analysis of the results.</p> <p>The Council will engage in consultation in relation to Fair Funding and Business Rates retention in line with National Government timescales.</p>
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<b>Health and Social Care Integration</b> <i>Recognised as a Continuing Governance Issue in the 2015/16 AGS</i>	
<b>Description of Issue</b>	<p>The Council is a key partner in the delivery of integrated health and social care and is a signatory of the Better Care Fund (BCF) submission to NHS England. This is a high profile programme of change which the Council is working with the two Clinical Commissioning Groups, (CCGs), and the two acute providers and one Community and mental Health provider in the Borough. BCF is part of a staged process to focus and increase joint working with the NHS seeking to improve the health and wellbeing outcomes for Cheshire East residents, with the initial aims of the work programme being to reduce non-elective admissions to hospitals and Delayed Transfer of Care (DToC) locally.</p> <p>The initial Plans submitted in April 2014 did not include details of specific schemes, financial plans, risk assessment or fully developed key performance indicators.</p>
<b>Responsibility</b>	Executive Director of People
<b>Action proposed at the time of</b>	The BCF Governance Group, overseen by Cheshire East's Health and Wellbeing board continues to meet on a

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<p><b>inclusion in the AGS</b></p>	<p>monthly basis to oversee the governance of the Cheshire East BCF.</p> <p>Feedback was expected from NHS England and the Association of Directors of Social Services (ADASS) in June 2016 regarding Cheshire East's plans for BCF in 2016/17. The expected status is "approved with support".</p> <p>At the time of submission, there are were areas requiring further work and attention including:</p> <ul style="list-style-type: none"> <li>• Final agreement for expenditure plans</li> <li>• Lack of a Delayed Transfers of Care (DToC ) plan for South Cheshire Clinical Commissioning Group</li> <li>• Assurance that DToC is a standing item on Systems Resilience Group agendas (now called A&amp;E Delivery Boards).</li> </ul> <p>These areas had to be addressed by the end of June 2016 to avoid escalation to national level of assurance; these areas have now all been addressed within timescale. The BCF plan for Cheshire East has been approved by the Health and Wellbeing Board.</p> <p>In April 2016 Mersey Internal Audit Agency published a report on the BCF arrangements in operation over 2015/16 which contained three key "medium" ranked recommendations;</p> <ul style="list-style-type: none"> <li>• Failure to identify and effectively manage BCF risks</li> <li>• CEC and CCG's Programme Management Office approaches to the BCF are not co-ordinated.</li> <li>• Poor Information Governance</li> </ul> <p>These were included on the BCF risk register. The risk register and the risk assessment process have been reviewed and improved, to ensure that mitigating actions are Specific, Measurable, Assignable, Realistic and Time-related (SMART). Red rated risks are reviewed and updated on a monthly basis to ensure action is taking place to address.</p> <p>A piece of work took place to look at Programme Management Office approaches across CCGs and LAs. This had already been done by PMO leads and good practice has been shared by them and adopted accordingly to</p>
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	<p>ensure more consistent approaches. We also agreed a number of actions between us to streamline reporting processes.</p> <p>Work on Information Governance is still ongoing but is the priority item on the agenda for the BCF Governance Group in to establish any gaps and allocate necessary actions.</p>
<b>Progress Update for Draft AGS 2017/18</b>	<p>There have been changes to both the Cheshire and Merseyside and the local South and Eastern Cheshire transformation programmes over the last six months.</p> <p>The Better Care Fund Governance Board in Cheshire East continues to provide oversight for the 16 schemes which provide the underpinning strategic approach towards health and social care integration. This takes place on a monthly basis through the BCF Governance Board via the highlight report, which covers: progress to date, an update on key areas of work, issues and risks. It is used to advise the Better Care Fund Governance board of any potential issues as they arise, so that timely action can be recommended.</p> <p>Following the approval of the Cheshire East Better Care Fund plan, focus from both the Local Government Association and NHS England has shifted to performance reporting. Quarterly performance reporting for the BCF and iBCF continues. The shift to performance reporting is also demonstrated through the submission of a new weekly Winter Data and Intelligence Collection survey administered by the Local Government Association (LGA) and ADASS (Directors of Adult Social Services).</p> <p>This weekly return is focused on the number of delayed days experienced in acute and non-acute settings and the causes of those delays. Further to this the collection aims to: highlight local challenges and achievements, ensure DToC data has been signed off, provide further understanding to support winter work and help to provide intelligence nationally. The collection commenced on 02/02/2018 and is due to end on 31/05/2018.</p> <p>As part of the iBCF conditions, quarterly reporting has commenced to track the progress and contribution of the schemes that were specified as part of the planning process for iBCF in July 2017. Since the last update reports have been submitted as required by NHS England. The report covers: key successes, challenges, how iBCF has been allocated against the three purposes of the fund expressed as a percentage, progress on the schemes in</p>

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	<p>terms of a narrative update and in terms of the project life cycle and performance against self-identified performance metrics.</p> <p>In order to meet and demonstrate a robust and clear outcomes framework for reporting, a monthly process for reporting across all 16 schemes has been initiated, together with an integrated approach to data management across all three Better Care Fund partners in Cheshire East. Data leads from each organisation support the production of a performance dashboard which is produced on a monthly basis. This, along with the highlight report is supplied to the BCF Governance board. The dashboard identifies the latest position in respect of a number of national metrics.</p> <p>The Department of Health has been closely reviewing DToC performance nationally, in order to benchmark those areas that are not making sufficient progress against their agreed trajectories. DToC performance in Cheshire East remains good and still sits outside of the 32 poorest performers nationally.</p> <p>Highlights from the BCF schemes in 2017/18 include:</p> <ul style="list-style-type: none"> <li>• The pilot of a care sourcing team, sourcing 995 packages of care.</li> <li>• Implementation of Care Package retention of 7 days scheme, utilising this on 413 occasions.</li> <li>• Rapid return home scheme went operational</li> <li>• Care Home Support fully operational</li> <li>• Funding in place to support discharge models which included having a locality manager and practice manager in post as well as having social workers available on weekends covering both Leighton and Macclesfield hospitals.</li> <li>• A pilot scheme to test referrals to reablement from the acute setting over weekends was established.</li> <li>• The establishment of a Rapid Return Home (Overnight) Service</li> <li>• Clinical support to Care Home Support</li> <li>• Increased support for community Matrons case-managing High Risk patients.</li> <li>• Commenced Fair cost of care pricing review and consultation for Accommodation with Care.</li> </ul>
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	<ul style="list-style-type: none"> <li>• Completed market engagement on carers services and people with complex needs</li> <li>• Specification for Care at Home and Accommodation with care completed.</li> <li>• Live Well CE established; the site generated 16,000 page views per week and 5,700 individual user sessions.</li> <li>• Management of steady increase to telecare usage from 1,926 monthly users in January 2016 to 2,531 monthly users in December 2017.</li> <li>• Confirmed Carers wellbeing budgets for 872 people.</li> <li>• 318 disabled people enabled to live independently through Disabled Facilities Grants.</li> <li>• Service specifications in place for Support at Home Service – (British Red Cross to provide practical and emotional support at home over 7 days). Following this services were established.</li> <li>• Community Support Reablement - the total number of hours provided is 2,140 hours per week across the North and South Teams</li> <li>• 3175 safeguarding concerns were raised.</li> </ul> <p>The annual review report for 2017/18 will be presented to the Health and Wellbeing Board on 29th May 2018 together with the Plan for the year ahead.</p>
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<b>Berkeley Academy Car Park</b> <i>Recognised as a Significant Governance Issue in the 2016/17 AGS</i>	
<b>Description of Issue</b>	<p>In April 2016, an undertaking was given to The Berkeley Academy by the Council, to make a contribution of £70,000 in support of a scheme for “off highway parking”, provided the Academy provided at least 50% in match funding.</p> <p>This undertaking was given ahead of the conclusion of the work of a Task and Finish Group on Safer Parking for Communities from the Corporate Overview and Scrutiny Committee. The findings and recommendations of this Group were to inform policy development and a future programme of work.</p>

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	Therefore, the commitment made to the Academy was not progressed in accordance with any approved policy or budget, and was given prior to the conclusion of an existing review.
<b>Responsibility</b>	Executive Director - Place
<b>Action proposed at the time of inclusion in the AGS</b>	<p>Cabinet considered a report at its meeting on 22<sup>nd</sup> August 2017, which sought authority for the award of grant funding for £70,000 to be given to the Berkeley Academy for the purposes of piloting a safer drop off facility at the school. The report also outlined an approach to the formation of a policy to enable similar proposals to be considered and address congestion at other primary schools.</p> <p>Cabinet authorised the Executive Director of Place to make the grant award in order to inform the development of Council policy in the area. In addition, Cabinet authorised the Executive Director of Place, in consultation with the Director of Legal Services and the Portfolio Holder for Corporate Policy and Legal Services to dispose of any requests received for reimbursement of additional expenses reasonably and properly incurred by the Academy which it is considered the Council may be liable to reimburse flowing from action taken in connection with the undertaking given.</p>
<b>Progress Update for Draft AGS 2017/18</b>	<p>The funding agreement between the Council and the school has now been finalised. An Officer Decision Record will be prepared, and the funding agreement will then be signed.</p> <p>The Acting Chief Executive receives regular updates on the progress of items referred to the Council. The Police are still considering whether a criminal offence has been committed and a decision is awaited.</p>

<b>Sleep In Arrangements</b>	
<i>Recognised as a Significant Governance Issue in the 2016/17 AGS</i>	
<b>Description of Issue</b>	<p>The case law development in relation to sleep in arrangements is a complex national issue, which we are seeking to clarify and resolve. We were originally alerted to a potential breach of the national minimum wage regulations following a national employment appeals tribunal case towards the end of 2013.</p> <p>However, the case law and regulations were contradictory at that time. Legal advice was that we should continue</p>

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	<p>to monitor case law developments but that there was no clear legal basis for action.</p> <p>It was not until April 2017, following the outcome of the national Mencap appeal that the employment appeals tribunal set out detailed tests to be applied on a 'case by case' basis, to determine compliance with the National Minimum Wage and Working Time Directive regulations. At this time the Local Government Association (LGA) advised councils to assess their current arrangements using the published employment appeals tribunal assessment rules.</p> <p>The Acting Chief Executive requested a review be undertaken in all affected services. To this end a pay specialist was employed to support this work, which has involved checking payments made to every worker in receipt of sleep-in arrangements over the past two years. This work is expected to be completed in September.</p> <p>We are in continuing dialogue with both the LGA and North West Employers to progress matters.</p>
<b>Responsibility</b>	Acting Executive Director People; Interim Executive Director of Corporate Services and Head of Strategic HR
<b>Action proposed at the time of inclusion in the AGS</b>	<p>That review is now well advanced and its findings and recommendations are due to be reported soon.</p> <p>The review has so far covered:</p> <ul style="list-style-type: none"> <li>• A number of services that undertake sleep in arrangements have been identified and each is being assessed in line with Employment Appeal Tribunal guidelines.</li> <li>• External specialist support appointed to assist this process and report findings separately.</li> <li>• On-going dialogue with the Trade Unions is taking place to resolve staff grievances.</li> </ul> <p>Compliance with the NMW investigation underway.</p>
<b>Progress Update for Draft AGS 2017/18</b>	<p>The Internal Audit review of sleep in payments and the national minimum wage is now complete and a Final Report has been issued to management.</p> <p>In October 2017 back pay of £167,863 was made to 108 current and former employees in respect of underpaid sleep-in payments for the period 1<sup>st</sup> September 2015 to 31<sup>st</sup> August 2017. The payments were made on a</p>

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	<p>calculation following advice from independent legal counsel, using a methodology agreed in advance with the relevant unions.</p> <p>The external auditors have considered a formal objection to the Council's accounts. Following their consideration of the matter, they have decided not to uphold the objection, but have made a number of recommendations which the Council has agreed to, including;</p> <ul style="list-style-type: none"> <li>• Implementing the improvements arising from the Internal Review into the matter</li> <li>• Formally concluding on whether further back payments are required following the outcome of the Mencap appeal, and to ensure that current and forward arrangements comply with the Governments National Social Care Compliance scheme.</li> <li>• Officers continue with increased levels of disclosure regarding potential areas of non-compliance with law and regulation in future communications with the external auditor.</li> </ul> <p>The external auditors will include their response to the objection as part of their update to the Audit and Governance Committee in May 2018.</p> <p>National developments will continue to be monitored to understand any further impact on the Council.</p>
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<b>Designated Statutory Officers/Investigation and Disciplinary Committee</b> <i>Recognised as a Significant Governance Issue in the 2016/17 AGS</i>	
<b>Description of Issue</b>	<p>During Q4 concerns relating to officer conduct were received by the Deputy Monitoring Officer. In accordance with the processes put in place by Council in February 2017 to deal with such matters those concerns were then considered by the Council's Investigation and Disciplinary Committee (IDC).</p> <p>Those processes are still ongoing but a decision has been taken by the IDC to suspend the Chief Executive whilst an investigation is undertaken. The decision to suspend is a neutral act and will be kept under review.</p>

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## Cheshire East Council – Proposed Draft Annual Governance Statement 2017/18

<b>Responsibility</b>	Acting Chief Executive
<b>Proposed Action</b>	<p>The Investigation and Disciplinary Committee (IDC) processes are still ongoing but a decision has been taken by the IDC to suspend the Chief Executive, and subsequently the Director of Legal Services and Monitoring Officer, whilst an investigation is undertaken.</p> <p>The decision to suspend is a neutral act and will be kept under review. The Council will continue to act appropriately to deal with any matters arising from those processes to ensure continuity of service provision and organisational governance.</p>
<b>Progress Update for Draft AGS 2017/18</b>	<p>The IDC processes are ongoing, and have continued since the previous update to the Committee.</p> <p>The Chief Operating Officer was suspended in December 2017.</p> <p>The Director of Legal Services and Monitoring Officer resigned with immediate effect in December 2017.</p> <p>In April 2018, the Chair of the IDC was asked to stand down from his committee duties because of concerns about actions he took whilst serving on the authority's IDC. The vice-chairman of the IDC will act as IDC chairman on an interim basis whilst those concerns are investigated.</p>

<b>Land Purchases</b>	
<i>Recognised as a Significant Governance Issue in the 2016/17 AGS</i>	
<b>Description of Issue</b>	Early in 2017/18, the Acting Chief Executive and the Executive Director of Place and Acting Deputy Chief Executive requested that Internal Audit undertook a review of the Council's arrangements for asset disposals and purchases. This was started in July 2017, and concerns have been identified over a number of acquisitions.
<b>Responsibility</b>	Internal Audit, reporting to the Acting Chief Executive
<b>Proposed Action</b>	<p>Internal Audit work in this area is ongoing, and findings to date have been referred to TITAN for consideration and further investigation.</p> <p>The Council's external auditors have confirmed that their value for money conclusion for 2016/17 was qualified</p>

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## Cheshire East Council – Proposed Draft Annual Governance Statement 2017/18

	due to the findings identified and reported by Internal Audit.
<b>Progress Update for Draft AGS 2017/18</b>	<p>Internal Audit reviews of individual transactions have been undertaken and reports issued to management. Where appropriate, referrals have been made to the police.</p> <p>To ensure that control weaknesses identified as part of this work are addressed, a consolidated findings report has been prepared by Internal Audit.</p> <p>A review of the current control environment in relation to asset disposals and purchases is scheduled in the 2018/19 Internal Audit Plan.</p>

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## 8. Significant Governance Issues 2017/18

8.1. The significant governance issues the Council recognises as arising during 2017/18 are A description of the issue, along with details of the actions undertaken to date, and any further actions required to manage the issue is also given. These issues will need implementing and monitoring by the Council to ensure that actions are undertaken in line with this plan. Progress will be monitored by the Corporate Assurance Group during 2018/19, and reported on to Corporate Leadership Team and Audit and Governance Committee.

Description	Actions	Responsibility
<p><b><i>Holiday Pay</i></b></p> <p>During the course of investigating and managing the Council's responsibilities in relation to sleep in payments, and developing case law on changes to holiday pay calculations, the Council has also identified that there could be a challenge over holiday pay.</p> <p>HR colleagues have undertaken work to understand the scale of this issue, and ensured the risks are being managed effectively, with regular reports being taken to the Corporate Leadership Team and briefings to the Portfolio Holder.</p> <p>The following actions have so far been undertaken :-</p> <ul style="list-style-type: none"> <li>On going reports to CLT and ELT to discuss the legal and financial implications, as well as timescales and options available for completing</li> </ul>	<p>In addition to the actions already undertaken, work will continue to be undertaken to establish the potential impact of this changing case law on all Council services where staff earnings fluctuate which could affect future holiday pay liabilities both going forward and retrospectively to meet employment law compliance</p>	<p>Head of Strategic HR</p>

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<p>this exercise.</p> <ul style="list-style-type: none"> <li>• Discussions with the Trade Unions on this matter continue.</li> <li>• External and internal legal advice taken on this matter.</li> <li>• The risk has been included in the HR Risk register but until the matter is quantified across all Council service areas the risk cannot be identified and assessed before putting on the corporate risk register.</li> </ul>		
<p><b>Chief Inspector of Weights and Measures</b></p> <p>In January 2018, the Council reassured residents that there had been no adverse impacts on any weights and measures activity, following confirmation that for a period between 2014 to 2016, the officer appointed to the role of Chief Inspector Weights and Measures, whilst having management responsibility for the qualified inspectors, did not hold the appropriate professional qualification to undertake statutory role of Chief Inspector of Weights and Measures.</p> <p>Actions undertaken by duly qualified officers during this period remain valid and have full legal effect. A piece of work is being commissioned to verify that the Chief</p>	<p>The Council has recognised the legal requirement for its Chief Inspector Weights and Measures to hold the appropriate professional qualification and has appointed a suitably qualified person.</p> <p>Processes are in place to check that current staff and new applicants for statutory roles hold the required qualifications.</p> <p>A piece of work is being commissioned to verify that the Chief Inspector in place between 2014 and 2016 did not engage directly in work requiring a statutory qualification.</p>	<p>Executive Director Place and Acting Deputy Chief Executive</p>

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Inspector in place between 2014 and 2016 did not engage directly in work requiring a statutory qualification.		
<p><b><i>Bullying and Culture Review</i></b></p> <p>In response to concerns around a perception of significant issues of bullying and harassment in the Council, the Leader and Acting Chief Executive invited the Local Government Association to carry out a review into organisational culture. The review was independently commissioned in October 2017 and undertaken in November and December 2017.</p> <p>The findings and recommendations from the review were delivered in January 2018. The full report is available on the Council's website.</p>	<p>The LGA review made a series of recommendations which the Council has committed to addressing.</p> <p>This is being done through the implementation of a Cultural Review programme. This includes the use of an external change management company to support the delivery of the "Brighter Future Transformation Programme".</p> <p>A report to Staffing Committee on <a href="#">21<sup>st</sup> March 2018</a> provided further details of the Programme, including the proposed governance arrangements, which will see the Staffing Committee providing scrutiny of the Programme and receive progress reports.</p>	Acting Chief Executive
<p><b><i>Data Protection Breach</i></b></p> <p>Data protection incidents are taken extremely seriously by the Council. The Council's information governance policies require suspected breaches to be reported and logged under the data breach management</p>	<p>The incident has been reported to the ICO and the Council is co-operating fully with the ICO.</p>	Acting Chief Executive

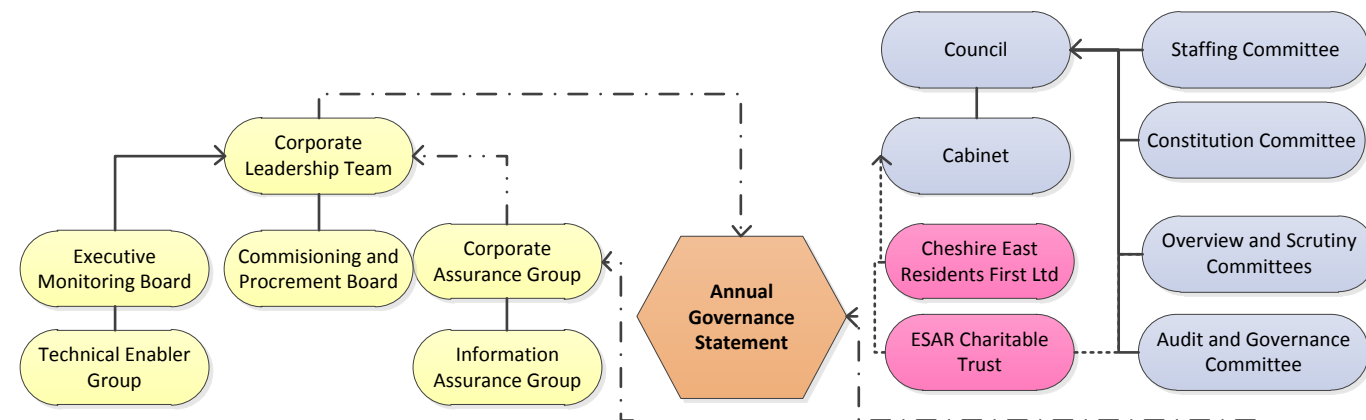
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<p>process.</p> <p>Reported incidents are considered by the Council's Information Governance Group, who advise on managing the incident, and also consider the need to self report incidents to the Information Commissioner's Office.</p> <p>In April 2018 the Information Governance Group considered an incident brought to its attention, and recommended that the Council should report the incident to the Information Commissioner's Office.</p> <p>The incident has now been reported. Further details will not be provided whilst the ICO is considering the report and undertaking any further investigation required. The Council is co-operating fully with the ICO.</p> <p>Breaching the Data Protection Act contravenes the Council's Code of Conduct for both Officers and Members. Further internal investigations are also underway to ensure any improvement actions are identified and undertaken, and that any disciplinary or Standards issues are also addressed.</p>		
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# Cheshire East Council – Proposed Draft Annual Governance Statement 2017/18

## Appendix 1: The Governance Framework 2017/18



### Sources of Assurance for the Annual Governance Statement

Performance Management	Internal Audit	External Audit	Senior Managers	Risk Management	External Assurance
Corporate Plan	Risk based plan, approved by Members	Annual Audit Plan	Management Assurance Statements	Risk Management Strategy	Ofsted
Annual Budget	Interim reports	Annual Audit Letter	Secondary Control Assurance Reviews	Risk Registers	Care Quality Commission
MTFS	Annual Opinion	Annual Value for Money Opinion	Code of Corporate Governance Assessment	Risk Management reports to Audit and Governance Committee	Local Government Ombudsmen
Annual Statement of Accounts	Core Assurance, Fraud and Investigation Reports				Peer Reviews
Quarterly Performance Reporting					

### Governance and Business Planning Processes

Constitution Whistleblowing Policy HR Policies and Procedures Data Protection Policy	Code of Corporate Governance Treasury Management Strategy ICT Policies and Procedures Codes of Conduct – Member and Officers	Anti-Fraud and Corruption Policy Workforce Strategy Department Business Plans Health and Safety Policies and Procedures
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## **Audit & Governance Committee**

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**Date of Meeting:** 16 May 2018

**Report Title:** Information Governance Update

**Portfolio Holder:** Councillor Paul Findlow & Councillor Paul Bates

**Author:** Gareth Pawlett – Chief Information Officer

**Senior Officer:** Jan Willis - Interim Executive Director of Corporate Services

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### **1. Report Summary**

This report provides an update on key achievements of the Information Assurance and Data Management (IADM) Team in relation to Information Governance (IG) and preparations for the introduction of the General Data Protection Regulation (GDPR) which is new legislation that will come into force 25th May 2018 and replace the current Data Protection Act 1998.

### **2. Recommendation/s**

- 2.1.** To note the Information Assurance and Data Management (IADM) Team's activities and progress in delivery of Information Governance (IG).
- 2.2.** To provide assurance on progress and delivery of activities in relation to the General Data Protection Regulation (GDPR).

### **3. Reasons for Recommendation/s**

To provide Audit and Governance with an update on assurance.

### **4. Other Options Considered**

N/a

### **5. Background**

Information Assurance (IA) is the practice of assuring information and managing risks related to the use, processing, storage and transmission of data. The Information Governance Group (IGG) is used to monitor and report on the maturity of the organisation.

The IGG oversee a number of activities including monitoring the number and nature of information incidents.

To support and increase the maturity of the organisation the Council has developed an IADM programme. The IADM programme has been tasked with

leading the Authority to GDPR compliance. Following the guidance that has been issued from the Information Commissioners Office (ICO), it has adopted a risk based approach to meet compliance.

### **5.1. Data Protection Compliance**

There have been no reportable ICO data protection incidents for the period 1<sup>st</sup> April 2017 to 31<sup>st</sup> March 2018 and the Council has not received any enforcement actions or monetary penalties. 161 data breaches occurred in that period. Of the incidents recorded there has either been no further action or there has been a request for training or process change to be carried which IGG has deemed as reasonable measures to minimise repeat of similar incidents.

The number of incidents compares to 103 for 2016/17. The increase in the number of incidents was anticipated; as the organisation drives to become more mature the raising of awareness is central to incident reporting. This rise therefore is to be expected and the IADM programme will continue to deliver business changes until the maturity of the organisation has reached a consistent and sustainable level.

As part of its compliance to external bodies the Council has to meet a number of control requirements to enable connection to the Governments Public Services Network (PSN) and the NHS network.

The PSN is an annual submission of a number of controls and supporting evidence which is checked and validated by an external assessor.

The NHS is an annual submission of a number of controls and supporting evidence, in addition there is two year audit by external assessors.

The Council has achieved compliance to PSN and it has also been confirmed by NHS Digital that it has achieved the required compliance status.

### **5.2. GDPR**

GDPR is the EU legislation which will replace the Data Protection Act 1998. The privacy changes will come into force 25<sup>th</sup> May 2018 and provide all individuals within the EU with extra rights and greater control of their information. This in turn means that the Council must be fully informed of what, where and how it stores information on individuals across the organisation.

The IADM team has developed a plan to deliver the high priority and critical compliance measures. This plan is on track with essential processes and practices associated with Individual Rights, Breach Management and Data Management processes complete.

Mandatory training has been rolled out across the organisation. The current completion figure across the organisation is 74%. There will be a reminder email send out to those who haven't yet completed the course.

A defined action plan will be put in place post 25th May addressing a number of essential ongoing activities to ensure GDPR compliance. It is noted that the go live date is the start of compliance and much work will need to be done post May 2018. The post May action plan will place focus on transitioning GDPR processes and practices into service / business as usual.

The wider IADM programme will continue to drive project delivery pertinent to maturing organisational culture as genuine compliance will only be met if the organisation strategically and operationally aligns to corporate information management strategy, process and policy.

Further information and guidance has been published on the Council's Intranet.

### **5.3. Land Registry Changes**

On 1st March 2018, HM Land Registry (HMLR) announced that they will be working with 26 local authorities in England to migrate their Local Land Charges (LLC) records to a centralised digital register, which will launch later this year and benefit up to 125,000 homebuyers in 2018 to 2019.

In 2017/18, IADM completed an investigation into the information which is currently used to complete LLC searches, to allow the authority to understand the scale of the task(s) and the principal issues and risks. CE has a responsibility to ensure the LLC data is accurate before it is migrated to HMLR. A series of meetings were held with Nominated Representatives (NR) of the information and estimates of the level of effort to populate missing items and correct known issues were collated.

In 2018/19, Phase II of the IADM project will focus on identifying and developing IT-led solutions for correcting known data issues and populating missing mandatory components from high-volume datasets. It will also liaise with relevant departments to ensure that information where applicable is corrected and enhanced through manual intervention. This will ensure that the information provided is complete and accurate.

CE LLC data will migrate to HMLR during 2019/20. Communications are open between IADM and HMLR and the programme will maintain the relationship / dialogue to ensure CE are as informed regarding HMLRs migration plans.

#### **5.4. Information Asset Register**

The Council's Information Asset Register (IAR) has been updated and published on the Council's website so that it is viewable for residents to see. The IAR is a list of all information that the Council holds including why we hold it (i.e. legal justification) and how long we keep it for.

The IADM programme has run a number of roadshows across the main Council buildings, these have been used to update officers and members on progress and to raise awareness and maturity of the Council of best practice and to advise on the work that is ongoing.

### **6. Implications of the Recommendations**

#### **6.1. Legal Implications**

6.1.1. The implications of the regulations have been communicated to members of staff. The standard contract templates for procurement have been changed in readiness.

#### **6.2. Finance Implications**

6.2.1. Non-compliance to the regulations can result in financial penalties of 4% of turnover up to a maximum fine of €20m.

#### **6.3. Policy Implications**

6.3.1. The Council's internal policy on Data Protection will reflect any changes identified as part of the Data Protection Regulations and the Data Protection Bill.

#### **6.4. Equality Implications**

6.4.1. As part of the review of the Data Protection Policy an Equality Impact Assessment will be conducted.

#### **6.5. Human Resources Implications**

6.5.1. All Members, employees and contractors have been requested to complete an e-learning module on GDPR.

#### **6.6. Risk Management Implications**

6.6.1. Any changes to the risk profile of information and the Council will be detailed within the corporate risk register.

#### **6.7. Rural Communities Implications**

6.7.1. There are no direct implications for rural communities.

#### **6.8. Implications for Children & Young People**

6.8.1. There are no direct implications for children and young people.

#### **6.9. Public Health Implications**

6.9.1. There are no direct implications for public health.

### **7. Ward Members Affected**

7.1. Implications are borough wide.

### **8. Access to Information**

8.1. There are no supporting documents.

**9. Contact Information**

**9.1.** Any questions relating to this report should be directed to the following officer:

Name: Gareth Pawlett

Job Title: Chief Information Officer

Email: [Gareth.Pawlett@cheshireeast.gov.uk](mailto:Gareth.Pawlett@cheshireeast.gov.uk)

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*Working for a brighter future together*

## **Audit & Governance Committee**

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**Date of Meeting:** 31 May 2018

**Report Title:** Committee Work Plan 2018/19

**Senior Officer:** Jan Willis, Interim Executive Director of Corporate Services

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### **1. Report Summary**

- 1.1. This report presents the Committee's Work Plan for the remaining meetings in 2018/19 (Appendix A) to the Committee for consideration.

### **2. Recommendation/s**

- 2.1. That the Committee:
  - 2.1.1. Consider the Work Plan and determine any required amendments;
  - 2.1.2. Note that the plan will be brought back to the Committee throughout the year for further development and approval.

### **3. Reasons for Recommendation/s**

- 3.1. The Audit and Governance Committee has a key role in overseeing and assessing the Council's risk management, control and corporate governance arrangements. It advises the Council on the adequacy and effectiveness of these arrangements. A forward looking programme of meetings and agenda items is necessary to enable the Committee to fulfil its responsibilities.

### **4. Other Options Considered**

- 4.1. Not applicable

### **5. Background**

- 5.1. Aspects of the Audit and Governance Committee's agenda are determined by statutory requirements such as the Statement of Accounts and Annual Governance Statement. Outside these agenda items, the Committee should aim to manage its agenda according to its assurance needs to fulfil its terms of reference. The Committee is asked to consider the contents of

the Work Plan (Appendix A) and establish any amendments that will enable it to meet its responsibilities.

- 5.2. By identifying the key topics to be considered at the Audit and Governance Committee meetings, and receiving appropriate reports, Committee Members are able to undertake their duties effectively and deliver them to a high standard. In turn, this adds to the robustness of the risk management framework, the adequacy of the internal control environment and the integrity of the financial reporting and corporate governance of the Council.
- 5.3. To assist Members in considering the balance and coverage provided by the current Work Plan, an analysis of the Work Plan against the Committee's current Terms of Reference is included in Appendix B.
- 5.4. Members will recognise that some items are brought to Committee on a more regular basis than others and ensure that statutory requirements are complied with. There are also individual requirements of the Committee's Terms of Reference which are only used on an ad-hoc basis.
- 5.5. In order to help with their deliberations, Members are asked to consider the following:
  - 5.5.1. care should be taken to avoid duplication and maintain the focus of an audit committee on its core functions as defined by its terms of reference rather than wider issues that are subject to the work of other committees or assurance functions.
  - 5.5.2. there are any time consuming aspects of Committee business that could be more effectively addressed elsewhere, as an audit committee should operate at a strategic level. Care should be taken to avoid straying into matters of operational detail that should be resolved by service managers
  - 5.5.3. the number and frequency of reports should be proportional to the risk in order to give the core business of an audit committee sufficient focus and attention and to avoid lengthy and thus unproductive meetings.
- 5.6. The Work Plan will be re-submitted to the Committee for further development and approval at each subsequent meeting.
- 5.7. In agreement with the Committee Chair, the following reports which had initially been scheduled for the 31<sup>st</sup> May 2018 meeting have been re-scheduled for future meetings of the Committee.
  - 5.7.1. "Audit and Governance Committee Terms of Reference" and "Approach to the Disclosure of Internal Audit Reports"; these have been delayed as the publication of the CIPFA guidance needed to inform the reports has been delayed.

5.7.2. Annual Report of the Audit and Governance Committee”; the report needs to reference a number of other reports being considered at the May 2018 meeting, and will therefore be presented at the July 2018 Committee.

5.7.3. “Outcome of the External Assessment of Internal Audit”; The report from the external assesment is still being agreed between the assessors and the Council, and will then be subject to independent moderation via the North West Chief Audit Executive Group. Once finalised, the report will be presented to the earliest available Audit and Governance Committee.

5.7.4. A standing item on General Data Protection Regulations was requested the Committee’s meeting in March 2018. This has been covered under the Information Governance update at this meeting but will be considered separately at future meetings.

5.8. CIPFA have now published their 2018 Edition of “Practical Guidance for Local Authorities and Police”. This guidance will be reviewed and a report brought to the Committee in due course to advise on the updated guidance and the implications for the Committee, including any impact on the Committee’s Terms of Reference.

**5.9. Legal Implications**

5.9.1. The Work Plan for 2017/18 complies with the requirements of the Accounts and Audit Regulations 2015.

**5.10. Finance Implications**

5.10.1. 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.

**5.11. Equality Implications**

5.11.1. There are no direct implications for equality in this report. The Audit and Governance Committee receives assurances from across the organisation

**5.12. Human Resources Implications**

5.12.1. Members should be satisfied that the inclusion of each item on its agenda results in added value, as the assurance process has a resource implication to the organisation and should therefore be proportional to the risk.

**5.13. Risk Management Implications**

5.13.1. 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:

- 5.13.1.1. raise awareness of the need for robust risk management, control and corporate governance arrangements and the implementation of audit recommendations,
- 5.13.1.2. increase public confidence in the objectivity and fairness of financial and other reporting
- 5.13.1.3. reinforce the importance and independence of internal and external audit and any other similar review process
- 5.13.1.4. provide additional assurance through a process of independent and objective review

#### **5.14. Rural Communities Implications**

5.14.1. There are no direct implications for rural communities.

#### **5.15. Implications for Children & Young People**

5.15.1. There are no direct implications for children and young people.

#### **5.16. Public Health Implications**

5.16.1. There are no direct implications for public health.

### **6. Ward Members Affected**

6.1. All wards affected.

### **7. Consultation & Engagement**

7.1. The proposed Work Plan for 2018/19 was prepared following discussion with key officers who regularly provide updates to the Audit and Governance Committee. The proposed Work Plan was also discussed with the Committee Chair and Vice Chair and was considered by the Corporate Leadership Team prior to presentation to the Committee in March 2018.

### **8. Access to Information**

8.1. Not applicable.

### **9. Contact Information**

9.1. Any questions relating to this report should be directed to the following officers:

Name: Michael Todd/Josie Griffiths

Job Title: Principal Auditors

Email: [michael.todd@cheshireeast.gov.uk](mailto:michael.todd@cheshireeast.gov.uk)

[josie.griffiths@cheshireeast.gov.uk](mailto:josie.griffiths@cheshireeast.gov.uk)

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## Work Plan 2018/19

		Extract from the Terms of Reference – October 2016	
Agenda Item	Description	No	Detail
<b>31<sup>st</sup> May 2018</b>			
External Audit Progress and Update Report	To consider an update report from Grant Thornton in delivering their responsibilities as external auditors.	31	To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance.
Internal Audit Report 2017/18	Opinion on the overall adequacy and effectiveness of the Council's control environment for 2017/18	24	To consider the Head of Internal Audit's Annual Report
Compliance with the Freedom of Information Act (2000) and Environmental Information Regulations (2004)	An update on how Cheshire East Council fulfils its obligations under the Freedom of Information Act (2000) (including the Environmental Information Regulations (EIR)).  It also highlights volumes of requests, trends and current and future issues.	6	To review the Council's corporate governance arrangements against the good governance framework and consider annual governance reports and assurances.
Compliance with the Regulation of Investigatory Powers Act (2000)	This report provides an update on how the Council has complied with RIPA legislation during 2017/18 and the number of RIPA applications authorised to date.	6	To review the Council's corporate governance arrangements against the good governance framework and consider annual governance reports and assurances.
Customer Feedback and Complaints: Annual Report based on CEC figures	Summary of feedback received from customers during 2017/18 based on the Council's own records.  (NB - A report based on the LGO formal feedback will be provided to the September	42	To seek assurance that customer complaint arrangements are robust.

## Work Plan 2018/19

		Extract from the Terms of Reference – October 2016	
Agenda Item	Description	No	Detail
	Audit and Governance Committee as this information is not provided by the LGO until the end of July.)		
Compliance with the Data Protection Act (1998)	An update on how Cheshire East Council fulfils its obligations under the Data Protection Act (1998)	6	To review the Council's corporate governance arrangements against the good governance framework and consider annual governance reports and assurances.
Information Governance Update	This report provides an update on the Council's Information Governance arrangements during 2017/18	6	To review the Council's corporate governance arrangements against the good governance framework and consider annual governance reports and assurances.
Annual Governance Committee Self Assessment	Self-assessment of the effectiveness of the Committee, which provides an assurance for the Annual Governance Statement.	40	To report to full Council on a regular basis on the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose.
Draft Statement of Accounts 2017/18	This report introduces the 2017/18 pre-audit statement of accounts to the Committee for consideration and comment.	36	To review and approve the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.
Draft Annual Governance Statement 2017/18	This report introduces the draft 2017/18 Annual Governance Statement to the Committee for consideration and comment	7	To review and approve the Annual Governance Statement and consider whether it properly reflects the risk environment and supporting

## Work Plan 2018/19

		Extract from the Terms of Reference – October 2016	
Agenda Item	Description	No	Detail
			assurances, taking into account internal audit's opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control
Annual Risk Management Update	Annual report on the effectiveness of risk management arrangements in the Council	10	To monitor the effective development and operation of risk management in the council.
	This will include a briefing by the Risk Owner on the management of a Corporate Risk: (TBC)	11	To monitor progress in addressing risk related issues reported to the committee.
Upheld Complaints to the Local Government Ombudsmen	<p>Members have requested that they receive a report where there is a complaint upheld by the Local Government Ombudsmen. This will need to be a standing agenda item, and will require ongoing co-ordination between the Compliance Manager, Democratic Services, the responsible service and the Chair/Vice Chair to establish</p> <ul style="list-style-type: none"> <li>• if there have been any upheld complaints to be reported on to the next agenda</li> <li>• the appropriate part of the agenda for the report to be considered</li> <li>• clarity on the purpose of the report, the nature of the assurances to be provided in</li> </ul>	43	<p>Subject to the requirements set out below, to consider all findings of the Local Government Ombudsman, including reports resulting in a finding of maladministration against the Council, and to make recommendations as to actions that may be necessary in connection with the Ombudsman's findings.</p> <p>(a) There are statutory obligations which will, in some circumstances, require reports to be taken to Cabinet or full Council.</p> <p>(b) The Ombudsman operates protocols in relation to the timing of the publication of findings. The Council would have to give consideration to</p>

## Work Plan 2018/19

		Extract from the Terms of Reference – October 2016	
Agenda Item	Description	No	Detail
	the report, and that this process doesn't duplicate any existing process or reporting.		those protocols when determining how to manage the Audit and Governance Committee's agenda.
Audit and Governance Committee Work Plan	Forward looking programme of meetings and agenda items 2018/19 to ensure comprehensive coverage of the Committee's responsibilities.	All	All
Contract Procedure Rule Non-Adherences  (Part 1 and Part 2)	Report to update Committee on the quantity and reasons for Non Adherences approved since the last Committee.  (Part 1 and Part 2)	38	To receive retrospectively for information all notices which are used to record any non-adherence to the Council's Contract Procedure Rules.
<b>31<sup>st</sup> July 2018</b>			
External Audit Findings Report 2017/18	Summary of findings from the 2017/18 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	31	To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.
		37	To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance
2017/18 Audit Findings and Action Plan (Management Response)	This report sets out the Council's management response to the 2017/18 Audit Findings Report presented by the external auditors to the Audit & Governance Committee.	37	To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

## Work Plan 2018/19

		Extract from the Terms of Reference – October 2016	
Agenda Item	Description	No	Detail
Anti-Fraud and Corruption Policy	This report sets out the review of the Council's Anti-Fraud and Corruption Policy against current best practice and identifies any suggestions for improvements to the current arrangements.	13	<p>To review the assessment of fraud risks and potential harm to the Council from fraud and corruption.</p> <p>To monitor the counter fraud strategy, actions and resources.</p> <p>To approve and monitor Council policies relating to "whistleblowing" and anti-fraud and corruption.</p>
Treasury Management Annual Report	This report will update the Committee on Treasury Management Activity.	17	To review and monitor the Council's treasury management arrangements in accordance with the CIPFA Treasury Management Code of Practice.
Risk Management Update	<p>This report will update the Committee on Risk Management and Business Continuity activity in the Council.</p> <p>This will include a briefing by the Risk Owner on the management of a Corporate Risk: TBC</p>	10	<p>To monitor the effective development and operation of risk management in the council.</p> <p>To monitor progress in addressing risk related issues reported to the committee.</p>
Annual Statement of Accounts 2017/18	Approval of the Audited Statement of Accounts for 2017/18	36	To review and approve the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising

## Work Plan 2018/19

		Extract from the Terms of Reference – October 2016	
Agenda Item	Description	No	Detail
			from the financial statements or from the audit that need to be brought to the attention of the Council.
Annual Report of the Audit and Governance Committee 2017/18	Annual Report of the Chair of the Audit and Governance Committee for consideration and approval by Committee ahead of presentation to Council.	40	To report to full Council on a regular basis on the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose.
Review of the Council's procurement arrangements	<p>Following agreement with TITAN, an audit has commenced during March 2017. The purpose of the audit is to provide assurance that arrangements currently in place to manage procurement activity are appropriate and effective.</p> <p>The outcome of this work will be reported to a future meeting of the Audit and Governance Committee.</p>	12	<p>To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions, including calling managers to explain lack of progress.</p> <p>At the request of Members, 8th December 2016 Audit and Governance Committee.</p>
Update on IA reports on Land Acquisitions	This report will update the Committee on the Management Actions agreed in response to the Internal Audit review of Land Acquisitions	12	To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions, including calling managers to explain lack of progress.
Progress update – Preparation for the General Data Protection	This report will provide the Committee with an update on the Council's progress in preparing for the General Data Protection	6	To review the Council's corporate governance arrangements against the good governance

## Work Plan 2018/19

		Extract from the Terms of Reference – October 2016	
Agenda Item	Description	No	Detail
Regulations	Regulations.		framework and consider annual governance reports and assurances.  Added as a standing item at the request of the Committee on 31 <sup>st</sup> March 2018
Annual Governance Statement 2017/18	Approval of the Annual Governance Statement 2017/18	7	To review and approve the Annual Governance Statement and consider whether it properly reflects the risk environment and supporting assurances, taking into account internal audit's opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control.
Presentation on the Best 4 Business Project	This presentation will cover the governance and assurance arrangements for the B4B project.	6	To review the Council's corporate governance arrangements against the good governance framework and consider annual governance reports and assurances.
Upheld Complaints to the Local Government Ombudsmen	Members have requested that they receive a report where there is a complaint upheld by the Local Government Ombudsmen.  This will need to be a standing agenda item, and will require ongoing co-ordination between the Compliance Manager, Democratic Services, the responsible service and the Chair/Vice Chair to	43	Subject to the requirements set out below, to consider all findings of the Local Government Ombudsman, including reports resulting in a finding of maladministration against the Council, and to make recommendations as to actions that may be necessary in connection with the Ombudsman's findings.  (a) There are statutory obligations which will, in

## Work Plan 2018/19

		Extract from the Terms of Reference – October 2016	
Agenda Item	Description	No	Detail
	establish <ul style="list-style-type: none"> <li>• if there have been any upheld complaints to be reported on to the next agenda</li> <li>• the appropriate part of the agenda for the report to be considered</li> <li>• clarity on the purpose of the report, the nature of the assurances to be provided in the report, and that this process doesn't duplicate any existing process or reporting.</li> </ul>		some circumstances, require reports to be taken to Cabinet or full Council.  (b) The Ombudsman operates protocols in relation to the timing of the publication of findings. The Council would have to give consideration to those protocols when determining how to manage the Audit and Governance Committee's agenda.
Audit and Governance Committee Work Plan	Forward looking programme of meetings and agenda items 2018/19 to ensure comprehensive coverage of the Committee's responsibilities.	ALL	ALL
Contract Procedure Rule Non-Adherences (Part 1 and Part 2)	Report to update Committee on the quantity and reasons for Non Adherences approved since the last Committee.  (Part 1 and Part 2)	38	To receive retrospectively for information all notices which are used to record any non-adherence to the Council's Contract Procedure Rules.
<b>29<sup>th</sup> September 2018</b>			
Grant Thornton - Annual Audit Letter 2017/18	Summary of the External Audit findings from the 2017/18 audit. The letter will also confirm the final audit fee.	31	To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance.
Certification Report	The report provides a summary of the key	31	To consider the external auditor's annual letter,

## Work Plan 2018/19

		Extract from the Terms of Reference – October 2016	
Agenda Item	Description	No	Detail
2017/18	findings that have been identified during the External Auditors' certification process for 2017/18 claims and returns.		relevant reports, and the report to those charged with governance.
Customer Feedback and Complaints: Annual Report based on LGO report	The report will provide a summary of the key issues from the annual report received by the LGO.	42	To seek assurance that customer complaint arrangements are robust.
Members Code of Conduct: Standards Report	To note the numbers and outcomes of complaints made under the Code of Conduct for Members between 1st March 2018 and the end of August 2018.	45	To promote 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).
Risk Management Update	This report will update the Committee on Risk Management and Business Continuity activity in the Council.  This will include a briefing by the Risk Owner on the management of a Corporate Risk: (TBC)	10	To monitor the effective development and operation of risk management in the council.
		11	To monitor progress in addressing risk related issues reported to the committee.
Treasury Management Strategy Update	This report will update the Committee on the Council's Treasury Management Strategy	17	To review and monitor the Council's treasury management arrangements in accordance with the CIPFA Treasury Management Code of Practice.

## Work Plan 2018/19

		Extract from the Terms of Reference – October 2016	
Agenda Item	Description	No	Detail
Contract Management Toolkit	This report will update the Committee on how the toolkit and processes are being embedded.	8	To consider the Council's arrangements to secure value for money and to review and scrutinise assurances and assessments on the effectiveness of these arrangements.
		9	To consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the council.
Upheld Complaints to the Local Government Ombudsmen	<p>Members have requested that they receive a report where there is a complaint upheld by the Local Government Ombudsmen.</p> <p>This will need to be a standing agenda item, and will require ongoing co-ordination between the Compliance Manager, Democratic Services, the responsible service and the Chair/Vice Chair to establish</p> <ul style="list-style-type: none"> <li>• if there have been any upheld complaints to be reported on to the next agenda</li> <li>• the appropriate part of the agenda for the report to be considered</li> <li>• clarity on the purpose of the report, the nature of the assurances to be provided in</li> </ul>	43	<p>Subject to the requirements set out below, to consider all findings of the Local Government Ombudsman, including reports resulting in a finding of maladministration against the Council, and to make recommendations as to actions that may be necessary in connection with the Ombudsman's findings.</p> <p>(a) There are statutory obligations which will, in some circumstances, require reports to be taken to Cabinet or full Council.</p> <p>(b) The Ombudsman operates protocols in relation to the timing of the publication of findings. The Council would have to give consideration to those protocols when determining how to manage the Audit and Governance Committee's agenda.</p>

## Work Plan 2018/19

		Extract from the Terms of Reference – October 2016	
Agenda Item	Description	No	Detail
	the report, and that this process doesn't duplicate any existing process or reporting.		
Audit and Governance Committee Work Plan	Forward looking programme of meetings and agenda items 2018/19 to ensure comprehensive coverage of the Committee's responsibilities.	ALL	ALL
Contract Procedure Rule Non-Adherences  (Part 1 and Part 2)	Report to update Committee on the quantity and reasons for Non Adherences approved since the last Committee.  (Part 1 and Part 2)	38	To receive retrospectively for information all notices which are used to record any non-adherence to the Council's Contract Procedure Rules.
Progress update – Preparation for the General Data Protection Regulations	This report will provide the Committee with an update on the Council's progress in preparing for the General Data Protection Regulations.	6	To review the Council's corporate governance arrangements against the good governance framework and consider annual governance reports and assurances.  Added as a standing item at the request of the Committee on 31 <sup>st</sup> March 2018
<b>6th December 2018</b>			
Introduction to the new External Auditors	Introduction to the Committee of the Council's new external auditors; Mazaars		
Draft Treasury Management Strategy and Minimum Revenue Position Statement	Update on the contents of the Council's Treasury Management Strategy for 2019/20.	17	To review and monitor the Council's treasury management arrangements in accordance with the CIPFA Treasury Management Code of

## Work Plan 2018/19

		Extract from the Terms of Reference – October 2016	
Agenda Item	Description	No	Detail
2019/20	<p>The CIPFA Treasury Management Code of Practice requires all local authorities to make arrangements for the scrutiny of treasury management.</p> <p>This responsibility has been nominated to the Audit &amp; Governance Committee.</p>		Practice
Annual Governance Statement Update	<p>Update on actions to improve governance arrangements and respond to emerging issues identified in the 2017/18 Annual Governance Statement.</p> <p>Proposed process for the production of the 2018/19 Annual Governance Statement.</p>	6	To review the Council's corporate governance arrangements against the good governance framework and consider annual governance reports and assurances.
Internal Audit Interim Update Report 2018/19	Progress report against the Internal Audit Plan 2018/19.	12	To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions, including calling managers to explain lack of progress.
	Review of Internal Audit Charter in accordance with Public Sector Internal Audit Standards.	18	To approve the Internal Audit Charter.

## Work Plan 2018/19

		Extract from the Terms of Reference – October 2016	
Agenda Item	Description	No	Detail
		21	To approve significant interim changes to the risk-based Internal Audit Plan and resource requirements.
		23	To consider reports from the head of internal audit on internal audit's performance during the year, including the performance of external providers of internal audit services.
Revising the Council's Code of Corporate Governance	This report will update the Committee on the review of the Council's Code of Corporate Governance against best practice guidance and the use of the Code in practice and consider any changes which may be desirable	9	To consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the council.
		6	To review the Council's corporate governance arrangements against the good governance framework and consider annual governance reports and assurances.
Risk Management Update	This report will update the Committee on Risk Management and Business Continuity activity in the Council.  This will include a briefing by the Risk Owner on the management of a Corporate Risk: (TBC)	10	To monitor the effective development and operation of risk management in the council.
		11	To monitor progress in addressing risk related issues reported to the committee.
Upheld Complaints to the Local Government	Members have requested that they receive a report where there is a complaint upheld	43	Subject to the requirements set out below, to consider all findings of the Local Government

## Work Plan 2018/19

		Extract from the Terms of Reference – October 2016	
Agenda Item	Description	No	Detail
Ombudsmen	<p>by the Local Government Ombudsmen. This will need to be a standing agenda item, and will require ongoing co-ordination between the Compliance Manager, Democratic Services, the responsible service and the Chair/Vice Chair to establish</p> <ul style="list-style-type: none"> <li>• if there have been any upheld complaints to be reported on to the next agenda</li> <li>• the appropriate part of the agenda for the report to be considered</li> <li>• clarity on the purpose of the report, the nature of the assurances to be provided in the report, and that this process doesn't duplicate any existing process or reporting.</li> </ul>		<p>Ombudsman, including reports resulting in a finding of maladministration against the Council, and to make recommendations as to actions that may be necessary in connection with the Ombudsman's findings.</p> <p>(a) There are statutory obligations which will, in some circumstances, require reports to be taken to Cabinet or full Council.</p> <p>(b) The Ombudsman operates protocols in relation to the timing of the publication of findings. The Council would have to give consideration to those protocols when determining how to manage the Audit and Governance Committee's agenda.</p>
Audit and Governance Committee Work Plan	Forward looking programme of meetings and agenda items 2018/19 to ensure comprehensive coverage of the Committee's responsibilities.	ALL	ALL
Contract Procedure Rule Non-Adherences  (Part 1 and Part 2)	<p>Report to update Committee on the quantity and reasons for Non Adherences approved since the last Committee.</p> <p>(Part 1 and Part 2)</p>	38	To receive retrospectively for information all notices which are used to record any non-adherence to the Council's Contract Procedure Rules.
Progress update – Preparation for the	This report will provide the Committee with an update on the Council's progress in	6	To review the Council's corporate governance

## Work Plan 2018/19

		Extract from the Terms of Reference – October 2016	
Agenda Item	Description	No	Detail
General Data Protection Regulations	preparing for the General Data Protection Regulations.		arrangements against the good governance framework and consider annual governance reports and assurances.  Added as a standing item at the request of the Committee on 31 <sup>st</sup> March 2018
<b>14th March 2019</b>			
Mazaars Risk Assessment of Cheshire East Council	To present and consider Management's responses to questions posed by the External Auditor. <i>(Anticipated Equivalent Report to "Informing the Risk Assessment")</i>	32	To consider specific reports as agreed with the external auditor.
Update on the 2017/18 External Audit Plan	To receive an update from the Council's External Auditors in relation to the 2017/18 external audit report and other issues	31	To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance.
		33	To comment on the scope and depth of external audit work and to ensure it gives value for money
External Audit Plan for 2018/19 (Mazaars)	To receive and comment on External Audit's planned work for the audit of financial statements and the value for money conclusion 2018/19	33	To comment on the scope and depth of external audit work and to ensure it gives value for money
Members Code of	To note the numbers and outcomes of	45	To promote high standards of ethical behaviour by

## Work Plan 2018/19

		Extract from the Terms of Reference – October 2016	
Agenda Item	Description	No	Detail
Conduct: Standards Report	complaints made under the Code of Conduct for Members between 1st September 2018 and the end of February 2019.		developing, maintaining and monitoring Codes of Conduct for Members of the Council (including co-opted Members and other persons acting in a similar capacity).
Risk Management Update	This report will update the Committee on Risk Management and Business Continuity activity in the Council. This will include a briefing by the Risk Owner on the management of a Corporate Risk	10	To monitor the effective development and operation of risk management in the council.
		11	To monitor progress in addressing risk related issues reported to the committee.
Internal Audit Interim Report	To consider a summary of Internal Audit Work undertaken between October and December 2018		Various (Detailed in ToR)
Internal Audit Plan 2019/20	Approval of the summary risk based Internal Audit Plan for 2019/20	20	To approve the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.
Upheld Complaints to the Local Government Ombudsmen	Members have requested that they receive a report where there is a complaint upheld by the Local Government Ombudsmen. This will need to be a standing agenda item, and will require ongoing co-ordination between the Compliance Manager,	43	Subject to the requirements set out below, to consider all findings of the Local Government Ombudsman, including reports resulting in a finding of maladministration against the Council, and to make recommendations as to actions that may be necessary in connection with the

## Work Plan 2018/19

		Extract from the Terms of Reference – October 2016	
Agenda Item	Description	No	Detail
	<p>Democratic Services, the responsible service and the Chair/Vice Chair to establish</p> <ul style="list-style-type: none"> <li>• if there have been any upheld complaints to be reported on to the next agenda</li> <li>• the appropriate part of the agenda for the report to be considered</li> <li>• clarity on the purpose of the report, the nature of the assurances to be provided in the report, and that this process doesn't duplicate any existing process or reporting.</li> </ul>		<p>Ombudsman's findings.</p> <p>(a) There are statutory obligations which will, in some circumstances, require reports to be taken to Cabinet or full Council.</p> <p>(b) The Ombudsman operates protocols in relation to the timing of the publication of findings. The Council would have to give consideration to those protocols when determining how to manage the Audit and Governance Committee's agenda.</p>
Audit and Governance Committee Work Plan	Forward looking programme of meetings and agenda items 2018/19 to ensure comprehensive coverage of the Committee's responsibilities.	ALL	ALL
Contract Procedure Rule Non-Adherences  (Part 1 and Part 2)	<p>Report to update Committee on the quantity and reasons for Non Adherences approved since the last Committee.</p> <p>(Part 1 and Part 2)</p>	38	To receive retrospectively for information all notices which are used to record any non-adherence to the Council's Contract Procedure Rules.
Progress update – Preparation for the General Data Protection	This report will provide the Committee with an update on the Council's progress in preparing for the General Data Protection	6	To review the Council's corporate governance arrangements against the good governance framework and consider annual governance

## Work Plan 2018/19

		Extract from the Terms of Reference – October 2016	
Agenda Item	Description	No	Detail
Regulations	Regulations.		reports and assurances.  Added as a standing item at the request of the Committee on 31 <sup>st</sup> March 2018
<b>Unscheduled items</b>			
Work Programme for Member/Officer Working Groups	Forward looking programme of meetings and agenda items to: <ul style="list-style-type: none"> <li>• enable individual Members to become more involved in specific areas of the Committee's work as a means of developing in-depth knowledge and expertise</li> <li>• address some of the more time consuming aspects of the Committee's work.</li> <li>• ensure that the Committee continues to work effectively and fulfils its purpose</li> </ul>	44	The Committee may establish standing and time-bound working groups (which may but need not be politically balanced) to consider any matters within the terms of reference of the Committee.
Feedback from Member/Officer Working Groups	The outcome of Member/Officer Groups work which, where possible, will be fed back to the Committee during the relevant agenda item. However, some of the feedback may, at the request of the Committee, require specific reports	44	The Committee may establish standing and time-bound working groups (which may but need not be politically balanced) to consider any matters within the terms of reference of the Committee.
Outcome of the External Assessment of Internal	To report back to the Committee on the External Assessment of the Internal Audit	4	It oversees internal audit and external audit, helping to ensure efficient and effective assurance

## Work Plan 2018/19

		Extract from the Terms of Reference – October 2016	
Agenda Item	Description	No	Detail
Audit	function's compliance with the Public Sector Internal Audit Standards undertaken in January 2018	27	arrangements are in place.  To contribute to the Quality Assurance and Improvement Programme and in particular, to the external quality assessment of internal audit that takes place at least once every five years.
Approach to disclosure of Internal Audit Reports	Report to the Audit and Governance Committee regarding the current approach to the sharing of Internal Audit reports and presenting options for future consideration	4  25	It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.  To consider summaries of specific internal audit reports as requested.
Audit and Governance Committee Terms of Reference	To consider the Committee's Terms of Reference and whether any changes would be desirable, following the publication of CIPFA's Guidance (Audit Committees: Practical Guidance for Local Authorities and Police) (Jan 2018)	40	To report to full Council on a regular basis on the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose.
Member Declarations of Interest	A review of the classes of interest to be declared by Members and for inclusion in the Members Code of Conduct.	45	To promote 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).  Added to the Work Plan at the request of

## Work Plan 2018/19

		Extract from the Terms of Reference – October 2016	
Agenda Item	Description	No	Detail
			Members on 31 <sup>st</sup> March 2018.
Counter Fraud Update report	To update the Committee with: <ul style="list-style-type: none"> <li>• an overview of developments that are taking place nationally,</li> <li>• an update on anti-fraud and corruption activity at Cheshire East; and</li> <li>• details of work that will be completed to ensure compliance with best practice and improve Cheshire East's resilience to the threat of fraud and corruption.</li> </ul>	14	To make recommendations to the Executive on the Council's arrangements for deterring, preventing, detecting and investigating fraud

### Audit and Governance Committee - Work Plan Analysis

The table below shows the coverage of reports from the Audit and Governance Committee's current work plan against its current Terms of Reference.

Terms of Reference	Functions	Coverage on current work plan – number of reports
6	To review the Council's corporate governance arrangements against the good governance framework and consider annual governance reports and assurances.	7
7	To review and approve the Annual Governance Statement and consider whether it properly reflects the risk environment and supporting assurances, taking into account internal audit's opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control.	2
8	To consider the Council's arrangements to secure value for money and to review and scrutinise assurances and assessments on the effectiveness of these arrangements	1
9	To consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the council.	2
10	To monitor the effective development and operation of risk management in the council	5
11	To monitor progress in addressing risk related issues reported to the committee.	4
12	To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions, including calling managers to explain lack of progress.	3
13	To review the assessment of fraud risks and potential harm to the Council from fraud and corruption.	1
14	To make recommendations to the Executive on the Council's arrangements for deterring, preventing, detecting and investigating fraud.	1
15	To monitor the counter fraud strategy, actions and resources.	1

<sup>1</sup> The Committee's Statement of Purpose covers items 1-5, with the detailed functions of the committee beginning at number 6.

16	To advise the Executive on responses to audit management letters, reports and investigations and reviewing whether agreed external audit or inspection recommendations have been implemented as timetabled.	0
17	To review and monitor the Council's treasury management arrangements in accordance with the CIPFA Treasury Management Code of Practice.	3
18	To approve the internal audit charter.	1
19	To review proposals made in relation to the appointment of external providers of internal audit services and to make recommendations.	0
20	To approve the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.	1
21	To approve significant interim changes to the risk-based internal audit plan and resource requirements.	1
22	To make appropriate enquiries of both management and the head of internal audit to determine if there are any inappropriate scope or resource limitations.	0
23	To consider reports from the head of internal audit on internal audit's performance during the year, including the performance of external providers of internal audit services. These will include: a) Updates on the work of internal audit including key findings, issues of concern and action in hand as a result of internal audit work. b) Regular reports on the results of the Quality Assurance and Improvement Programme. c) Reports on instances where the internal audit function does not conform to the Public Sector Internal Audit Standards and Local Government Application Note, considering whether the non-conformance is significant enough that it must be included in the Annual Governance Statement.	1
24	To consider the head of internal audit's annual report: a) The statement of the level of conformance with the Public Sector Internal Audit	1

	Standards and Local Government Application Note and the results of the Quality Assurance and Improvement Programme that supports the statement – these will indicate the reliability of the conclusions of internal audit. b) The opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control together with the summary of the work supporting the opinion – these will assist the committee in reviewing the Annual Governance Statement.	
25	To consider summaries of specific internal audit reports as requested	1
26	To receive reports outlining the action taken where the head of internal audit has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions	0
27	To contribute to the Quality Assurance and Improvement Programme and in particular, to the external quality assessment of internal audit that takes place at least once every five years	1
28	To consider a report on the effectiveness of internal audit to support the Annual Governance Statement, where required to do so by the Accounts and Audit Regulations.	0
29	To support the development of effective communication with the head of internal audit.	0
30	To review and make recommendations to the Executive regarding the effectiveness of internal audit to include ensuring the internal audit function is adequately resourced, to review its strategy, receive, challenge and approve its annual plan and monitor its delivery and to review significant audit findings and monitor progress by managers in implementing agreed recommendations.	0
31	To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance	5
32	To consider specific reports as agreed with the external auditor.	1
33	To comment on the scope and depth of external audit work and to ensure it gives value for money.	2
34	To commission work from internal and external audit.	0

35	To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.	0
36	To review and approve the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.	2
37	To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.	2
38	To receive retrospectively for information all notices of waiver which are used when consent is sought to depart from the requirements of the Council's Contract Procedure Rules, and all notices which are used to record any non-adherence to those Rules.	5
39	To report to those charged with governance on the committee's findings conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks; financial reporting arrangements, and internal and external audit functions	0
40	To report to full Council on a regular basis on the committee's performance in relation to the terms of reference and the effectiveness of the committee in meeting its purpose	3
41	To approve and monitor Council policies relating to "whistleblowing" and anti-fraud and corruption.	1
42	To seek assurance that customer complaint arrangements are robust.	2
43	<p>Subject to the requirements set out below, to consider all findings of the Local Government Ombudsman, including reports resulting in a finding of maladministration against the Council, and to make recommendations as to actions that may be necessary in connection with the Ombudsman's findings.</p> <p>(a) There are statutory obligations which will, in some circumstances, require reports to be taken to Cabinet or full Council.</p> <p>(b) The Ombudsman operates protocols in relation to the timing of the publication of findings. The Council would have to give consideration to those protocols when</p>	5

	determining how to manage the Audit and Governance Committee's agenda	
44	The Committee may establish standing and time-bound working groups (which may but need not be politically balanced) to consider any matters within the terms of reference of the Committee.	2
45	The Committee is responsible for the Council's standards arrangements which seek to: <ol style="list-style-type: none"> <li>1. promote 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);</li> <li>2. ensure that Members receive advice and as appropriate on the Members Code of Conduct; and</li> <li>3. grant dispensations under the provisions of the Localism Act 2011 to enable a member or co-opted Member to participate in a meeting of the Authority.</li> </ol>	2
46	Council on 22nd October 2015 approved a procedure to be followed when considering a complaint that an elected member of the Council or of a town or parish council within its area has failed to comply with the Council's Code of Conduct. The full procedure is available from the Monitoring Officer.	0
47	The Hearing Sub-committee is a Sub-Committee of the Council's Audit and Governance Committee appointed to consider complaints under the procedure referred to in paragraph 43. It has 3 members drawn from a cross party panel of 15 members of the Council. An Independent Person is invited to attend all meetings of the Hearing Sub-committee and his/her views are sought and taken into consideration before the Hearing Sub-committee takes any decision on whether the member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.	0
48	The Independent Person is a person who has applied for the post following advertisement. He/she is appointed by Council	0

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## **Audit & Governance Committee**

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**Date of Meeting:** 31 May 2018

**Report Title:** Waivers and Non Adherences (WARNs)

**Senior Officer:** Jan Willis – Interim Executive Director of Corporate Services

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### **1. Report Summary**

- 1.1. The purpose of this report is to provide an update to the Audit and Governance Committee on the number and reasons for waivers and non adherences (WARNs) which have been approved between the 1<sup>st</sup> February 2018 and the 31<sup>st</sup> March 2018.

The approved WARNs are published retrospectively for information on the next appropriate Audit and Governance Committee. The number of WARNs to be presented to the May Audit and Governance Committee is 4; 4 waivers and 0 non adherences.

All WARNs will be presented to the Audit and Governance Committee without any information redacted. However, they will be presented in Part 2 of the Committee as they may contain commercially sensitive information and/or Officer Details.

### **2. Recommendation/s**

- 2.1. That the Audit and Governance Committee note the number and reason for waivers and non adherences (WARNs) approved between 1<sup>st</sup> of February 2018 and 31<sup>st</sup> March 2018.

### **3. Reasons for Recommendation/s**

- 3.1. The Audit and Governance Committee has a key role in overseeing governance arrangements within the Council and has a requirement to retrospectively review all approved WARNs. The WARN process forms part of the Councils Contract Procedure Rules (CPRs), which are intended to promote good procurement and commissioning practice, transparency and clear public accountability.

### **4. Other Options Considered**

- 4.1. N/A

## 5. Background

- 5.1. All WARNs approved in the period between Audit and Governance Committees will be presented to the following Committee. This report contains all WARNs approved from the 1<sup>st</sup> February 2018 to the 31<sup>st</sup> March 2018.

The WARN process records the following;

- Waivers to the Contract Procedure Rules – These are agreed waivers in accordance with the Contract Procedure Rules, Part 5. Section 7.1-7.3.
- Non Adherence to the Contract Procedure Rules – This is a breach of the Contract Procedure Rules in accordance with Part 5. Section 7.4-7.10.

Waivers are a compliant part of the Contract Procedure Rules and are used where there is a genuine business case to direct award without the need for competition.

<b>WARNs</b>	<b>2014-2015</b>	<b>2015-2016</b>	<b>2016-2017</b>	<b>2017- 2018</b>
Non Adherence to CPRs	20	25	33	10
Waiver to the CPR's	62	45	40	20
<b>Grand Total</b>	<b>82</b>	<b>70</b>	<b>73</b>	<b>30</b>

- 5.2. A summary of the total number of WARNs for the reporting periods 2014 - 2017 is set out below:

The figure for financial year 2016 – 2017 increased slightly due to it including 16 ICT WARNs which were previously managed through CoSocius. If these were removed then the figure would be 54 meaning a reduction from the previous year.

The total number of WARN's for 2017-2018 is 30. This is a reduction from the previous year of 59%.

This reduction in waivers and non adherences is the result of improved forward planning, better information such as enhanced contracts register and proactively working with services to inform better outcomes and ensuring compliant contracts are in place.

## **6. Implications of the Recommendations**

### **6.1. Legal Implications**

6.1.1. 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.

6.1.2. 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. This report sets out compliance with Contract Procedure Rules.

### **6.2. Finance Implications**

6.2.1. The Council's Constitution Finance Procedure Rule 2.30; Chapter 3 - Part 4: Section 2 explains that the Corporate Leadership Team (CLT) are responsible for working within their respective budget limits and to utilise resources allocated to them in the most efficient, effective and economic way.

6.2.2. Along with comments from Procurement and Legal Officers, Finance Officers are invited to make comments in respect of each WARN, to help ensure Finance Procedure Rules are adhered to in this regard (e.g. that the relevant Service has identified sufficient existing budget to cover the proposal; and also that the Service has considered how to achieve best value for money via this particular recommended course of action).

### **6.3. Equality Implications**

6.3.1. N/A

### **6.4. Human Resources Implications**

6.4.1. N/A

### **6.5. Risk Management Implications**

6.5.1. The focus is the risk that processes are not complied with, which increases the likelihood of legal challenge causing significant financial and reputational risk to the Council. This includes procurement processes.

### **6.6. Rural Communities Implications**

6.6.1. There are no direct implications for rural communities.

**6.7. Implications for Children & Young People**

6.7.1. There are no direct implications for children and young people.

**6.8. Public Health Implications**

6.8.1. There are no direct implications for public health.

**7. Ward Members Affected**

7.1. N/A

**8. Consultation & Engagement**

8.1. N/A

**9. Access to Information**

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

**10. Contact Information**

10.1. Any questions relating to this report should be directed to the following officer:

Name: Lianne Halliday

Job Title: Senior Manager - Procurement

Email: [lianne.halliday@cheshireeast.gov.uk](mailto:lianne.halliday@cheshireeast.gov.uk)

## Appendix 1

**CPR WAIVERS – CATEGORIES FOR INTERNAL REPORTING**

<b>A</b>	Genuine Emergency – which warrant an exception to the requirements
<b>B</b>	Specialist Education or Social Care Requirements
<b>C</b>	Genuine Unique Provider – e.g. from one source or contractor, where no reasonably satisfactory alternative is available.
<b>D</b>	Compatibility with an existing installation and procurement from any other source would be uneconomic given the investment in previous infrastructure
<b>E</b>	In-depth Knowledge, skills and capability of project/services already in existence with consultants/providers carrying out related activity – therefore procuring new consultants/skills would be uneconomic given the investment in previous, related work.
<b>F</b>	No valid tender bids received, therefore direct award can be substantiated
<b>G</b>	Lack of Planning
<b>H</b>	Other – Any other valid general circumstances up to the EU threshold

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