

Audit and Governance Committee Agenda

Date: Thursday 12th March 2020
Time: 2.00 pm
Venue: Committee Suite 1,2 & 3, Westfields, Middlewich Road,
Sandbach CW11 1HZ

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

It should be noted that Part 1 items of Cheshire East Council decision making meetings are audio recorded and the recordings are 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.

For requests for further information

Contact: Rachel Graves

Tel: 01270 686473

E-Mail: rachel.graves@cheshireeast.gov.uk with any apologies

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

To approve the minutes of the meeting held on 5 December 2019 as a correct record.

5. **Urgent Decision – General Dispensation** (Pages 13 - 20)

To report an urgent decision under paragraph 2.7 and Appendix 4 of the Committee and Sub Committee Procedural Rules.

6. **External Audit 2019/20 Progress and Update Report** (Pages 21 - 38)

To receive and consider the External Audit Progress and Update Report.

7. **Audit and Governance Committee Self Assessment** (Pages 39 - 54)

To consider the Self-Assessment and determine any required additions or amendments.

8. **Risk Management Framework Update** (Pages 55 - 82)

To consider and comment upon the updated Risk Management Framework and make a recommendation to Cabinet, and to note the update on the Corporate Risk Register.

9. **Internal Audit Interim Report October – December 2019** (Pages 83 - 100)

To consider and note the internal audit progress report, and approve the updated Internal Audit Charter.

10. **Draft Internal Audit Plan 2020/21** (Pages 101 - 122)

To consider and approve the Internal Audit Plan 2020/21.

11. **Revised RIPA Policy and Procedures** (Pages 123 - 146)

To consider and approve the proposed revised RIPA Policy and Procedures.

12. **Maladministration Decision Notices from Local Government and Social Care Ombudsman – September – November 2019** (Pages 147 - 162)

To consider the Decision Notices issued by the Local Government and Social Care Ombudsman when their investigations have found maladministration causing injustice to complainants.

13. **Committee Work Plan** (Pages 163 - 180)

To consider the Work Plan and determine any required amendments.

14. **Waivers and Non-Adherences** (Pages 181 - 186)

To consider and note the number and reason for 3 further WARNs approved between 31 October 2019 and 31 January 2020.

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

The reports 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 the matters may be determined with the press and public excluded.

Recommended that the press and public be excluded from the meeting during consideration of the following items pursuant to Section 100(A)4 of the Local Government Act 1972 on the grounds that they involve 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.

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

16. **Waivers and Non-Adherences**

To note the approved WARNs issued between 31 October 2019 and 31 January 2020.

Membership: Councillors R Bailey (Vice-Chairman), B Evans, R Fletcher (Chairman), S Handley, S Hogben, M Houston, A Kolker, D Marren, M Sewart and M Simon
Independent Co-opted Members: Mr P Gardener

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CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Audit and Governance Committee**
held on Thursday, 5th December, 2019 at Committee Suite 1,2 & 3,
Westfields, Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor R Fletcher (Chairman)
Councillor R Bailey (Vice-Chairman)

Councillors D Edwardes, B Evans, S Hogben, M Houston, A Kolker, M Sewart
and M Simon (substitute for Cllr A Gregory)

Independent Co-opted Member

Mr P Gardener

External Audit

Mark Dalton, Mazars

Councillors in attendance

Councillors J Rhodes and A Stott

Officers in attendance

Jane Burns, Executive Director Corporate Services
Alex Thompson, Director of Finance and Customer Services
Jan Bakewell, Director of Governance and Compliance
Josie Griffiths, Head of Audit and Risk Management
Michael Todd, Acting Internal Audit Manager
Juan Turner, Compliance and Customer Relations Officer
Lianne Holliday, Senior Manager – Procurement
Rachel Graves, Democratic Services Officer

43 APOLOGIES FOR ABSENCE

Apologies were received from Councillors A Gregory and S Handley.

44 DECLARATIONS OF INTEREST

No declarations of interest were made.

45 PUBLIC SPEAKING TIME/OPEN SESSION

There were no members of the public present.

46 **MINUTES OF PREVIOUS MEETING**

RESOLVED:

That the minutes of the meeting held on 3 October 2019 be confirmed as a correct record subject to the following spelling correction:

Minutes 33 Minutes of the Previous Meeting

Minutes 19 – Annual Report of the Monitoring Officer – first line ‘pervious’ be corrected to ‘previous’.

47 **EXTERNAL AUDIT REPORT 2019/20**

Mark Dalton of Mazars presented to the Committee their Audit Strategy Memorandum for the year ending 31 March 2020.

The document set out the work that Mazars would be carrying out in their statutory audit on the Council’s financial statements and arrangements for securing value for money, and highlighted the significant audit risks and areas of key judgement.

It was highlighted that Code of Practice on Local Authorities would adopt the principles of IFRS 16 leases for the first time from 2020/21. IFRS 16 would replace the existing leasing standard, IAS 17, and would introduce significant changes to the way bodies accounted for leases and would have substantial implications for public sector bodies.

RESOLVED:

That following consideration of the report the Committee noted the content.

48 **CERTIFICATION OF CLAIMS AND RETURNS 2018/19**

The Committee considered the summary of key findings that had been identified during the External Auditors certification process for the 2018/19 Housing Benefit Subsidy Claim and the Teachers’ Pension End of Year Certificate.

No errors or exceptions had been found by the auditors in the Housing Benefit Subsidy Claim. In the Teachers’ Pension End of Year Certification variances of -£27.48 and -£168.04 between expected and actual Teachers’ and Employers’ contributions were identified and the claim was adjusted accordingly.

RESOLVED:

That the findings of the external audits regarding the certification process for the 2018/19 Housing Benefit Subsidy claim and the Teachers' End of Year Certificate be noted.

49 REVIEW OF CHESHIRE EAST GROUP ACCOUNTING POLICIES

The Committee considered a report which provided an update on the accounting arrangements for the Local Government Pension Scheme in respect to the Council's wholly owned companies, and set out the accounting policies for the Cheshire East Group.

The Council operated a 'pass through' agreement with regards to its pension arrangements with the wholly owned companies. Whilst the accounting arrangements for 'pass through' had been advocated nationally by auditors, actuarial and legal firms there were concerns that the accounting treatment may not be appropriate. There was a view that accounting regulations still required pension liabilities and assets to be accounted for within company accounts, rather than the Council's accounts. As a consequence of this emerging view the accounting policy would be reviewed and a possible change made for the 2019/20 accounts. Any changes made to the accounting policy would be reported to the Committee.

RESOLVED: That

- 1 the changes to the pension scheme in respect of the Cheshire East Group of Companies be noted; and
- 2 the group accounting policies, as set out in Appendix A to the report, be noted.

50 DRAFT TREASURY MANAGEMENT STRATEGY AND MINIMUM REVENUE PROVISION STATEMENT 2020/21

The Committee considered an update on the Council's draft Treasury Management Strategy and the Minimum Revenue Provision Statement 2020/21.

The Treasury Management Strategy focused on the management of the Council's investment and cash flows; its banking, money market and capital transactions; the effective control of the risks associated with these activities, and the pursuit of optimum performance consistent with the risks.

The Strategy formed part of a range of financial strategies which would be reported as part of the Medium Term Financial Strategy to Cabinet and full Council in February 2020.

The Committee sought clarification on the risks of Lender's Option Borrower's Option loans, which had been inherited from Cheshire County Council, and on the long term borrowing from the Public Works Loan Board.

RESOLVED:

That the draft Treasury Management Strategy and the Minimum Revenue Statement 2020/21 be received.

51 MEMBER CODE OF CONDUCT: STANDARDS REPORT

The Committee considered the report which detailed the number and status of Member Code of Conduct complaints received in relation to Cheshire East Councillors and Town and Parish Councillors during the period 1 April 2019 to 30 September 2019.

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.

An amendment to the number of complaints received was reported as follows:

Paragraph 5.2 - 11 complaints had been received with 6 in respect of a Town or Parish Councillor. 5 complaints in respect of a Town or Parish Councillor were taken to the independent assessment meeting.

RESOLVED:

That the report be noted.

52 MALADMINISTRATION DECISION NOTICES FROM LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN – JULY – AUGUST 2019

The Committee considered a report on the decision notices issued by the Local Government Ombudsman between 1 July 2019 and 31 August 2019.

It was reported that one decision notice had been issued which concluded that there had been maladministration causing injustice - details of which were set out in Appendix 1 to the report.

The Committee refereed to a decision notice relating to the Waste and Recycling Service, reported at the previous meeting, and asked if an update on the actions arising from the decision notice could be provided to Committee members.

RESOLVED: That

- 1 the contents of the report be noted; and
- 2 an update on the review of enforcement actions arising from the Waste and Recycling decision notice be circulated to Committee members.

53 INSPECTION BY THE INVESTIGATORY POWERS COMMISSIONERS' OFFICE

The Committee considered a report on outcomes of a remote desktop inspection by the Investigatory Powers Commissioners' Office regarding the Council's use of powers under the Regulation of Investigatory Powers Act (RIPA).

The Inspector raised a number of concerns, including that the quality of the authorisations needed to be improved; continued use of the urgency provision on the surveillance authorisations when no longer applicable and suggested the use of real life RIPA scenarios should be included in training. An Action Plan had been developed to respond to the recommendations from the inspection.

RESOLVED: That

- 1 the Investigatory Powers Commissioners' Office inspection report in relation to the Council's use of directed surveillance and covert human intelligence sources be noted;
- 2 the action plan to address the recommendations arising from the inspection be noted; and
- 3 a progress report on the action plan be brought to a future meeting.

54 RISK MANAGEMENT UPDATE

The Committee considered a report which provided an update on Corporate Risk Management arrangements and activity in the year to date.

The Corporate Risk Register had been reviewed in September 2019, which had resulted in one risk being removed from the register – CR11 Local changes in NHS arrangements.

RESOLVED:

That the update report on risk management be noted.

55 INTERNAL AUDIT INTERIM UPDATE REPORT APRIL – SEPTEMBER 2019

The Committee considered an update on the progress against the Internal Audit Plan 2019/20.

The Update Report detailed the work undertaken to the end of September 2019, including the issues identified and actions required from each review carried out.

RESOLVED:

That the contents of the Internal Audit Interim Update be noted.

56 ANNUAL GOVERNANCE STATEMENT 2018/19 – PROGRESS UPDATE

The Committee considered an update on the issues reported in the 2018-19 Annual Governance Statement and on the process for the production of the 2019-20 Annual Governance Statement.

The appendix to the Report detailed the progress on the items included in the 2018/19 Annual Governance Statement. Table 1 in the report set out a summary of the recommendations to the Committee on which items should be considered as completed or managed, and can be monitored via local monitoring arrangements and which required further monitoring via the Annual Governance Statement.

The 2019/20 Annual Governance Statement would be prepared in line with the requirements of updated CIPFA/SOLACE guidance and carried out against the principles identified in the current Code of Corporate Governance and would be considered by the Audit and Governance Committee at its meeting in May 2020.

RESOLVED: That the Committee

- 1 note and endorse the updates provided on the issues reported in the Annual Governance Statement 2019/20, including the recommendations to the Committee on whether items remain in the Statement; and
- 2 endorse the process for the production of the 2019/20 Annual Governance Statement.

57 COMMITTEE WORK PLAN

The Committee considered the Work Plan for the remainder of 2019/20.

It was noted that the outcome of the Annual Audit and Governance Committee self-assessment had been deferred until March 2020 to enable analysis of the responses provided by Members and inform a programme

of briefings and training sessions to address identified gaps in skills and knowledge.

RESOLVED:

That the Work Plan be noted and that it be brought back to the Committee throughout the year for further development and approval.

58 CONTRACT PROCEDURE RULES NON-ADHERENCES

The Committee considered a report on the number and reasons for Waivers and Non-Adherences (WARNs), which had been approved between 1 July 2019 and 31 August 2019.

RESOLVED:

That the report be noted.

59 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 1972 as amended on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 3 of Schedule 12A of the Local Government Act 1972 and the public interest would not be served in publishing the information.

60 CONTRACT PROCEDURE RULES NON-ADHERENCES

The Committee considered the WARNs.

RESOLVED:

That the WARNs be noted.

The meeting commenced at 2.00 pm and concluded at 4.04 pm

Councillor R Fletcher (Chairman)

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Audit & Governance Committee

Date of Meeting: 12 March 2020

Report Title: Urgent Decision – General Dispensation

Senior Officer: Jan Bakewell – Director of Governance & Compliance

1. Report Summary

- 1.1. The purpose of the report is to inform the Committee of an urgent decision which needed to be taken by the Acting Chief Executive in consultation with the Chair of the Committee before the next meeting of this Committee.

2. Recommendation

- 2.1. That the Urgent Decision taken by the Acting Chief Executive in consultation with the Chair of the Committee on 23 January 2020 to grant an additional dispensation for inclusion in the Council's list of general dispensations be noted.

3. Reasons for Recommendation

- 3.1. The Audit and Governance Committee is responsible for promoting high standards of ethical behaviour by developing, maintaining and monitoring the Member Code of Conduct.
- 3.2. The Terms of Reference for the Committee include:
- 3.3. 'Granting 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.'
- 3.4. The Committee may therefore grant dispensations from the requirements of the Code of Conduct in limited circumstances to enable those members with a disclosable pecuniary interest ("DPI") to participate and vote on a matter in which they have a prejudicial or DPI.
- 3.5. Dispensations may be sought on the following grounds:
 - That so many Members of the decision-making body have a DPI in a matter that the business of the meeting would be impeded;
 - Without a dispensation the representation of different political groups on the body would be so upset as to alter the outcome of any vote;
 - The dispensation is in the interests of persons living in the area;
 - No Member of Cabinet would be able to participate on the matter without a dispensation; or
 - It is otherwise appropriate to grant a dispensation.

4. Other Options Considered

- 4.1. It was not practicable in the time available before full Council on 20 February 2020 to convene an urgent meeting of this Committee solely for consideration of this item.

5. Report Detail

- 5.1. This report provides details to the Committee for information of an Urgent Decision taken on 23 January 2020 by the Acting Chief Executive and the Chair of Audit & Governance Committee.

- 5.2. At the Council meeting on 20 February 2020, the Medium-Term Financial Strategy report included proposals that potentially had an impact on the Council's ASDVs. For example, item 20 under Outcome 4 (Environment) relates to Ansa income generation and efficiencies (Revenue Savings). Some members would have had a DPI in relation to the budget item due to their appointment as directors of the Council's ASDVs. Those members with a DPI triggered by any budget proposals that may impact on ASDVs, would have needed to declare and leave the Council meeting for this item in accordance with the Council's Code of Conduct for Members.

- 5.3 It was considered appropriate for an urgent decision to be taken by the Acting Chief Executive in consultation with the Chair of Audit & Governance Committee, to grant a dispensation in these circumstances. The decision granted an additional dispensation for inclusion in the Council's list of general dispensations as follows:

'To the extent that it may amount to a prejudicial or disclosable pecuniary interest, any allowance or other remuneration received from the Council in respect of Council duties or directorships of Council owned ASDVs.'

- 5.4 Committee Procedure Rule 2.7 (Urgent Decisions – Non-Executive Matters) provides for an item of urgent business, which has to be decided before the next meeting of a Committee or Sub-Committee, can be determined in accordance with the procedure set out at Appendix 4.

- 5.5 Appendix 4 to the Rules states the Acting Chief Executive in consultation with the Chairman and/or Vice-Chairman of the relevant Committee or sub-committee has delegated authority to take any non-executive decision subject to the following requirements being met:

- The decision-maker is satisfied that the matter is urgent and cannot await the next meeting of the decision-making body, or an urgently convened meeting
- The decision is reported for information to the next available meeting of the decision-making body
- The provisions of legislation are complied with
- Advice has been taken from the Council's Monitoring Officer and Section 151 Officer
- All members of the Council are notified of the decision by electronic means

5.6 The Council's Monitoring Officer and Section 151 Officer were consulted prior to the decision being taken. All members of the Council were notified of the decision by email from the Monitoring Officer on 11 February 2020.

5.7 A copy of the Urgent Decision is attached at Appendix A.

6. Implications of the Recommendations

6.1 Legal Implications

6.1.1 The Localism Act 2011 requires the Council to have a Code of Conduct which sets out the standards expected of Members whenever they act in their official capacity.

6.1.2 The Code includes a link to a list of dispensations for all elected and co-opted members of the Council. The Committee last renewed the above general dispensations on 29 September 2016 for a further period of four years, expiring on 28 September 2020.

6.1.3 At a future meeting later in the year, the Committee will need to review and consider renewing the general dispensations for a further period of 4 years.

6.2 Finance Implications

6.2.1 There are no financial implications.

6.3 Equality Implications

6.3.1 There are no direct equality implications.

6.4 Human Resources Implications

6.4.1 There are no direct human resources implications.

6.5 Risk Management Implications

6.5.1 Not putting in place the recommended general dispensations would mean that every Member would need to apply for a personal dispensation when the relevant matters arose. This would not be an efficient use of the Council's resources or in the public interest.

6.6 Rural Communities Implications

6.6.1 There are no direct implications for rural communities.

6.7 Implications for Children & Young People/Cared for Children

6.7.1 There are no direct implications for children, young people or cared for children.

6.8 Public Health Implications

6.8.1 There are no direct implications for public health.

7. Ward Members Affected

7.1 Implications are borough wide.

8. Access to Information

8.1. The Members' Code of Conduct.

9. Contact Information

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

Name: Jan Bakewell

Job Title: Director of Governance & Compliance

Email: jan.bakewell@cheshireeast.gov.uk



**COMMITTEE PROCEDURE
PARAGRAPH 2.7 AND APPENDIX 4
URGENT DECISION**

**CONTACT
OFFICER: Brian
Reed
TELEPHONE: 01270
686670**

**DATE: 20th January
2020**

The Constitution gives delegated authority to the Chief Executive or in his/her absence the Deputy Chief Executive (or in their absence their nominee) in consultation with the Chairman and/or Vice Chairman of the relevant committee or sub-committee to take any urgent non-executive decision.

The need has arisen for an urgent decision in respect of the following:

Subject: The grant of a dispensation in respect of disclosable pecuniary interests, in respect of any allowance or other remuneration received from the Council in respect of Council duties, to the extent that they may amount to a prejudicial or disclosable pecuniary interest.

The reasons for urgency are as follows:

Members of Council, who are directors of an ASDV, would have a Disclosable Pecuniary Interest (DPI) in relation to the MTFS, which is to be considered at the meeting of Council on 20th February: Ansa income generation and efficiencies (revenue savings)

The DPI would apply, to a lesser or greater extent, depending on proposals in the MTFS. Technically, they would be required to declare and leave the room, which is not desirable.

There is no dispensation currently in place which would allow such Members to take part in the debate.

The Council's Code of Conduct for Members refers to a list of 'suggested' dispensations (see below) in addition to those granted by Audit & Governance Committee. It would appear that they have not been formally adopted by the Council but may have been considered, at some stage, to be appropriate.

The list of 'suggested' dispensations includes item (i) re ASDVs (see below). This appears not to have been approved by the Audit and Governance Committee.

OFFICIAL

Urgency powers are being used to seek to apply this dispensation. The relevant grounds in the Localism Act to do this are:

- a. Without the dispensation, the number of persons who could not take part due to their DPI would be so great as to impede the transaction of the business;
- b. without the dispensation, the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business; and
- c. it is otherwise appropriate to grant a dispensation.

The Audit and Governance Committee is not scheduled to meet until March 2020. Urgency powers are therefore needed so that those Members subject to this DPI can participate in the Budget Council meeting on 20th February.

The Council's Committee Procedure Rules refer to Urgent Decisions (Non-Executive Matters) taken outside of meetings. An item of urgent business that has to be decided before the next relevant meeting can be determined in accordance with the procedure in Appendix 4 of the Constitution. This sets out the procedures for Urgent Decisions (Council) and (Regulatory/Non-Executive matters). The latter states:

"Urgent Decisions: Regulatory / Non-Executive matters (Paragraph 2.7)

The Chief Executive or in his/her absence the Deputy Chief Executive (or in their absence their nominee) in consultation with the Chairman and/or Vice-Chairman of the relevant committee or sub-committee has delegated authority to take any non-executive decision subject to the following requirements being met:

- *The decision-maker is satisfied that the matter is urgent and cannot await the next meeting of the decision-making body, or an urgently convened meeting*
- *The decision is reported for information to the next available meeting of the decision-making body*
- *The provisions of legislation are complied with*
- *Advice has been taken from the Council's Monitoring Officer and Section 151 Officer*
- *All Members of the Council are notified of the decision taken by electronic means".*

Suggested dispensations currently referred to in the Member Code of Conduct

The following is the list of "suggested dispensations" referred-to in the Member Code of Conduct:

"List of suggested dispensations (Note: this differs from the current list granted by Council and differences have been highlighted:)

(a) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;

(b) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;

(c) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;

(d) an allowance, payment or indemnity given to Members;

(e) any ceremonial honour given to Members;

(f) setting Council Tax or precept under the Local Government Finance Act 1992 (or any subsequent legislation);

(g) setting a Local Council Tax Reduction Scheme or Local scheme for the payment of business rates (including eligibility for rebates and reductions) for the purposes of the Local Government Finance Act 2012 (or any subsequent legislation);

(h) an interest arising from your membership of another council; and

(i) To the extent that it may amount to a prejudicial or disclosable pecuniary interest, any allowance or other remuneration received from the Council in respect of Council duties or directorships of Council owned ASDVs".

The following Member has been consulted:

Councillor Rod Fletcher (Chairman of the Audit and Governance Committee)

Any comments received have been taken into consideration.

Advice has been taken from the following Officers:

- (1) Section S151 Officer
- (2) Director of Legal Services

Their comments have been taken into consideration in producing this decision form and any attached information.

This decision is subject to the relevant provisions of the Council's Constitution.

DECISION

That the following dispensation be agreed in respect of Disclosable Pecuniary Interests, and included in the Constitution

"To the extent that it may amount to a prejudicial or disclosable pecuniary interest, any allowance or other remuneration received from the Council in respect of Council duties or directorships of Council owned ASDVs".

Signatures of Decision Taker:

Signed:

.....
Acting Chief Executive

Signatures of Members consulted:

Signed:

.....
Chairman of the Audit and
Governance Committee

Date:

.....
23/1/20.....

A copy of this decision form and any supporting documentation will be made available to all Members of the Council subject to the Access to Information Procedure Rules.

This decision will be reported at the next meeting of the Audit and Governance Committee.



Working for a brighter future together

Audit & Governance Committee

Date of Meeting: 12 March 2020

Report Title: External Audit 2019/20 Progress and Update Report

Senior Officer: Alex Thompson, Director of Finance & Customer Services

1. Report Summary

- 1.1. An update on the audit plan for 2019/20 is set out in Appendix A.

2. Recommendation/s

- 2.1. That Members receive the report.

3. Reasons for Recommendation/s

- 3.1. The Audit Plan sets out the work that the Council's Auditors, Mazars will be carrying out in their statutory audit on the Council's financial statements and arrangements for securing value for money.

4. Other Options Considered

- 4.1. Not applicable

5. Background

- 5.1. Mazars have been appointed as the Council's independent external auditors. 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 sets out progress to date on the 2019/20 audit and national publications of interest.

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 audit fees will be met from within the 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. Mazars will complete a risk based audit whereby they will focus audit effort on those areas where they have identified a risk of material misstatement in the accounts.

6.7. Rural Communities Implications

6.7.1. There are no direct implications for rural communities.

6.8. Implications for Children & Young People / Cared for Children

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.

6.10 Climate Change Implications

6.10.1. There are no direct implications for climate change.

7. Ward Members Affected

7.2. Not applicable.

8. Access to Information

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

9. Contact Information

9.2. 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

Appendix A – External Audit Progress Report 2019-20

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Audit Progress Report

Cheshire East Council

February 2020





CONTENTS

1. **Audit progress**
2. **National publications**

This document is to be regarded as confidential to Cheshire East Council. It has been prepared for the sole use of the Audit & Governance Committee. No responsibility is accepted to any other person in respect of the whole or part of its contents. Our written consent must first be obtained before this document, or any part of it, is disclosed to a third party.

1. AUDIT PROGRESS

Purpose of this report

This report provides the Audit & Governance Committee with an update on progress in delivering our responsibilities as your external auditors.

Audit progress

Since the Committee last met we have:

- Undertaken our interim audit work. This has incorporated:
 - Documenting our understanding of the Council's corporate governance and control framework as it relates to our audit responsibilities.
 - Documenting our understanding of the key financial systems relevant to the financial statements, and the key controls that the Council has in place to prevent, detect and correct material misstatements to the financial statements.
 - Carrying out walkthrough tests of key controls to confirm that they are operating in the manner they have been designed.
 - Carrying out detailed testing of transactions for the year to date for payroll expenditure, non-pay expenditure, and Housing Benefit payments.
- Commenced our detailed work related to our value for money conclusion. This work will continue through to the end of the financial year.
- Maintained regular liaison with the finance team to understand how the Council is continuing to manage its risks.
- Met with the Council finance team and the new external valuer, Montagu Evans, to discuss the valuer's approach to valuing the Council's land & buildings, and to highlight our approach to auditing the valuations.
- Planned our year end audit visit to carry out the detailed testing of the entries in the draft financial statements.

Our work is progressing as planned with no delays or unforeseen circumstances to discuss with the Committee. From the work carried out to date there are no matters to raise with the Audit & Governance Committee.

2. NATIONAL PUBLICATIONS

	Publication/update	Key points	Page
Mazars			
1	Mazars' response to the Brydon Review	Mazars' response to the latest review into the auditing profession which was published in December 2019.	6
2	Annual Transparency Report	Sets out the steps we take to enhance the quality of our audit work and ensure that quality is consistent across the firm.	6
Public Sector Audit Appointments			
3	Consultation on 2020/21 scale of audit fees	PSAAs annual consultation on the next audit year external audit fees	7
National Audit Office			
4	New Code of Audit Practice 2020/21	Publication of the Code of Practice that prescribes the focus of the external audit and auditor reporting for five years from 2020/21	8
5	Round-up for Audit Committees	Updated 'round-up' of resources for Audit Committees	8
Chartered Institute of Public Finance and Accountancy (CIPFA)			
6	Local Government Financial Resilience index	Online data tool which measures local authorities against a range of indicators to assess their level of resilience.	9
7	Financial Management Code	Guidance for good and sustainable financial management in local authorities.	9
8	Prudential Property Investment	Guidance on prudent investments in commercial properties.	10
9	IFRS9 Financial Instruments: A guide for Local Authority practitioners	Updated guidance to assist Councils to comply with the requirements of IFRS9	10
10	Code of Practice on Local Authority Accounting in the United Kingdom: Guidance Notes for 2019/20 Accounts	Guidance notes to assist Councils to comply with the Code of Practice in preparing the 2019/20 financial statements	11
11	IFRS 16 Leases: An Early Guide for Local Authority Practitioners	Guidance to assist the preparations for the 2020/21 application of IFRS16	12

2. NATIONAL PUBLICATIONS

	Publication/update	Key points	Page
Ministry of Housing, Communities & Local Government (MHCLG)			
12	Final local government finance settlement: England, 2020 to 2021	Announcement of the finance settlement for 2020/21	13
13	Northamptonshire County Council: fourth commissioners' report	Report from the appointed commissioner	13

2. NATIONAL PUBLICATIONS – MAZARS

1. Mazars' response to the Brydon Review, *Mazars*, December 2019

The Brydon Review is one of four key reviews into the scope and quality of audit, namely:

- Competition and Market's Authority (CMA): resilience and competition in the audit market;
- Kingman's Review (review of the Financial Reporting Council and regulatory oversight);
- The Brydon Review (tone and aspirations for the future of the industry); and
- The Redmond Review (quality of local authority financial reporting and external audit).

The Brydon Review contains various recommendations and essentially recommends a major overhaul of audit which would see the creation of a separate 'corporate auditing profession', greater focus on fraud detection during audits, and the replacement of the 'true and fair' concept, with a greater focus on going concern.

Mazars' response to the latest Brydon Review report issued in December 2019 is detailed per the link below.

<https://www.mazars.co.uk/Home/News-Events/Latest-news/Mazars-response-to-the-Brydon-report>

Link to the Brydon Review

Published in December 2019, focusing on the quality and effectiveness of audit.

<https://www.gov.uk/government/publications/the-quality-and-effectiveness-of-audit-independent-review>

Link to the Kingman's Review

Published in December 2018, this review recommended the replacement of the Financial Reporting Council with a new independent statutory regulator, accountable to Parliament. The new regulator will be called the Audit, Reporting and Governance Authority (ARGA).

<https://www.gov.uk/government/news/independent-review-of-the-financial-reporting-council-frc-launches-report>

Link to the Redmond Review

At the time of writing this report, the outcome from the Redmond Review has not been published.

<https://www.gov.uk/government/consultations/review-of-local-authority-financial-reporting-and-external-audit-call-for-views>

2. Annual Transparency Report, *Mazars*, December 2019

Mazars produces an annual transparency report, setting out the steps we take to enhance the quality of our audit work and ensure that quality is consistent across the firm. The report includes:

- Public Interest Committee Report;
- UK Governance Council Report;
- Inspiring Stakeholder Confidence in Audit Quality (including quality monitoring and audit quality indicators);
- Our risks; and
- Structure, Leadership and Governance.

Link to the latest report issued in December 2019 is set out below.

<https://www.mazars.co.uk/Home/About-us/Corporate-publications/Transparency-reports/Mazars-UK-Transparency-Report-2018-2019>

2. NATIONAL PUBLICATIONS – PSAA

3. Consultation on 2020/21 scale of audit fees, January 2020

PSAA are consulting on the proposed scale of fees for 2020/21 audits.

The consultation sets out the proposed scale of fees for the work to be undertaken by appointed auditors in respect of the 2020/21 financial statements at bodies that have opted into PSAA's national auditor appointment scheme.

<https://www.psaa.co.uk/audit-fees/consultation-on-2020-21-audit-fee-scale/>

2. NATIONAL PUBLICATIONS – NATIONAL AUDIT OFFICE

4. New Code of Audit Practice 2020/21, February 2020

The NAO have published their final draft of the Code following the consultation process. The Code has now been laid before Parliament and, subject to Parliamentary approval, will come into force on 1 April 2020. The new Code will apply from audits of local bodies' 2020/21 financial statements onwards.

Accompanying the Code is a document that sets out the issues the NAO considered as a result of the feedback to Stage 2 of the consultation on the exposure draft of the Code, and highlights the key changes made to the text of the final draft of the Code.

https://www.nao.org.uk/code-audit-practice/wp-content/uploads/sites/29/2020/01/Code_of_audit_practice_2020.pdf

https://www.nao.org.uk/code-audit-practice/wp-content/uploads/sites/29/2020/01/Code_of_audit_practice-consultation_response.pdf

5. Round-up for Audit Committees, November 2019

This interactive round-up of NAO publications is intended to help Audit Committees, Boards and other users by outlining the latest NAO resources for governance and oversight, risk management and strategic management issues. It also sets out how to keep in touch with NAO insight on specific issues and/or sectors.

This round-up is designed to make it easy for Audit Committees, Boards and other users to find the NAO resources most helpful for the strategic management of public sector organisations. It includes an introduction by Gareth Davies, Comptroller and Auditor General, and draws particular attention to publications most useful for governance, oversight and risk management. It is published each autumn and spring, covering NAO publications over the previous six months.

<https://www.nao.org.uk/report/round-up-for-audit-committees/>

2. NATIONAL PUBLICATIONS – CIPFA

6. Local Government Financial Resilience index, CIPFA, December 2019

The resilience index is an online data tool which measures local authorities against a range of indicators to assess their level of resilience against financial shocks and to support financial decision making. Upper tier authorities are judged against nine indicators including social care.

The indicators measured include:

- levels of reserves;
- change in reserves;
- reserves sustainability;
- interest payable/net revenue expenditure;
- gross external debt;
- social care ratio;
- fees and charges to service expenditure ratio;
- council tax requirement/net expenditure ratio; and
- growth above baseline.

The tool allows for year on year comparisons of each authority's performance, as well as comparisons with similar and neighbouring authorities. Trend analysis is also available for some of the indicators outlined above.

<https://www.cipfa.org/about-cipfa/press-office/latest-press-releases/cipfa-launches-local-government-financial-resilience-index>

7. Financial Management Code, CIPFA, October 2019

Strong financial management is an essential part of ensuring public sector finances are sustainable. The Financial Management Code (FM Code) provides guidance for good and sustainable financial management in local authorities and aims to provide assurance that they are managing resources effectively.

It requires authorities to demonstrate that the processes they have in place satisfy the principles of good financial management. The FM Code identifies risks to financial sustainability and introduces a framework of assurance. This framework is built on existing successful practices and sets explicit standards of financial management. Complying with the standards set out in the FM Code is the collective responsibility of elected members, the chief finance officer and their professional colleagues in the leadership team. Complying with the FM Code will help strengthen the framework that surrounds financial decision making.

The FM Code built on elements of other CIPFA codes during its development and its structure and applicability will be familiar to users of publications such as The Prudential Code for Capital Finance, Treasury Management in the Public Sector Code of Practice and Code of Practice on Local Authority Accounting in the United Kingdom.

The Code applies to all local authorities, including police, fire and other authorities.

By following the essential aspects of the FM Code, local authorities are providing evidence to show they are meeting important legislative requirements in their jurisdictions.

The first full year of compliance will be 2021/22. This reflects the recognition that organisations will need time to reflect on the contents of the Code and can use 2020/21 to demonstrate how they are working towards compliance.

<https://www.cipfa.org/policy-and-guidance/publications/f/financial-management-code>

2. NATIONAL PUBLICATIONS – CIPFA

8. Prudential Property Investment, CIPFA, November 2019

Increasingly there has been a move towards investments in commercial properties, funded by borrowing, with the key driver of this activity appearing to be the generation of revenue. This publication provides guidance on making the assessments needed to ensure that such acquisitions are prudent and on the risks local authorities must manage when acquiring property.

Statutory investment guidance from the Ministry of Housing, Communities and Local Government (MHCLG) last year set out clearly that local authorities need to consider the long-term sustainability risk implicit in becoming too dependent on commercial income, or in taking out too much debt relative to net service expenditure.

The increased scale of investment in property was recognised by revisions to CIPFA's Prudential Code for Capital Finance and the Treasury Management Code in 2017, but the growing amounts being borrowed for such a purpose are putting a strain on the creditability of the Prudential Framework and reinforce the need to ensure that such acquisitions are affordable, prudent and sustainable.

In addition to the core issue of borrowing in advance of need, which the Prudential Code has very clear provisions on, this publication provides guidance on the risk perspective to the practical assessment of prudence and affordability. Those risks could be very difficult to manage. Even when these issues are managed and there is reliance on investment income, a potential failure or a downturn of the property market may have a direct impact upon local services.

This publication considers such issues and the actions local authorities would need to take to mitigate against such risks.

<https://www.cipfa.org/policy-and-guidance/publications/p/prudential-property-investment>

9. IFRS 9 Financial Instruments: A Guide for Local Authority Practitioners, CIPFA, December 2019

The Code of Practice on Local Authority Accounting in the UK adopted IFRS 9 Financial Instruments in its 2018/19 edition, with an application date of 1 April 2018.

In order to allow practitioners to prepare in good time, CIPFA issued guidance in 2017 in advance of the 2018/19 Code being published, based on a companion publication to the 2017/18 Code: Forthcoming Provisions for IFRS 9 Financial Instruments and IFRS 15 Revenue from Contracts with Customers in the Code of Practice on Local Authority Accounting in the United Kingdom 2018/19.

This publication updates the 2017 guidance to reflect:

- provisions in the 2018/19 Code that were not included in the Forthcoming Provisions publication
- changes to the 2019/20 Code resulting from amendments to IFRS 9
- experience of implementing IFRS 9 in the 2018/19 annual accounts.

This guidance provides comprehensive coverage of the requirements of the Code, including recognition, measurement, treatment of gains and losses, derecognition and presentation and disclosure in the financial statements. It also covers statutory reversals and the continuing impact of transitional provisions.

<https://www.cipfa.org/policy-and-guidance/publications/i/ifrs-9-financial-instruments-a-guide-for-local-authority-practitioners>

2. NATIONAL PUBLICATIONS – CIPFA

10. Code of Practice on Local Authority Accounting in the United Kingdom: Guidance Notes for 2019/20 Accounts, CIPFA, November 2019

The guidance notes support Councils in dealing practically with the preparation of the year-end financial statements and reports that accompany them. This version provides detailed guidance on the key accounting changes introduced by the 2019/20 Code of Practice on Local Authority Accounting in the United Kingdom (the Code), and includes:

- Updates to reflect 2018 IASB Conceptual Framework.
- Guidance on the Code's adoption of the amendments to the financial instruments standard (IFRS 9 Financial Instruments) relating to prepayment features with negative compensation.
- Updates to reflect the Code clarifications relating to contracts with lender option borrower option clauses.
- New guidance on the group accounts scope clarification for the disclosure requirements with respect to interests in entities within the scope of IFRS 5 Non-current Assets Held for Sale and Discontinued Operations (introduced by the Annual Improvements to IFRSs 2014 to 2016 Cycle).
- Explanation of the Code approach to drafting amendments (including commentary on when the Code adapts or interprets IFRS).
- Removal of references to Carbon Reduction Commitment Scheme following the Scheme closure.
- A new section on the accounting treatment for the apprenticeship levy.
- Updates for the new voluntary transfers presentation (for Scottish local authorities only) in the movement in reserves statement and expenditure and funding analysis. This includes the treatment within the reserves.

Example financial statements have been updated to reflect the changes described above.

<https://www.cipfa.org/policy-and-guidance/publications/c/code-of-practice-on-local-authority-accounting-in-the-united-kingdom-guidance-notes-for-201920-accounts-online>

2. NATIONAL PUBLICATIONS – CIPFA

11. IFRS 16 Leases: An Early Guide for Local Authority Practitioners, CIPFA, December 2019

Although changes will not have an effect until the 2020/21 financial statements, CIPFA/LASAAC consulted in the summer of 2018 on amendments to the Code of Practice on Local Authority Accounting for IFRS 16 Leases. The Standard is expected to have a potentially significant practical and financial effect for local authorities, and it was considered that early notice of the technical requirements was advisable.

It will be of wide interest because of the prevalence of leasing in local government and the risk that the changes could have a budgetary impact if not managed effectively.

This guidance provides comprehensive coverage of the proposed requirements for lessees, including the accounting definition of a lease, recognition of assets and liabilities, measurement, derecognition and presentation, and disclosure in the financial statements. Although there have not been significant changes to the requirements for lessors, the guidance includes extensive commentary of this area.

The guidance covers in particular:

- identifying arrangements that meet the accounting definition of a lease
- determining the term of a lease where there are options to extend or terminate
- for lessees:
 - recognising right-of-use assets and lease liabilities, and their initial and subsequent measurement
 - reassessment of lease liabilities and treatment of lease modifications
- for lessors, distinguishing between finance and operating leases and accounting accordingly
- dealing with sale and leaseback transactions
- presenting lease transactions and balances in the financial statements
- disclosure of information about leases in the notes to the accounts
- harmonising with statutory accounting requirements
- the mechanics of making the transition in the 2020/21 financial statements (including the application of transitional provisions and the preparation of relevant disclosure notes).

<https://www.cipfa.org/policy-and-guidance/publications/i/frs-16-leases-an-early-guide-for-local-authority-practitioners>

2. NATIONAL PUBLICATIONS – MHCLG

12. Final local government finance settlement: England, 2020 to 2021, February 2020

Following the provisional settlement, the Ministry of Housing, Communities and Local Government published the collection of documents that comprise the final settlement for Local Government.

<https://www.gov.uk/government/collections/final-local-government-finance-settlement-england-2020-to-2021>

13. Northamptonshire County Council: fourth commissioners' report, January 2020

MHCLG have published the fourth commissioner's report into Northamptonshire County Council. This report sets out the progress made to stabilise the council's finances, and to strengthen the council's scrutiny and governance processes. The commissioner's work continues to support the setting up of the 2 new shadow authorities from May 2020.

<https://www.gov.uk/government/publications/northamptonshire-county-council-fourth-commissioners-report>

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Working for a brighter future together

Key Decision N

Audit and Governance Committee

Date of Meeting: 12th March 2020.

Report Title: Audit and Governance Committee Self Assessment

Senior Officer: Jan Bakewell, Director of Governance and Compliance Services

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.
- 1.2. Members are asked to consider the results of an initial 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 (2018 Edition)*'.

2. Recommendations

- 2.1. That the Committee:
 - 2.1.1. Consider the self-assessment (Appendix A) and determine any required additions or amendments.
 - 2.1.2. Endorse the actions arising from the self-assessment.

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 (2018)" 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. Not applicable.

5. Background

- 5.1. The process for conducting the review of the Audit and Governance Committee's effectiveness, is based on best practice guidance, and uses the "Self Assessment of Good Practice" and "Evaluating the Effectiveness of the Audit Committee" models provided in the CIPFA Guidance "Audit Committees – Practical Guidance for Local Authorities and Police (2018) Edition."
- 5.2. The details of the initial self assessment are provided in Appendix 1, with summaries of the outcomes provided in Table 1 and Table 2 below.
- 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 comfortable with the draft Audit and Governance Committee self-assessment and actions, prepared following discussion and assessment by the Chair and Vice Chair.
- 5.4. Actions identified in the assessment include:
- 5.4.1. Further training on the roles and responsibilities of the Audit and Governance Committee to be provided to all Members of the Council, and for the Audit and Governance Committee members
- 5.4.2. Consideration to be given to inclusion of more independent members during the 2020/21 Committee year.
- 5.4.3. For the Committee to consider opportunities for working with partner audit committees following reports on partnerships governance in 2020/21.

Table 1: Self Assessment of Good Practice

Self-Assessment against Good Practice 2019/20		
Meeting recommended practice	Number	Actions Arising
Yes	27	
Partly	9	
No	1	
Total	37	4

Table 2: Evaluating the Effectiveness of the Audit Committee

Assessment Key: Level	Assessment Key: Criteria	Outcome of 2019/20 Draft Assessment
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
4	Clear evidence from some sources that the committee is actively and effectively supporting improvement across some aspects of this area.	13
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	8
2	There is some evidence that the committee has supported improvements, but the impact of this support is limited.	3
1	No evidence can be found that the audit committee has supported improvements in this area.	1
Actions Arising		3

6. Implications of the Recommendations

6.1. Legal Implications

6.1.1. 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).

6.2. Finance Implications

6.2.1. Any actions identified from the Audit and Governance Committee self-assessment will be resourced from existing capacity and budgets. There are no implications for the Council's medium term financial strategy.

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. The process of self-assessment, the discussion of it by the Audit and Governance Committee and the actions arising from this process are vital in reviewing the effectiveness of the Audit and Governance Committee, and contributing to the continuing improvement of the Council's assurance mechanisms.

6.7. Rural Communities Implications

6.7.1. There are no direct implications for rural communities.

6.8. Implications for Children & Young People/Cared for Children

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.

6.10. Climate Change Implications

6.10.1. There are no direct implications for climate change.

7. Ward Members Affected

7.1. All wards are affected.

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: Josie Griffiths

Job Title: Head of Audit and Risk

Email: josie.griffiths@cheshireeast.gov.uk

Audit and Governance Committee Self Assessment – 2019/20

This appendix provides a high-level review that incorporates the key principles set out in CIPFA's Position Statement and this publication (Practical Guidance for Local Authorities and Police, CIPFA, 218). 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.

A 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 – Self Assessment of Good Practice

Good practice question		Yes	Partly	No	Comments/Actions
Audit committee purpose and governance					
1	Does the authority have a dedicated audit committee?	✓			
2	Does the audit committee report directly to full council? (applicable to local government only)	✓			<i>The Audit and Governance Committee present a report to Full Council. The 2018/19 Annual report was received by Council in October 2019.</i>
3	Do the terms of reference clearly set out the purpose of the committee in accordance with CIPFA's Position Statement?		✓		<i>ToR are consistent with CIPFA position statement and 2018 guidance. Regular review of the Committee's ToR should be included within ToR or Work Plan – hence partial. ACTION: Target date to be agreed and included.</i>
4	Is the role and purpose of the audit committee understood and accepted across the authority			✓	<i>Comments from other Members and members of the public suggest that the role and purpose of the Audit and Governance Committee is not yet understood and appreciated. ACTION: Further training on the roles and responsibilities of the Audit and Governance Committee to be provided to all Members of the Council.</i>

Audit and Governance Committee Self Assessment – 2019/20

Good practice question		Yes	Partly	No	Comments/Actions
5	Does the audit committee provide support to the authority in meeting the requirements of good governance?		✓		<i>Following elections in May 2019, membership of the Audit and Governance Committee changed significantly; Chair and Vice Chair recognise the positive work of the Committee so far, and support actions to further improve.</i> ACTION Development of further training for the Audit and Governance Committee members.
6	Are the arrangements to hold the committee to account for its performance operating satisfactorily?		✓		<i>Members had previously been limited regarding the number of questions which could be asked on the annual report of the Committee to full Council. Chair and Vice Chair noted that whilst there was open questioning on the report in 2019, there were fewer questions.</i>
Functions of the Committee					
7	Do the committee's terms of reference explicitly address all the core areas identified in CIPFA's Position Statement?	✓			<i>The terms of reference are based on the guidance from CIPFA – Audit Committees: Practical Guidance for Local Authorities and Police (2018 edition) and cover all of the core areas identified in CIPFA's Position Statement.</i>
	good governance	✓			
	assurance framework, including partnerships and collaboration arrangements	✓			<i>Chair and Vice Chair noted that this is within the Committee's ToR but the Committee is receiving its first report on this in 2020/21.</i> <i>Thereafter this needs consideration on more regular reports for this aspect of the Committee's role.</i>
	internal audit	✓			
	external audit	✓			
	financial reporting	✓			<i>Opportunities to review the scope and style of reports in this area have been discussed with the Executive Director of Corporate Services and the Director of Finance and Customer Services (S151 Officer).</i>

Audit and Governance Committee Self Assessment – 2019/20

Good practice question		Yes	Partly	No	Comments/Actions
	risk management	✓			<i>Chair and Vice Chair noted that there have been capacity/resource issues around risk management which have been reported to A&G. The Committee has received a focused training session on Risk Management in March 2020 and will consider the Risk Management Framework on its March agenda.</i>
	value for money or best value	✓			<i>Opportunities to review the scope and style of reports in this area have been discussed with the Executive Director of Corporate Services and the Director of Finance and Customer Services (S151 Officer).</i>
	counter fraud and corruption	✓			
	supporting the ethical framework	✓			
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?	✓			<i>Self assessments are undertaken regularly. In agreement with the Chair and Vice Chair, a self assessment was not carried out earlier in 2019/20 in recognition of the change to Committee membership following May 2019 elections.</i>
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 them?	✓			<i>This was considered as part of the last review of the ToR in 2018 and is evidenced by the Committee having responsibility for reviewing:</i> <ul style="list-style-type: none"> <i>• ethical standards issues</i> <i>• the effectiveness of the Council's whistleblowing arrangements, and</i> <i>• monitoring the Council's treasury management arrangements in accordance with the CIPFA Treasury Management Code of Practice.</i>
10	Where coverage of core areas has been found to be limited, are plans in place to address this?		✓		<i>See actions identified throughout the self assessment.</i>

Audit and Governance Committee Self Assessment – 2019/20

Good practice question		Yes	Partly	No	Comments/Actions
11	Has the committee maintained its advisory role by not taking on any decision-making powers that are not in line with its core purpose?	✓			<i>The Committee's decision making powers are all in line with its core purpose. E.g. approval of Financial Statements, approval of AGS, monitoring the effectiveness of the risk management arrangements.</i>
Membership and support					
12	Has an effective audit committee structure and composition of the committee been selected? This should include:				<i>The Committee is separate from the executive and the Chair and Vice Chair are happy that the size of the committee is not unwieldy.</i>
	■ separation from the executive	✓			
	■ an appropriate mix of knowledge and skills among the membership		✓		<i>See comments for Point 4: Training for Committee members, and Members in general.</i>
	■ a size of committee that is not unwieldy	✓			
	■ consideration has been given to the inclusion of at least one independent member (where it is not already a mandatory requirement)	✓			ACTION: <i>Consideration to be given to inclusion of more independent members during the 2020/21 Committee year.</i>
13	Have independent members appointed to the committee been recruited in an open and transparent way and approved by as appropriate for the organisation?	✓			<i>The Audit and Governance Committee approved the recruitment and selection process for the appointment of the co-opted independent member to the Committee.</i>
14	Does the chair of the committee have appropriate knowledge and skills?	✓			<i>The Chair and Vice Chair have attended events such as the Public Sector Audit Appointments network events to supplement their knowledge and skills.</i>
15	Are arrangements in place to support the	✓			<i>Induction training is provided to new and substitute members</i>

Audit and Governance Committee Self Assessment – 2019/20

Good practice question		Yes	Partly	No	Comments/Actions
	committee with briefings and training?				<i>of the Committee. Additional training sessions have been held to support members with information on the statement of accounts, annual governance statement, learning lessons from other organisation's experiences and risk management.</i>
16	Has the membership of the committee been assessed against the core knowledge and skills framework and found to be satisfactory?	✓			<i>An assessment of the committee's knowledge and skills has been carried out during 2019 following the elections and has been used to identify areas for briefings, updates and training.</i>
17	Does the committee have good working relations with key people and organisations, including external audit, internal audit and the CFO?	✓			<i>The Committee is regularly attended by the Chief Executive, Executive Directors, Section 151 Officer and the Council's Monitoring Officer. Representatives from Internal Audit, Risk Management and service representatives are also present during meetings. The Chair and Vice Chair regularly meet (separately) with the Council's External Auditor.</i>
18	Is adequate secretariat and administrative support to the committee provided?	✓			<i>Democratic Services and Internal Audit provide secretariat and administrative support to the Committee.</i>
Effectiveness of the Committee					
19	Has the committee obtained feedback on its performance from those interacting with the committee or relying on its work?		✓		<i>See comments on point 6</i>
20	Are meetings effective with a good level of discussion and engagement from all the members?		✓		<i>Chair and Vice Chair expect that meetings will become more effective as experience grows and training is provided.</i>
21	Does the committee engage with a wide range of leaders and managers, including discussion of audit findings, risks and action plans with the responsible officers?		✓		<i>See comments on point 20</i>
22	Does the committee make		✓		<i>Chair/Vice Chair would like to consider ways of using the</i>

Audit and Governance Committee Self Assessment – 2019/20

Good practice question		Yes	Partly	No	Comments/Actions
	recommendations for the improvement of governance, risk and control and are these acted on?				<i>work plan item to include ways of documenting progress on items raised at previous meetings, possibly using an assurance framework approach.</i>
23	Has the committee evaluated whether and how it is adding value to the organisation?	✓			<i>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</i>
24	Does the committee have an action plan to improve any areas of weakness?	✓			<i>Each self-assessment of the Audit and Governance Committee has been supported by an action plan identifying areas for improvement. Any actions are regularly reviewed at meetings.</i>
25	Does the committee publish an annual report to account for its performance and explain its work?	✓			<i>Last presented in October 2019.</i>
		27	9	1	

Audit and Governance Committee Self Assessment – 2019/20

Section 2: Evaluating the effectiveness of the Audit Committee

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.

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
Promoting the principles of good governance and their application to decision making	Supporting the development of a local code of governance	The Audit and Governance Committee were involved in the development of the current Code of Corporate Governance.	4
	Providing robust review of the AGS and the assurances underpinning it	The AGS and supporting evidence is provided to the Committee and a training session held for Members, prior to the Committee approving it in July.	4
	Working with key members to improve their understanding of		4

Audit and Governance Committee Self Assessment – 2019/20

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
	the AGS and their contribution to it		
	Supporting reviews/audits of governance arrangements		4
	Participating in self- assessments of governance arrangements	Self assessments of governance arrangements have previously been included in the Annual Governance Statement process.	4
	Working with partner audit committees to review governance arrangements in partnerships	Action: For the Committee to consider opportunities for working with partner audit committees following reports on partnerships governance in 2020/21	1
Contributing to the development of an effective control environment	Actively monitoring the implementation of recommendations from auditors	Audit and Governance Committee receives regular reports on the quantity and reasons for “Waivers and Non Adherences (WARNS) to monitor compliance with Procurement rules	4
	Encouraging ownership of the internal control framework by appropriate managers	The Committee continues to monitor the implementation of actions raised by the External Auditors and the AGS Action Plan. Internal Audit Interim and Annual reports include information	3

Audit and Governance Committee Self Assessment – 2019/20

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
		relating to implementation of audit actions and provide details of all limited or no assurance reports issued.	
	Raising significant concerns over controls with appropriate senior managers	Senior Managers attend Committee to discuss lessons learned – for example in response to LGO findings, and in relation to WARN reporting.	4
Supporting the establishment of arrangements for the governance of risk and for effective arrangements to manage risks	Reviewing risk management arrangements and their effectiveness, e.g. risk management benchmarking	Chair and Vice Chair have shared concern over reporting on risk management arrangements during 2019/20 following capacity issues which are now resolved. Regular updates will be provided during 2020/21.	2
	Monitoring improvements		2
	Raising significant concerns over controls with appropriate senior managers		2
Advising on the adequacy of the assurance framework and considering whether assurance is deployed efficiently and effectively.	Specifying its assurance needs, identifying gaps or overlaps in assurance	The Work Plan presented to Committee demonstrates how the assurance reports enable the Committee to meet its terms of reference. The Work Plan is a standing item on each agenda and the Committee are proactive in requesting reports and	4
	Seeking to streamline assurance gathering and reporting		4
	Reviewing the effectiveness of assurance providers, e.g. internal audit, risk management, external audit		4

Audit and Governance Committee Self Assessment – 2019/20

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
		assurances from the Council. The Committee receive annual reports on the effectiveness of Internal Audit as part of the AGS process and also receive an annual Monitoring Officer report.	
Supporting the quality of the internal audit activity particularly by underpinning its organisational independence	Reviewing the audit charter and functional reporting arrangements	The Committee regularly receives the Internal Audit Charter, and receives interim updates on progress against the Annual Plan, which include updates on the Quality Assurance Improvement Plan and self assessment of effectiveness.	5
	Assessing the effectiveness of internal audit arrangements, providing constructive challenge and supporting improvements		5
	Actively supporting the quality assurance and improvement programme of internal audit.		5
Aiding the achievement of the authority's goals and objectives through helping to ensure appropriate governance, risk, control and assurance arrangements	Reviewing how the governance arrangements support the achievement of sustainable outcomes	The Committee receives update reports on the work of Internal Audit including key findings, issues of concern, and action in response to the findings and recommendations. The reports include relevant information regarding Internal Audit reviews of projects and programmes.	4
	Reviewing major projects and programmes to ensure that governance and assurance arrangements are in place		3
	Reviewing the effectiveness of performance management		3

Audit and Governance Committee Self Assessment – 2019/20

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
	arrangements	Action: The Committee to consider other areas where they wish to seek assurance.	
Supporting the development of robust arrangements for ensuring value for money	Ensuring that assurance on value for money arrangements is included in the assurances received by the audit committee	The Committee considers the annual external audit opinion on value for money. The Committee receives regular reports on the quantity and reasons for Waivers and Non-Adherences to monitor compliance with procurement rules. These reports inform the Annual Governance Statement.	4
	Considering how performance in value for money is evaluated as part of the AGS		4
Helping the authority to implement the values of good governance, including effective arrangements for countering fraud and corruption risks	Reviewing arrangements against the standards set out in the Code of Practice on Managing the Risk of Fraud and Corruption (CIPFA, 2014)	The Committee received a Counter Fraud update in October 2019 which provided an overview of developments taking place nationally, an update on counter fraud activity in Cheshire East and the ongoing work to ensure compliance with best practice and improvements to resilience to the threat of counter fraud and corruption. The Council received the annual report of the Monitoring Officer	3
	Reviewing fraud risks and the effectiveness of the organisation's strategy to address those risks		3
	Assessing the effectiveness of ethical governance arrangements for both staff and governors		3

Audit and Governance Committee Self Assessment – 2019/20

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
		and an update on the Council's Whistleblowing Policy during 2019/20.	
Promoting effective public reporting to the authority's stakeholders and local community and measures to improve transparency and accountability	Improving how the authority discharges its responsibilities for public reporting; for example, better targeting at the audience, plain English	The Committee approves a number of public facing documents and reports, and as part of producing these documents considers any changes needed to improve transparency. The Council's Monitoring Officer report includes information on the Council's performance under the Data Protection Act (2018), the Freedom of Information Act (2000) and the Environmental Information Regulations.	3
	Reviewing whether decision making through partnership organisations remains transparent and publicly accessible and encourages greater transparency	Action: The Committee will receive reports on this area during 2020/21.	3
	Publishing an annual report from the committee	Council received the annual report of the Committee in October 2019.	5



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Audit and Governance Committee

Date of Meeting: 12 March 2020

Report Title: Risk Management Framework Update

Senior Officer: Jan Bakewell, Director of Governance and Compliance Services

1. Report Summary

1.1. Effective risk management is central to good governance and supports the efficient delivery of the Council's objectives. To ensure the continued effectiveness of the Council's risk management arrangements, the Risk Management Framework has been reviewed. This report sets out the proposed updated Framework (Appendix B) for consideration, comment and recommendation to Cabinet for approval.

2. Recommendations

2.1. To consider and comment upon the updated Risk Management Framework (Appendix B) and recommend it to Cabinet for approval.

2.2. To note the update on the Corporate Risk Register (Appendix A).

3. Reasons for Recommendations

3.1. The Council is publicly accountable and must be able to demonstrate effective management of the kinds of risks which may threaten the achievement of its strategic objectives, the effectiveness of its operations, the its financial stability, the security and value of its assets and to protect the public. It ensures the Council discharges its statutory responsibilities for managing risk under the Accounts and Audit Regulations 2015.

3.2. Risk management provides a structured, consistent and continuous process across the whole of the Council for identifying, assessing, responding to, and reporting on opportunities and threats that affect the achievement of the Council's Corporate Plan objectives and outcomes.

4. Other Options Considered

- 4.1. Not applicable.

5. Background

Risk Management Framework

- 5.1. To ensure the continued effectiveness of the Council's risk management arrangements, the Risk Management Framework has been reviewed. The review identified a need to update and consolidate existing documentation which forms the Risk Management Framework, and to ensure that once updated, the updated Framework is communicated across the organisation.
- 5.2. As reported to the Committee in previous updates, risk management training is already underway, in the form of refresher training to Heads of Service and discussion sessions in team meetings. CLT have participated in a workshop to review strategic risks. We all have a collective responsibility for the management of risk.
- 5.3. The Council's arrangements for managing risk, known as the Risk Management Framework, comprise of:
- 1 Risk Management Policy Statement
 - 2 Risk Management Policy
 - 3 Risk Management Appetite Statement
 - 4 Risk Management Maturity
 - 5 Risk Management Strategy 2020-22

These are included at Appendix B.

- 5.4. Detailed Practitioner Guidance is also available to ensure that the risk management principles established in the Framework can be applied in practice. The Council actively manages risk and the development of risk management within the organisation and its decision making. This will be made available on the Council's Centranet.
- 5.5. The Risk Management Appetite Statement (Section 3) is consistent with the overall and individual appetite statements established previously in the initial appetite statement.
- 5.6. The aspiration established for risk maturity (Section 4) is for the organisation to become "Risk Managed". The last assessment result placed the organisation as between "Risk Managed" and "Risk Defined".

Updates to the Corporate Risk Register

- 5.7. Since the last report to the Committee in December 2019, all of the risks on the Corporate Risk Register have been reviewed by the Risk Owners, supported by the Business Manager (Corporate) Risk and Business Continuity.
- 5.8. There has been some movement in the Corporate Risk Register and this is summarised in the table below. The Corporate Risk Register is included in Appendix A.

Table 1: Updated description/detail to Corporate Risks

Ref & Type	Risk	Gross Rating & Direction	Comments and Gross Rating
CR1 Threat	Increased Demand for People Services	16 ↑	The risk has increased from 12 to 16 due to increased demand. Gross score 16
CR3 Threat	Financial Resilience	12 ↑	The score has increased from 9 to 12 due to the release of new resilience indicators from CIPFA in December 2019. Gross score 16.
CR7 Threat	EU Exit, Single Market and Local Growth	3 ↓	The risk has reduced from 6 to 3 as Brexit occurred in January but residual risks remain which will be monitored. Gross Score 12
CR9 Threat	Capital Projects	8 →	Joint risk owners as both the Executive Directors of People and Place have a role to manage this risk. Gross Score 16
CR11 Threat	Pandemic virus	8 →	This risk has been included due to the increased risk of a pandemic virus. Gross Score: 8

6. Implications of the Recommendations

6.1. Legal Implications

6.1.1. The Council has a statutory responsibility to have in place arrangements for managing risks, as stated in the Accounts and Audit Regulations 2015:

‘A relevant authority must ensure that it has a sound system of internal control which includes effective arrangements for the management of risk’.

6.1.2. Regularly reviewing the Council’s arrangements for risk and updating them as needed ensures that the Council is managing its statutory responsibility.

6.1.3. Risk management can relate to legal aspects of the council’s business, however, the content of this report does not have any specific legal implications. Legal risks to the organisation are incorporated in the Service plans risk registers. 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.

6.2. Finance Implications

6.2.1. There are no adjustments required to the Medium Term Financial Strategy as a result of this report.

6.3. Policy Implications

6.3.1. Risk management is integral to the overall management of the Council 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.

6.3.2. This report includes an updated Risk Management Policy and Appetite Statement, which are for consideration by Audit and Governance Committee prior to consideration by Cabinet.

6.4. Equality Implications

6.4.1. There are no equality implications identified.

6.5. Human Resources Implications

6.5.1. Training for staff and members on the refreshed Risk Management Framework will be provided to ensure that all have the relevant skills to support the assessment of risk in decision making.

6.6. Risk Management Implications

6.6.1. Failure to review the effectiveness of the Council's arrangements for the management of risk and update them where needed 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/Cared for Children

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

6.9. Public Health Implications

6.9.1. There are no direct implications for public health.

6.10. Climate Change Implications

6.10.1. There are no direct implications for climate change.

7. Ward Members Affected

7.1. All wards.

8. Access to Information

8.1. Previous Risk Management Update reports to the Audit and Governance Committee.

9. Contact Information

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




Name: Josie Griffiths

Job Title: Head of Audit and Risk Management Email:





josie.griffiths@cheshireeast.gov.uk



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Appendix A: Corporate Risk Register January 2020

Risk Ref	Risk Description	Risk Commentary January 2020	Agreed Risk Owner	Cabinet Member Strategic Lead*	Gross Score	Risk Management Activity	Net Rating and Direction of Travel for Residual Risk
CR1 Threat	Increased Demand for People Services: (Cause) Risk - that Cheshire East's local social, economic and demographic factors lead to an increase in the level of need and increased demand for adults and children's social care services, (threat) resulting in the capacity of the Council's systems relevant to these areas are unable to continue to respond/ absorb the pressures presented, (impact) resulting in a possible lack of staff working in social care/ increased market failure pertaining to a range of service providers, unmet need, potential safeguarding issues, and difficulty in achieving the Council's desired outcomes - that people live well and for longer, and have the life skills and education they need to thrive.	January 2020: This risk has been increased to 16: Likelihood of this risk occurring has been scored as 'likely' as it is known that both adult demand, and children's demand is increasing alongside population growth, and longer life expectancy for both adults and children with complex needs. Taking a prudent approach to the risk scoring, if the increase in demand was significant the impact of this risk if it were to materialise could be critical with possible increase in safeguarding issues due to the nature of the service.	Executive Director of People	Portfolio Holder, Adult Social Care and Health. Portfolio Holder, Children and Families. Portfolio Holder, Corporate Services and Public Health	16	Respond to Ofsted judgement and action plan, keep providers informed on policy and commissioning through market engagement events. Adults operate monthly quality monitoring partnership forum. Quality and reporting and alerting of risk escalation is being effectively managed. Provider risk register is monitored and reviewed Established a care sourcing team support service and local area co-ordination services to divert people away from care where appropriate. Working with partners and CCG to develop single plan to manage the overall reduction in demand and system redesign work to support an improved community offer. A great deal of activity is directed at managing this risk and above details so key activity,	16 
CR2	NHS Funding Pressure (Cause) there is a circa £50 million pressure for the NHS across Cheshire East. Risk that due to the increasing financial deficit this may cause a pressure in Cheshire East Council shared service delivery and NHS service delivery. (threat) If there was a shifting of costs and demand which places additional strain on Council resources (impact) resulting in unmet need and potential difficulty in achieving the Council's outcomes that people live well and for longer and local communities being strong and supportive.	There are significant financial issues to be addressed and if this results in a shift in costs and demand to the Council this will further exacerbate CR 1 and 3 – Increased Demand for People Services and also Financial Resilience. January 20: Work across a number of work-streams at Health and Care Partnership (Cheshire and Merseyside) and Cheshire East level are progressing. To date these have not made any significant impact on the deficit faced within the health commissioning and provider organisations. The net risk score remains at 16 because there has not yet been a reduction in the anticipated deficit position.	Executive Director of People	Portfolio Holder, Adult Social Care and Health. Portfolio Holder, Children and Families. Portfolio Holder, Corporate Services and Public Health	16	There has been a lot of activity directed at this risk through the Sustainability and Transformation Plan for Cheshire and Merseyside – this plan comes to an end in 2021. There is a Health and Wellbeing Board which looks for key players to work together to address the issues and inherent risk of NHS funding pressures. There is also the Cheshire East partnership which brings together key partners and submits reports to CLT on a six weekly basis.	16 
CR3	Financial Resilience – lack of certainty about future funding make it difficult to set a robust MTFS (Cause) The reduction in funding from Central Government means the Council must manage funding shortfalls over the next four years, through reduced expenditure,	This risk will be further exacerbated if there are cost implications based on the realization of CR1 (Increased Demand for People Services) and/or CR2 (NHS Funding and Health and Care Partnership Plan). Ongoing monitoring has identified structural issues in Corporate Services	Executive Director of Corporate Services	Portfolio Holder, Finance, IT and Communication s	16	The Medium Term Financial Strategy has been produced with activity to address the risk of lack of certainty about future funding. Business planning process has commenced. The financial reserve strategy has been reviewed. Budget planning has commenced in readiness for end of year. Services are looking to generate income	12 

Risk Ref	Risk Description	Risk Commentary January 2020	Agreed Risk Owner	Cabinet Member Strategic Lead*	Gross Score	Risk Management Activity	Net Rating and Direction of Travel for Residual Risk
	managing demand or increased local income. (Threat) There is a possibility that the Council does not adopt its financial plans in sufficient detail quickly enough, either by deferring the difficult decisions about services, using over-optimistic planning assumptions, or not rethinking sources of income in a sustainable way. (Impact) This may result in difficulties in closing and managing the funding reductions, financial stress and may impede the Council's ability to meet its statutory requirements, and deliver all of its intended outcomes and objectives in full.	<p>Budgets and significant demand pressures in the People's Directorate which are being addressed in 2019/20 and in the new MTFS through the use of earmarked reserves. A new Reserves Strategy will be drafted to address the challenges.</p> <p>This risk could be further impacted by CR7 (EU Exit, Single Market and Local Growth) as this has an impact on local growth or economic wellbeing which undermines assumptions in the local tax bases although it is premature to know what that might be. CLT to review with the S151 officer.</p>				where possible and reduce expenditure. The 20/21 budget was presented to Council 20 th February 2020. More robust analysis and regular review of high risk budgets	
CR4	<p>Information Security and Cyber Threat</p> <p>(Cause) Risk that as the Council continues to move towards using new technology systems to reduce costs and fulfil communication, accessibility and transaction requirements, (threat) it becomes increasingly at risk of a security breach, either malicious or inadvertent from within the organisation or from external attacks by cyber-criminals. (Impact) This could result in many negative impacts, such as distress to individuals, legal, financial and reputational damage to the Council, possible penetration and crippling of the Council's IT systems preventing it from delivering its Corporate Outcomes.</p>	January 2020 The Council is exploring Cyber threat insurance and further developing its management of this risk.	Executive Director of Corporate Services	Portfolio Holder Finance, IT and Communications	16	<p>ICT have plans in place to protect and secure our systems to cyber attacks.</p> <p>The Council is exploring Cyber threat insurance and further developing its management of this risk.</p>	<p>12</p> <p>➔</p>
CR5	<p>Business Continuity</p> <p>Risk that an internal or external incident occurs which renders the Council unable to utilise part or all of its infrastructure (such as buildings, IT systems etc.) such that the Council is unable to deliver some, or in extreme cases all of its services and putting residents at risk for a period of time and resulting in a reduced achievement of Corporate Plan outcomes over the longer period.</p>	Risk that an internal or external incident occurs which renders the Council unable to utilise part or all of its infrastructure (such as buildings, IT systems etc.) such that the Council is unable to deliver some, or in extreme cases all of its services and putting residents at risk for a period of time and resulting in a reduced achievement of Corporate Plan outcomes over the longer period. This risk has interdependencies with CR4, Information Security and Cyber Threat. January 2020 Business Continuity plans are well on their way to being complete	Executive Director of Corporate Services	Portfolio Holder, Public Health and Corporate	12	<p>Implementation of Clearview</p> <p>Scenario testing is being developed</p> <p>Training has been provided</p>	<p>6</p> <p>➔</p>

Risk Ref	Risk Description	Risk Commentary January 2020	Agreed Risk Owner	Cabinet Member Strategic Lead*	Gross Score	Risk Management Activity	Net Rating and Direction of Travel for Residual Risk
		within the Clearview system improving preparedness for incidents.					
CR6	Capacity and Demand Risk	January 2020: The Council has produced the MTFP which has identified issues with financial resilience for the forthcoming years. The Mid Year Review identified a potential overspend of £7.5m in 2019/20, in part related to issues within CR1. The Third Quarter Review saw a reduced overspend of £6.8m which is being mitigated by a number of interventions, resulting in a balance budget. The impact of this financial risk is mitigated through regular review and considering year end positions within the parameters of the Reserves Strategy. The overall net risk rating is 12, High.	Executive Director of Corporate Service	Portfolio Holder, Public Health and Corporate	12	The budget has been presented to the Council. Budget planning system has been introduced to improve the timeliness of data.	8 
CR7 Threat	EU Exit, Single Market and Local Growth Failure to be adequately prepared for the Exit from the EU particularly in relation to the potential impacts on Consumer Protection, Food Safety, Waste Operations Highways, Traffic Management and the business community.	The UK Government have left the EU in January 2020. The UK Government have confirmed that EU structural funds (the ESIF programme) will be maintained until the end of the current parliament (2020) (check could be whole life of programme now 2023) The risk has been reduced from 6 to 3 in order to recognise reduced risk but also that there are risks which could impact the council and/or the borough in the future which will require monitoring.	Executive Director of Place	Portfolio Holder, Environment and Regeneration	12	This risk has dropped significantly. A watching brief is being maintained to ensure any risks are identified early. CEMART group will be established when risks arise to manage any corporate impacts.	3 
CR8 Threat	Decision Making	Sound governance processes including oversight by officers and members will mitigate the risk. In 2019/20 a detailed overview and rewrite of the constitution where required will be undertaken. A managers guide to decision making is being developed, which will be supported by training.	Executive Director of Corporate Services	Portfolio Holder, Public Health and Corporate	12	Training is being provided. Modern Gov is being implemented. The constitution is being reviewed.	8 
CR9 Threat	Capital Projects Risk that the Council's major capital projects are insufficiently managed to ensure that they are delivered on time, on budget and at the required quality level.	January 2020: This is a significant risk for People Directorate in addition to Place – shared accountability required.	Executive Director of Place & Executive Director	Portfolio Holder, Finance IT and Communications	16	Robust management of projects. Financial controls in place. Governance mechanisms include Corporate Board overseeing all capital schemes (Assets Board). Individual schemes have appropriate governance. Review of resources for each	8 

Risk Ref	Risk Description	Risk Commentary January 2020	Agreed Risk Owner	Cabinet Member Strategic Lead*	Gross Score	Risk Management Activity	Net Rating and Direction of Travel for Residual Risk
			of People			scheme being undertaken.	
CR10 Opp	Infrastructure Investment Securing the required investment to support our major infrastructure and development priorities particularly in relation to HS2 and delivery of the Crewe Hub	The council has strengthened its working arrangements with local public sector partners, government departments and commercial investors. The council has secured significant capital allocations to support major regeneration and development project to support key development projects in Crewe and Macclesfield. This risk requires ongoing work and monitoring to ensure that the opportunities come to fruition.	Executive Director of Place	Portfolio Holder, Environment and Regeneration	16	Cheshire East Council chairs the Partnership Board with partners including Government, HS2, and National Rail. Business Case being developed with support from the Local Enterprise Partnership and future decisions will be taken through Cabinet / Council.	8 
CR11	Pandemic virus Ongoing risk of genetic shift resulting in rapidly spreading strain of influenza and other diseases previously unseen in humans for which no preventative treatment is available. In addition to the human health risks pandemic flu poses a risk to healthcare capacity and CEC business continuity.	January 2020 – Covid-19 (Coronavirus) emergency planning invoked due to pandemic risk. Moved to moderate risk during February 2020. Public Health, Emergency Planning and Business continuity working together for preparedness.	Executive Director of People	Portfolio Holder, Adult Social Care and Health. Portfolio Holder, Children and Families. Portfolio Holder, Corporate Services and Public Health	8	Review pandemic flu and business continuity plans Work with Local Resilience Forum (LRF) partners together to plan for the management of: Demand on the NHS and social care Distribution of anti viral medication Co-ordination of vaccinations Public awareness and media management Excessive levels of death	8 

Risk Management Framework

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Version Control	Author
Draft 1.0	Sophie Thorley
Draft 1.1	Sophie with amendments by Josie
Draft 1.2	Further changes by Josie
Draft 1.3	Further changes by Jane
Draft 1.4	Further changes by Sophie
Draft 2.0	Version presented to CLT (22 nd January 2020)
Draft 2.1	Version updated following CLT comments – for review 12 th Febuary

Foreword

Risk management within Cheshire East Council is about managing our threats and opportunities and striving to create an environment of 'no surprises'. By managing our threats we will be in a stronger position to deliver business objectives and outcomes to our residents. By managing our opportunities we will be in a better position to demonstrate improved services and better value for money.

The Risk Management Policy 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.

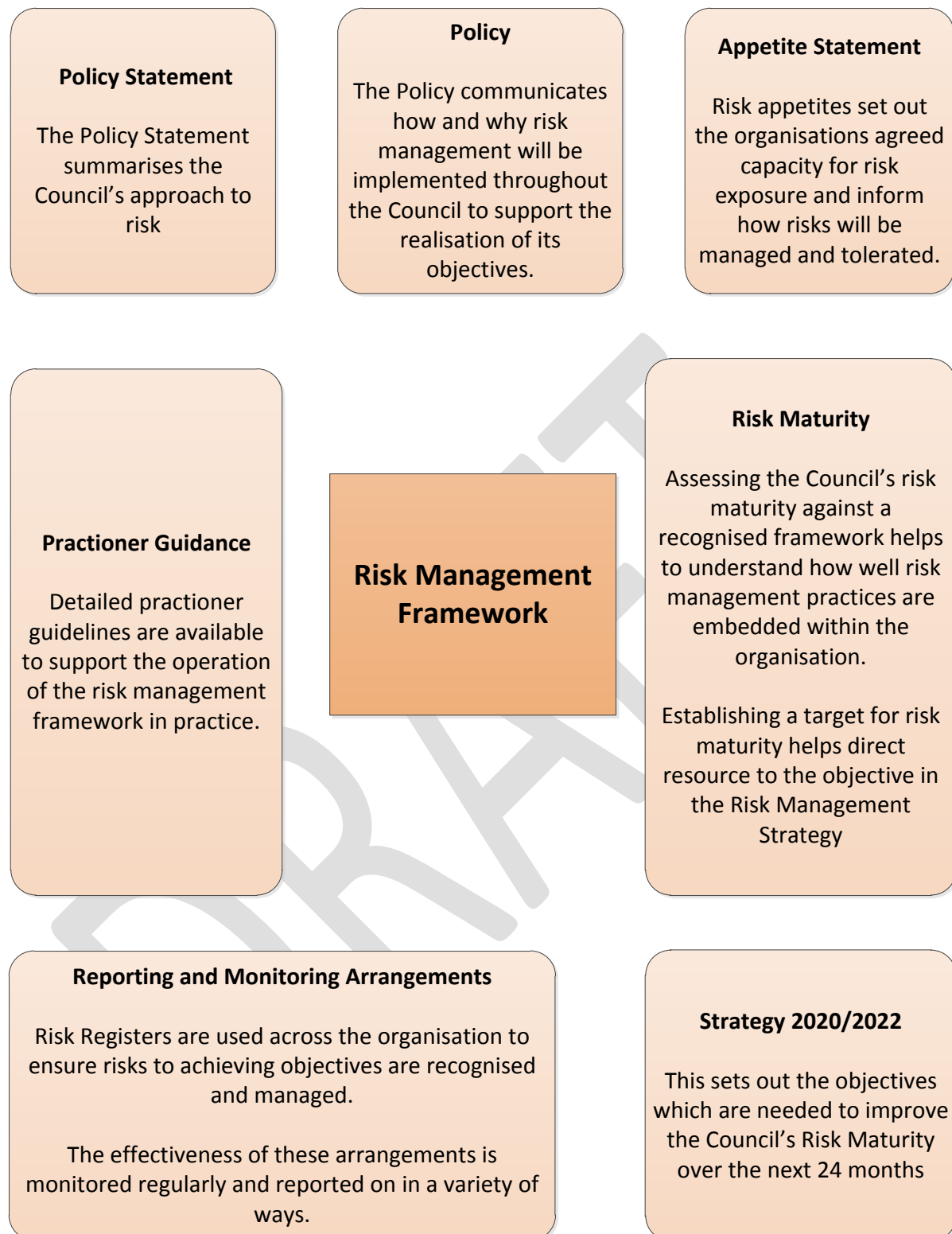
It seeks to demonstrate the explicit commitment to effective risk management from the top of our organisation and is inclusive to the rest of the organisation, with the expectation of increasing the likelihood that the management of risk will be given appropriate recognition, consideration and treatment.

Cheshire East is a learning organisation and as such seeks to benefit from previous experiences and review risks across the organisation to develop the Council's risk maturity in the treatment of risks.

The Cabinet and Corporate Leadership Team are fully committed to effective risk management and see it as part of our responsibility to deliver an effective public service to the residents of Cheshire East.

Cllr Jill Rhodes
Portfolio Holder

Jane Burns
Executive Director of Corporate Services



Risk Management Policy Statement

In delivering the Council's Corporate Plan outcomes, the Council recognises it has a duty of care to its stakeholders, residents, employees, Members and partners. Key to ensuring our governance arrangements support the effective identification and management of opportunities and risks is fundamental in delivering this duty of care.

The Council seeks to adopt recognised best practice in the identification and evaluation of risks and opportunities and to ensure that these are managed to acceptable levels in a proportionate and cost effective way. We recognise that risks are inherent within our service delivery, and some are unavoidable. As an organisation it can impact in many ways, whether financially, politically, on our reputation, environmentally, or to our service delivery.

Effective risk management is about ensuring there is an appropriate level of control in place to provide sufficient protection from harm, without stifling our development. This is challenging for an organisation with a range of stakeholders with differing needs and expectations, but we must ensure decisions taken as a Council include consideration of potential impacts for all of our stakeholders.

Overall, the Council's approach to risk is to operate in a culture of creativity and innovation, in which risks are identified, understood and pro-actively managed, rather than avoided.

Our risk management framework comprises the structures and processes in place to ensure that the risks and opportunities of Council activities, partnerships and other joint working arrangements are identified, assessed and managed in a consistent way.

Our Risk Management Policy Statement is summarised with the following key objectives:

- 1) That Cheshire East Council develops implements and demonstrates an effective risk management framework and is reviewed annually.**
- 2) That Cheshire East Council applies its risk management policy consistently across the Council.**
- 3) 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**

1. Introduction

- 1.1. The Council has a Risk Management Framework to ensure a focused and structured approach to the management of risk arising from Council activities. This will ensure that risk management is an integral part of good governance, recognising the importance of effective identification, evaluation and management of key corporate and operational risks.
- 1.2. This is endorsed by the increased focus on the importance of corporate governance to public sector bodies. The Council also has a statutory responsibility to have in place arrangements for managing risks, as stated in the Accounts and Audit Regulations 2015:

‘A relevant authority must ensure that it has a sound system of internal control which includes effective arrangements for the management of risk’.

- 1.3. The Council’s Risk Management Framework comprises of the Risk Management Policy Statement, which includes the Risk Management Policy, Risk Appetite and Risk Maturity Statements and a two year Risk Management Strategy. It is supported by detailed practitioner guidance.
- 1.4. The Risk Management Framework has the full support of the Council and the Corporate Leadership Team. All elected Members and employees have a responsibility for and contribution to make in terms of risk management.

2. Risk Management Policy

- 2.1. Risk Management is the process by which risks are identified, evaluated and managed, such that objectives are more likely to be achieved, damaging actions or events are avoided or minimised and opportunities maximised.
- 2.2. Good risk management increases the probability of success, and reduces the probability of failure and uncertainty of achieving the Council’s overall objectives.
- 2.3. Risk can describe threats or opportunities;
 - 2.3.1. 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.

- 2.3.2. An opportunity is an event or action that will enhance the Council Council's ability to achieve its objectives and deliver approved strategies.
- 2.4. As acknowledged in the risk management policy statement, risk is part of everything we do. Risks and opportunities need to be considered in the impact they have on the Council's corporate objectives, whether positive or negative and be reflected in the relevant risk register.
- 2.5. There are 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 supporting mixed and flexible use of its resources.
- 2.6. This constantly evolving environment creates a need to continually adapt our internal governance arrangements to meet legal requirements, economic challenges, urban, demographic and social changes, and in adapting, our managers and decision makers will need to identify and manage risks.
- 2.7. 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 outlined in the Corporate Plan. Underlying this is a commitment from the Council to transparency and good governance. Decisions of the Council can be subject to challenge. Effective risk management is a key principle of corporate governance and a key contributor to a sound control environment.
- Recognising, scoring and managing risk**
- 2.8. Recognising and managing risk is part of good corporate stewardship and provides a basis for making informed decisions with an understanding of the impact those decisions will have organisationally.
- 2.9. Risk management will strengthen the ability of the Council to achieve its objectives and enhance the value of services by;
- i. Increasing the chances of success and reducing the chances of failure;
 - ii. Assisting the delivery of creative and innovative projects;
 - iii. Reducing unexpected and costly surprises;
 - iv. Ensuring a more efficient use of resources.

- 2.10. The Council recognised that identification and accurate scoring of a risk provides an opportunity for improvement and success.
- 2.11. The Council uses a “4 x 4” scoring methodology, measuring impact and likelihood. Consistency of use and the way in which risks are scored will provide a way of managing risk across the whole of the organisation. This will move to a “5 x 5” scoring methodology when the Risk Management System is implemented.
- 2.12. It is typically assessed using two dimensions, one of which is the impact of the threat or the opportunity, representing the consequences to the Council’s intended outcomes. The second dimension is the frequency or likelihood of the risk occurring, representing the probability of the threat or opportunity happening.
- 2.13. Once a risk has been identified and accurately articulated it should be included on an appropriate risk register, whether project, programme, service, department, directorate or strategic corporate risk register.
- 2.14. The risk is then scored, existing controls considered, what time of response or treatment of the risk is required (mitigate, accept, transfer, etc.) what the risk status is (for example enduring) and after the treatment of the risk, what the net score is.
- 2.15. Direction of travel is important as this demonstrates whether a risk treatment is working and reducing the risk or other factors are impacting, making the risk rating rise and requires more attention or escalation.

Risk Management Responsibilities

- 2.16. In “Delivering Good Governance in Local Government”, CIPFA Solace states:

“good governance requires that risk management is embedded into the culture of the organisation, with members and managers at all levels recognising that risk management is part of their job. At the highest level, risk management must be closely aligned to the organisation’s strategic objectives, ensuring that there is a clear focus, at the top of the organisation, on those significant risks that would prevent the organisation achieving its key business objectives.”
- 2.17. The Cabinet is responsible for advising Council on an appropriate risk management policy statement and strategy including risk appetite/tolerance levels and for reviewing the effectiveness of risk

management.

- 2.18. The Audit and Governance Committee has an assurance role to monitor the effective operation of risk management in the Council and in monitoring progress on risk related issues reported to the Committee.
- 2.19. The Council's Corporate Leadership Team has a key role in reviewing and testing that risk management is implemented, working effectively and ensuring that the full risk management cycle operates within their services. Individual members of the Corporate Leadership Team are also allocated as owners of corporate risks and collectively own the corporate risk register.
- 2.20. The Head of Audit and Risk Management is responsible for the preparation of the Council's Risk Management Policy Statement and for the promotion of this throughout the Council. This includes providing and maintaining the format and structure for risk scoring and recording.
- 2.21. Heads of Service are responsible for ensuring risk management is carried out at both an operational and strategic level in accordance with the agreed guidance and procedures.
- 2.22. Individual managers remain responsible for the identification and management of risks within their service areas, projects, partnership activities and cross-cutting service activities.
- 2.23. Embedding risk management into the Council is critical to achieving a consistency of approach and ensuring that risk management is an integral part of people's day jobs - not an add on. Staff engaging in the process will proactively aid improvement in risk maturity for the Council. Getting the balance right in terms of not being too risk adverse, but being risk aware, is key to whether something is a risk or an opportunity.

Identification, review and reporting of risks

- 2.24. Risks should be managed at a number of levels within the Council and should be considered at the initiation of projects, partnerships, service developments and during the business case phase.
- 2.25. There is a clear escalation process to follow to ensure risks are proactively considered and managed throughout the organisation.
- 2.26. If a risk is scored high (above 12), then this should be reviewed by the next tier of management. Service level risks should be considered by department and department by directorate, directorate by corporate.

- 2.27. The Council has a top down, bottom up approach which ensures strong alignment to its corporate objectives.
- 2.28. The risk management framework will be reviewed annually. Compliance with, and the effectiveness of the Policy and guidance in operation will be reported to the Audit and Governance Committee. Any changes required will be considered by the Audit and Governance Committee and recommended for approval by Cabinet.

3. Risk Appetite

- 3.1. A risk appetite is an organisation's agreed capacity for risk exposure. This needs to be set and reviewed regularly taking into account transformational change, new programmes and projects.
- 3.2. 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.
- 3.3. 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 the 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.
- 3.4. This overarching risk appetite statement sets out how the Council balances threats and opportunities in pursuit of achieving its objectives and forms a key element of the Council's assurance and governance framework set by Cabinet.
- 3.5. 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 periodically, every two years. The operation of the risk appetite in practice will be monitored and used to inform reviews of the overall and individual appetite statements.

Overarching Risk Appetite Statement

- 3.6. The 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.

- 3.7. 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.
- 3.8. 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.

Statutory / External Regulatory

- 3.9. 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, for example, likely changes due to Brexit, reform of the Health and Social Care Act. 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.
- 3.10. We have an **open** appetite for taking well managed risks where innovation and change creates opportunities for discernible benefits and clear improvement in our ability to achieve our objectives.

Operational

- 3.11. 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.
- 3.12. Individual projects and programmes should be risk assessed and have a risk appetite defined, which reflects the project objectives and other dependencies such as the source of funding. These should be defined at the outset of the programme or project and be reviewed as it progresses.

- 3.13. We are heavily reliant upon information and data to be able to operate effectively and we 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 result in financial penalties, erode trust, damage our reputation and ultimately prevent us from being able to function.

Countering Fraud and Corruption

- 3.14. 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.

Legal

- 3.15. 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 challenge.

Reputational

- 3.16. 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 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.
- 3.17. 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.

Risk Capacity

- 3.18. The Council's risk capacity is determined through understanding and assessment of 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?

Risk Tolerance and Thresholds

- 3.19. 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. As part of the quarterly performance monitoring cycle, delivery is compared to the established tolerance and actions identified to ensure continued performance, or to improve performance further.
- 3.20. Access to contingency resource has to be approved in line with delegated authority. 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.

Definitions

- 3.21. Defining an organisation's risk appetite enables both staff and members be clear on the Council's capacity for risk (financially and operationally) and achieving a risk exposure it is comfortable with. It also provides clarity of vision for the Council in ensuring that it has the resources to achieve its corporate objectives.
- 3.22. Definitions for risk appetites are set out in the following table.

Risk Appetite Definitions

Appetite	Description
Hungry / 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.
Open / 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.
Cautious / 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.
Minimalist / 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.
Averse / 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.

4. Risk Management Maturity

- 4.1. Cabinet previously assessed the risk maturity of the Council as between risk aware and risk defined with a target minimum standard of risk managed, which is defined as:

‘An enterprise approach to risk management developed and communicated, risk embedded in key processes. Active engagement and risk based decision making’.

- 4.2. The following table sets out definitions of risk maturity.

Risk Maturity

Risk Maturity		
Where we are	Risk Naïve	No formal approach to processes developed for risk management, avoidance and lack of engagement
	Risk Aware	Scattered silo based approach to risk management using stand alone processes, reactive approach.
	Risk Defined	Risk appetite defined. Strategy and policies in place and communicated. Some understanding and application but passive acceptance and compliance with reliance on risk registers.
	Risk Managed	Enterprise approach to risk management developed and communicated, risk embedded in key processes. Active engagement in risk based decision making.
	Risk Enabled	Risk management and internal controls fully embedded into the operations. Regular review and improvement of risk processes, fully committed to risk management and confident risk taking.
Where we want to be		

- 4.3. The priorities for 2020-2022 detailed in the Risk Management Strategy set out how we intend to work towards the risk maturity target of “risk aware”.

5. Risk Strategy 2020-2022

- 5.1. In order to move towards the Council’s target risk maturity, the following actions are priorities for the next 24 months.
- The detailed methodology for risk management including risk identification, evaluation, treatment and monitoring including a more refined, granular scoring matrix which is used as best practice by other local authorities and recommended by the public sector risk management association ALARM.
 - Introduction of risk management software which will enable the review of risks in different cross sections such as thematic, risk types, hierarchy of

risks. It will enable better monitoring of risk and risk profiling. This will greatly improve risk management across the Council.

- iii. Move to a “5 x 5” risk scoring matrix which will provide greater granularity which will aid the management of risk and improve our risk maturity.
- iv. To critically examine and challenge commissioning plans so that risk is being considered appropriately at the business planning stage to ensure risk activity is focused on the delivery of the key organisational objectives
- v. To review the Corporate strategic risks facing the Council, examining, challenging and supporting the risk assessment process to ensure consistency and gain assurance that strategic risks are being actively managed and monitored; including comprehensively revisiting and updating the Corporate Risk Register
- vi. Work with finance colleagues to develop the recognition of “total” risk exposure to the Council and quantify our likely risk exposure should several strategic risks occur at any one time.

6. Reporting and monitoring arrangements

- 6.1. Detailed guidance on the identification, evaluation, management and review of risks is set out in the Risk Management Practitioner guidance available on Centranet.
- 6.2. The regular monitoring of risks, and the recording and reporting of progress and change in the management and scoring of risks is a key stage in an effective risk management process. This includes establishing the points at which risks need to be either escalated or demoted between risk registers to ensure visibility of the risk and that ownership of the risk is sitting at the right level in the organisation.
- 6.3. Risk reporting is important to provide assurance to management, Members, and stakeholders, that the organisation understands its risk profile and responds to risk in an efficient manner that facilitates the effective, well managed achievement of objectives. It is integral to performance management. Risk reporting can guide positive behaviour as successes are recognised and lessons learnt, thus encouraging continuous improvement.
- 6.4. The Council’s Corporate Risk Register is reviewed regularly by the individual risk owners and the Corporate Leadership Team collectively.
- 6.5. The minimum reporting arrangements for corporate risks for assurance

purposes through the Council's Corporate Leadership Team, Audit and Governance Committee, and Cabinet will be:

- An annual report on risk management activity;
 - Interim update reports on risk management activity in line with the budget reporting cycle;
 - An annual review and report on the overall effectiveness of risk management and internal control by the Head of Audit and Risk Management as Chief Audit Executive.
- 6.6. On a regular basis, risks on departmental, project or partnership registers should be monitored and progress reviewed by the relevant risk owners and teams to ensure they remain relevant. Team and directorate, department and service meetings will need to include regular monitoring of the status of risks and the treatment plans put in place to manage the risk. This risk tracking process is essential to managing risks effectively.
- 6.7. Risk monitoring is not just about practitioners convening on a monthly or quarterly basis to discuss their risks and risk registers, amending records and filing outcomes until the next meeting. Risk monitoring is about constantly applying the risk management techniques to drive performance on a 'business as usual' basis. The management of risk should be an enabling process focused on the achievement of objectives.

7. Update of the Strategy and Policy Statement

- 7.1. The Policy Statement and Strategy will be reviewed on an annual basis commencing March 2021.

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Working for a brighter future together

Audit & Governance Committee

Date of Meeting: 12 March 2020

Report Title: Internal Audit Interim Report October – December 2019

Senior Officer: Jane Burns, Executive Director of Corporate Services

1. Report Summary

- 1.1. The purpose of this report is to update the Audit and Governance Committee on progress against the Internal Audit Plan 2019/20, revisions to the plan, to summarise work undertaken to the end of December 2019 (see Appendix A) and to present the updated Internal Audit Charter for approval by the Committee (see Appendix B).

2. Recommendations

- 2.1. That the Committee:
 - 2.1.1. Note the internal audit progress report; and
 - 2.1.2. Approve the updated Internal Audit Charter.

3. Reasons for Recommendations

- 3.1. The Committee receives regular reports on Internal Audit's performance to support the effectiveness of the internal audit process.
- 3.2. The Internal Audit Charter (Appendix B) has been updated to ensure compliance with the Public Sector Internal Audit Standards.

4. Other Options Considered

- 4.1. Not applicable.

5. Background

- 5.1. The Public Sector Internal Audit Standards (PSIAS) Local Government Application Note states that, "in addition to the annual report, the Chief Audit Executive should make arrangements for interim reporting to the

organisation in the course of the year. Such interim reports should address emerging issues in respect of the whole range of areas to be covered in the annual report and hence support a 'no surprises' approach, as well as assist management in drafting the Annual Governance Statement".

- 5.2. The Council is responsible for establishing and maintaining appropriate risk management processes, control systems, accounting records and governance arrangements. Internal Audit plays a vital part in advising the Council, via the Audit and Governance Committee, that these arrangements are in place and operating properly. The annual internal audit opinion informs the Annual Governance Statement. The Council's response to internal audit activity should lead to the strengthening of the control environment and, therefore, contribute to the achievement of the Council's objectives.
- 5.3. It should be noted that Internal Audit's risk based approach includes focussing on areas where issues are known or expected to exist. Clearly this approach adds value to the organisation, but, by its nature, may also result in lower overall assurance levels within individual audit reports.
- 5.4. A report summarising the work undertaken, the issues identified and the actions required is produced for each review undertaken. The process of reviewing the report from draft to final ensures that the findings are confirmed to be factually accurate, and that the management actions will result in improvements to the control environment. Draft reports are agreed with the appropriate managers, and the Final reports are shared with the relevant Executive Director and the Chief Executive. The implementation of agreed actions is monitored through the follow up process, and performance in this area is reported regularly to the Corporate Leadership Team and the Committee.
- 5.5. The Internal Audit Charter was previously updated March 2019 to meet the requirements of The Public Sector Internal Audit Standards, which define proper practice for public sector internal audit functions.
- 5.6. The Audit Charter has been reviewed and updated to reflect that the Head of Audit and Risk reports directly to the Director of Governance and Compliance Services and to remove the section relating to Interim Management arrangements.
- 5.7. The updated version is attached as Appendix B to this report and has the changes to the previous version highlighted for reference.

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. Resourcing of the Internal Audit team is regularly monitored and reported upon to the CLT and the Audit and Governance Committee.

6.2.2. Financial implications arising from the upcoming restructure of the Internal Audit team will need to be carefully balanced against the requirement for the team to be appropriately resourced.

6.2.3. There are no adjustments required to the Medium Term Financial Strategy as a result of this report.

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/Cared for Children

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.

6.10. Climate Change Implications

6.10.1. There are no direct implications for climate change.

7. Ward Members Affected

7.1. All Ward Members as the report provides an update on progress against the Audit Plan and is used to inform the Annual Audit Opinion on the Council's control environment.

8. Access to Information

8.1. The Internal Audit Interim Update Report October – December 2019 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: Josie Griffiths/Michael Todd

Job Title: Head of Audit and Risk Management/Acting Internal Audit Manager

Email: josie.griffiths@cheshireeast.gov.uk
michael.todd@cheshireeast.gov.uk

Internal Audit Interim Update Report October – December 2019

1. Introduction

- 1.1. In accordance with the Public Sector Internal Audit Standards, the Internal Audit Interim Update Report October – December 2019 contains “emerging issues in respect of the whole range of areas to be covered in the annual report.”
- 1.2. Internal Audit is required to form an annual opinion on the overall adequacy and effectiveness of the organisation’s control environment, which includes consideration of any significant risk or governance issues, and control failures which have been identified.

2. Summary of Audit Work 2019/20 to date

- 2.1. This is the second 2019/20 interim report on progress against the Internal Audit Plan.
- 2.2. During this period, audit work was undertaken on the whole of the control environment comprising risk management, key control and governance processes. This work comprised a mix of risk based auditing, regularity, investigations and the provision of advice to officers. Annex 1 explains the variety of audit work undertaken to support the annual audit opinion.

Assurance Work

- 2.3. A summary of the final reports issued to the end of December 2019, by the audit assurance opinion

given is included in **Table 1**. Although the number of final reports issued is around half of the number issued at the same point in the previous year, it should be noted that 8 reviews were at the draft report stage and 10 school audits were completed during Quarter 3.

Table 1: Reports to date by assurance level

Assurance Level	2019/20 (to 31/12/2019)	2018/19 (to 31/12/2018)	2018/19 Full Year
Good	0	0	6
Satisfactory	2	4	4
Limited	4	5	11
No Assurance	0	2	2
Total	6	11	23

- 2.4. It should be noted that although the number of assurance reports issued as at 31 December 2019 is lower than at the same stage last year, it is expected that at least 16 more reports will be issued during Quarter 4. Further details of these ongoing pieces of work are provided in **Table 6** on page 10 of this report.
- 2.5. A summary comparison of coverage of the 2019/20 Audit Plan with actuals for the year to 31 December 2019 is shown in **Table 2**, with comments on variances.

Table 2: Summary Comparison of Audit Plan 2019/20 and Actuals

Area of Plan		Original Plan		Revised Plan		Actuals (to 31/12/2019)		Comments on coverage
		Days	%	Days	%	Days	%	
Chargeable Days		1317		1237		830		
Less: Corporate Work		160		125		86		
Available Audit Days:		1157	100%	1112	100%	744	100%	
Corporate Governance and Risk		136	12%	130	12%	45	6%	Coverage reduced to focus on core assurance work
Anti-Fraud and Corruption	Proactive Work	45	4%	43	4%	35	5%	
	Reactive Investigations	60	5%	58	5%	72	10%	Includes support to ongoing police investigations.
Corporate Services		443	38%	425	38%	274	37%	
People		175	15%	168	15%	99	13%	
Place		98	8%	95	8%	117	16%	Work weighted towards Q1/Q2
Providing Assurance to External Organisations		25	2%	24	2%	33	4%	Does not contribute to the Annual Opinion
Advice & Guidance		30	3%	29	3%	22	3%	
Other Chargeable Work		145	13%	140	13%	47	6%	Coverage reduced to focus on core assurance work
	Total Audit Days	1157	100%	1112	100%	744	100%	

- 2.6. Details of the reports produced to the end of December 2019 are included in **Table 3**, which includes details of the audit assurance opinion given in each report. Where the opinion given was Limited or No Assurance, a summary of key findings and actions has been provided.
- 2.7. The assurance levels reported include a combination of opinions at a broad level for the Council as a whole (macro-level opinion) and opinions on individual business processes or activities within a single organisation, department or location (micro-level opinion).
- 2.8. Where control weaknesses are identified, recommended actions are agreed with management to ensure that the control environment is improved to an acceptable level. Through the follow up process, Internal Audit continues to obtain assurance that actions have been implemented, especially those deemed high priority.
- 2.9. It should be noted that Internal Audit's risk based approach includes focussing on areas where issues are known or expected to exist. Clearly this approach adds value to the organisation, but, by its nature, may also result in lower overall assurance levels.
- 2.10. Where a final report is issued with a "Limited" or "No Assurance" opinion, improvement recommendations will be made. When implemented these will address the identified weaknesses and improve the control environment.
- 2.11. All actions from these audits have been agreed with management and progress on implementation will be monitored through the follow up process. Draft reports are agreed with the appropriate managers, and Final reports are shared with the relevant Executive Director and the Acting Chief Executive.
- 2.12. The issues arising from the reports and the implementation of associated recommendations will be considered as part of the Annual Governance Statement process.
- 2.13. The Audit Plan has been subject to review following the appointment of the Head of Audit and Risk to reflect the current resources available to the team and includes the continued increase in working hours of several part time officers.

Table 3: Summary of Final Assurance Reports 2019/20 to 31st December 2019

Audit Report	Final report issued in:	Reason for Review	Audit Assurance Opinion	Management Response	Summary of Findings – (Limited /No Assurance Reports Only)
Homelessness Duty - Governance	Q1	Identified via Planning Process	Satisfactory	All actions agreed	<i>Previously reported in September 2019</i>
Regular Car User Allowance	Q1	Identified via Planning Process	Limited	All actions agreed	<i>Previously reported in September 2019</i>
Gateway Review C&WLEP Growth Hub Project	Q2	Identified via Planning Process	Satisfactory	All actions agreed	<i>Previously reported in September 2019</i>
ASDV Review – Statutory Responsibilities	Q2	Identified via Planning Process	Limited	All actions agreed	<i>Previously reported in September 2019</i>
Parking Services – Consolidated Parking Order	Q2	Request of Management	Limited	All actions agreed	<i>Previously reported in September 2019</i>
Dedicated Schools Grant	Q3	Identified via Planning Process	Limited	All actions agreed	<p>The review identified that:</p> <ul style="list-style-type: none"> • Although the Dedicated Schools Grant (DSG) budget was apportioned in accordance with the grant conditions, the budget in the general ledger had not been updated to reflect budget amendments in July 2018; • The DSG has a complex coding structure and a high level of journal transfers across centre codes. It was recommended that this should be simplified in the new accounting system to improve transparency and reduce the administrative burden; • A high level review had been undertaken demonstrating management oversight but not a detailed analysis and it was recommended that detailed review process be undertaken on a rolling basis.

Schools

2.14. 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.

2.15. Following completion of the 2018/19 School's Audit Programme, all maintained schools have now been visited at least once by Internal Audit, since the responsibility for undertaking SFVS assurance work returned to the team in 2012/13.

2.16. The School's Audit Programme for 2019/20 has been agreed by both the Director of Finance and Customer Services and the Director of Education & 14-19 Skills. For 2019/20, the programme focussed on 2 elements of the SFVS; Setting the Budget and Protecting Public Money.

2.17. The review aims to establish whether the answers and evidence provided by the Governing Board were:

- A true and accurate reflection of the controls and processes in operation at the School, and;

- Comprehensive and considered all aspects as set out in the Education & Skills Funding Agency (EFSA) "Schools Financial Value Standards (SFVS) Support Notes (March 2018).

2.18. Twenty four schools have been selected for audit this year to undertake a review of their completed 2018/19 SFVS returns. Since selecting the schools, two have subsequently converted to an academy and therefore, will not be audited.

2.19. Internal Audit has also committed to ensuring all maintained schools will be audited at least once during the next three years (2019/20 to 2021/22).

2.20. With regards to the current programme of work, 11 audit visits were completed before the end of the year, and the rest will be completed before the end of March 2020.

2.21. Individual reports are produced and issued to schools detailing any areas of weakness identified and any actions required to address these weaknesses and improve the control environment. Since 2017/18 we have included an assurance opinion on the arrangements, in line with other audit reports issued.

2.22. Findings from all areas will inform a consolidated schools report which provides assurance to the Director of Finance and the Director of Education & 14-19 Skills.

- 2.23. The consolidated findings and recommended actions and improvements are shared with all maintained schools through the “Schools Bulletin” and the “Director’s Report” on the completion of the work programme each year

Supporting Corporate Governance

- 2.24. In accordance with Regulation 6 of the Accounts and Audit Regulations 2015, the Council is required, each financial year, to conduct a review of the effectiveness of the system of internal control and publish an Annual Governance Statement (AGS).
- 2.25. Internal Audit coordinated and produced a progress update on issues recognised in the AGS 2018/19 which was presented to the Committee’s December meeting. This paper also outlined the proposed production process for the 2019/20 AGS.

Counter Fraud and Investigations

- 2.26. A detailed update on Counter Fraud activity both locally and nationally was provided to the September 2019 meeting of the Committee.
- 2.27. During the period, a detailed piece of work was undertaken at the request of Cheshire Police in support of an upcoming prosecution that is due to be heard in Chester Crown Court at the end of March 2020.

- 2.28. Work continued to investigate the data matches detailed on the NFI website. All reports are either completed and closed, or are scheduled for completion by the end of March 2020.

- 2.29. Liaison between Internal Audit and the services reviewing the matches is ongoing, and progress is monitored on a regular basis to ensure that matches are being dealt with appropriately.

- 2.30. Work on the annual NFI Council Tax to Electoral Roll exercise was also undertaken during this period, with match results expected to be released in March 2020.

- 2.31. In addition, preparatory work commenced on the next NFI exercise which is due to take place in October 2020. The Internal Audit team has already begun liaising with key services with regards to this exercise, including ensuring that any system changes are able to facilitate the data submissions.

- 2.32. Options for the development of a dedicated Counter Fraud resource are being explored following the appointment of the Head of Audit and Risk, Director of Governance and Compliance and the Executive Director Corporate Services with the expectation of consultation taking place during the first quarter of 2020/21. Further updates will be provided to future meetings of Audit and Governance Committee.

Consultancy and Advice

- 2.33. Internal Audit is regularly asked to advise management. The nature and scope of these engagements is generally aimed at improving governance, risk management arrangements and the control environment, contributing to the overall opinion as well as building good relationships across the organisation.
- 2.34. In the year so far, advice and guidance has been provided on:
- Suspected scams and attempted frauds.
 - Design and application of controls in new/proposed systems.
 - Interpretation of Finance and Contract Procedure Rules.

Grant certifications

- 2.35. 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.
- 2.36. In 2019/20 to date, this has included work on the following grants, which were successfully signed off and submitted to the appropriate funding body:

Table 4: Grant Certifications

Grant Certified	Funding Body	£
Family Focus (year to date)	MHCLG	483,200
Crewe Green Roundabout	MHCLG	2,767,000
Sydney Road Bridge	MHCLG	2,168,000
Crewe High Speed Heart Ready 2018/19 - (audit is undertaken in our capacity as Accountable body)	MHCLG	806,633
CWLEP Growth Hub Grant	BEIS	287,000
Skills & Growth - ADAPT	BEIS	55,742
Bus Service Operators Grant	DfT	347,865
Highways - Crewe NW & Macclesfield	DfT	1,969,548
Highways - Additional Capital	DfT	4,636,704
Total		13,521,692

- 2.37. 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.

Work for Other Bodies

- 2.38. Internal Audit carried out the following work for an external body.
- 2.39. PATROL (Parking and Traffic Regulations outside London) – Cheshire East Council is the Host

Authority to the PATROL Joint Committee & Bus Lane Adjudication Service Joint Committee.

- 2.40. In accordance with the Service Level Agreement the Council has delivered the Body's Internal Audit service and is responsible for the completion of Section 4 of the Small Bodies Annual Return.
- 2.41. The Annual Internal Audit Report was presented to the PATROL Joint Committee & Bus Lane Adjudication Service Joint Committee in July 2019.

Implementation of Audit Recommendations

- 2.42. Internal Audit continually carries out a range of follow up exercises to ensure 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.
 - Formal assurance audits; recommendations are monitored in line with our follow up process.
- 2.43. Audits with 'limited' or 'no' assurance are subject to more detailed review. In addition, key systems (e.g. Payroll, Accounts Payable) are audited on a

regular, cyclical basis with recommendations followed up as part of the work.

- 2.44. The Committee have previously been advised of the work undertaken by Internal Audit, supported by senior management to raise the profile of audit recommendations. This has included the agreement of "SMART" recommendations and the inclusion of performance measures in the Corporate Scorecard.
- 2.45. The implementation of agreed recommendations for reports issued in 2018/19 and the current year to date is detailed in the table below.

Table 5: Implementation of agreed recommendations as at 31 December 2019

On time	After the agreed date	Total implemented	In progress, part implemented or overdue	Superseded or no longer valid
2018/19				
78%	18%	96%	0%	4%
2019/20				
75%	25%	100%	0%	0%

- 2.46. As per the internal audit plan, Internal Audit has been working to a target of 90% of agreed audit actions implemented, and 75% implemented within agreed timescale.

- 2.47. Although it is pleasing to note that all of the audit actions due for implementation have been completed, further work is required to improve the number completed on time. It is important that managers are realistic when negotiating timescales for implementation to ensure that agreed timescales are achievable.
- 2.48. Figures for 2018/19 have been updated from those reported in the Annual Audit Report to reflect actions that have become due for implementation in 2019/20.
- 2.49. These updated figures show that the 2018/19 actions implemented within timescales has improved from 65% to 78% which is a positive development and exceeds the target.
- 2.50. 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.
- 2.51. Internal Audit will continue to work with senior managers to improve this important indicator, to include the escalation to CLT of common themes or emerging patterns in relation to agreed recommendations (high and medium rated) that are not being progressed.

Ongoing Work

- 2.52. The following audits were ongoing at the time of reporting:

Table 6: Ongoing Internal Audit Assignments as at 31 December 2019

Audit	Status
Implementation of the Constitution Review	Draft Report issued
Information Governance – Public Health	Draft Report issued
Land Transactions Consolidated Findings - Follow Up	Draft Report issued
Supply Chain Management	Draft Report prepared
New Homes Bonus – Community Fund	Draft Report prepared
Events Management	Draft Report prepared
Information Governance – Planning	Draft Report prepared
KFS Control Environment Review 2019-20	Draft Report prepared
Starters, Movers and Leavers	Draft Report prepared
Roles & Responsibilities of Statutory Officers	Fieldwork Underway
Adult Provider Invoices	Fieldwork Underway
School Governance Team	Fieldwork Underway
Homelessness – Emergency Provision	Fieldwork Underway
Income Management and Recovery	Terms of Reference
Travel Management System	Terms of Reference
External Placements – Children	Terms of Reference

Reliance placed on the work of other assurance bodies

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

3. Annual Governance Statement

- 3.1. Each year the Council produces an Annual Governance Statement that explains how it makes decisions, manages its resources and promotes its values and high standards of conduct and behaviour. Any significant issues that are assessed as falling short of the Council's expected high standards are reported in the Annual Governance Statement.
- 3.2. The findings and opinions of 2019/20 Internal Audit work will be considered in preparing the 2019/20 AGS. The contents of this interim report will form part of that process. There have been no items identified from the 2019/20 work plan to date for inclusion in the Annual Governance Statement.

4. Internal Audit Performance

- 4.1. Internal Audit's performance is measured against a number of performance indicators which are detailed in Table 6.

- 4.2. The performance relating to the implementation of recommendations is detailed earlier in this report.

Table 7: Performance Indicators to date

Performance Indicator	2019/20 Actual	2019/20 Target	2018/19 Actual	Comments on 2019/20 Actuals
% of Audits completed to user's satisfaction	98%	95%	97%	Above target
% of significant recommendations agreed	98%	95%	98%	Above target
Chargeable Time (Assurance Work)	79%	85%	82%	In line with previous year
Draft report produced promptly (per Client Satisfaction Form)	91%	95%	96%	Delays in the review process due to reduced management resource.

5. Compliance with the Public Sector Internal Audit Standards

- 5.1. 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.
- 5.2. 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.

- 5.3. As previously reported to the Committee, the external assessment of the Internal Audit function against the Public Sector Internal Audit Standards concluded partial compliance with the Standards.
- 5.4. A detailed Action Plan was agreed with the assessors as part of the review and work has continued to implement the recommended actions.
- 5.5. Self assessment against PSIAS is undertaken annually. The self assessment will be undertaken in Quarter 4 by the Head of Audit and Risk and the Acting Internal Audit Manager. The outcome of the assessment and any actions required will be reported to the Committee as part of the Annual Internal Audit Opinion report in May 2020.

- 6.2. Changes to the Internal Audit Charter are required to reflect the line management arrangements for the Head of Audit and Risk and an updated Charter is included as Appendix B.

6. Other Developments

- 6.1. Arrangements to ensure the independence and objectivity of the Head of Audit and Risk as the Chief Audit Executive where they have operational responsibilities are set out in the Internal Audit Charter, which was last approved by the Committee in March 2019.

Summary of Audit Work which supports the Annual Audit 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 Corporate Leadership Team
	Support and contribution to AGS Action Plan, Compliance with Contract Procedure Rules reports etc.	Report to Audit & Governance Committee
Counter Fraud and Investigations	Review of Anti-Fraud and Corruption arrangements.	Report to Audit & Governance Committee
	National Fraud Initiative – co-ordination of data extract, submission and investigation of matches.	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 (see: Implementation of Audit Recommendations)

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Working for a brighter future together

Audit & Governance Committee

Date of Meeting: 12 March 2020

Report Title: Draft Internal Audit Plan 2020/21

Senior Officer: Jane Burns, Executive Director of Corporate Services

1. Report Summary

- 1.1. The purpose of this report is for the Committee to receive and approve the Summary Internal Audit Plan for 2020/21.
- 1.2. The Council's Internal Audit Charter, which has been developed to ensure compliance with the Public Sector Internal Audit Standards (PSIAS), requires the preparation of a risk based internal audit plan which takes into account the need to produce an annual internal opinion. The opinion is a key source of assurance for the Annual Governance Statement which is approved by the Audit and Governance Committee and signed by the Council's Chief Executive and Leader.
- 1.3. The preparation and delivery of the Annual Internal Audit Plan, the annual opinion on the organisation's arrangements for governance, risk and internal control, and the assurances these provide to the Annual Governance Statement are key indicators and contributors for the Council's corporate objective of being a responsible, effective and efficient organisation.

2. Recommendations

- 2.1. That the Committee:
 - 2.1.1. Approve the Internal Audit Plan 2020/21
 - 2.1.2. 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 structure and level of resource become known.

3. Reasons for Recommendations

- 3.1. The Council's Internal Audit Charter, developed in accordance with the Public Sector Internal Audit Standards (PSIAS), requires the production of an annual internal audit plan.
- 3.2. The authority to approve the annual internal audit plan is within the Audit and Governance Committee's Terms of Reference.

4. Other Options Considered

- 4.1. Not applicable.

5. Background

- 5.1. All principal local authorities subject to the Accounts and Audit Regulations 2015 must make provision for internal audit in accordance with the Public Sector Internal Audit Standards. The Standards state that the provision of assurance services is the primary role for internal audit in the UK public sector. This role requires the Head of Audit and Risk (as "Chief Audit Executive") to provide an annual internal audit opinion based on an objective assessment of the framework of governance, risk management and control.
- 5.2. The planning process and risk assessment is detailed in Appendix A. Through this additional and thorough consultation we look to ensure that internal audit resources continue to focus on areas where assurance provides the most value, particularly during periods of change.
- 5.3. Following the appointment of the Head of Audit and Risk, the Audit Manager position remains vacant and one of the Principal Auditors is formally acting up to cover the role. The outcome of the ongoing restructure of Corporate Services will determine the future resource in the Internal Audit team.
- 5.4. For planning purposes, the 2020/21 plan will be based on the current team structure with adjustments made where necessary to reflect any changes in resource during the year.
- 5.5. Proposed audit activities identified through the development and consultation process are matched against the internal audit resources available and prioritised accordingly; the proposed risk-based summary internal audit plan for 2020/21 is included in Appendix A.
- 5.6. In accordance with PSIAS, the plan is fixed for a period of no longer than one year. It details the assignments to be carried out, their respective priorities, (by differentiating between core assurance work and other work), and the estimated resources required. The Corporate Leadership Team

has been consulted on the plan prior to presentation to the Audit and Governance Committee.

- 5.7. The Plan will continue to be reviewed and refined during the year. Minor changes to the plan will be discussed with the Executive Director of Corporate Services, and any significant matters impacting upon the completion of the plan or the ability to provide the annual opinion will be reported to the Corporate Leadership Team and the Audit and Governance Committee.
- 5.8. In accordance with the Council's Internal Audit Charter, the Audit and Governance Committee is asked to review and approve the summary internal audit plan 2020/21. In doing so, Members should consider whether the:
 - 5.8.1. scale and breadth of activity is sufficient to allow Internal Audit to provide an independent and objective audit opinion that can be used to inform the AGS
 - 5.8.2. level of resources in any way limits the scope of Internal Audit, or prejudices the ability to deliver a service consistent with the Standards
 - 5.8.3. level of non-assurance work has an adverse impact on the core assurance work.

6. Implications of the Recommendations

6.1. Legal Implications

- 6.1.1. All local authorities must make proper provision for internal audit in line with the 1972 Local Government Act (S151) and the Accounts and Audit Regulations 2015. The latter states that authorities "must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance."
- 6.1.2. The guidance accompanying the Regulations recognises that with effect from 1st April 2013, the Public Sector Internal Audit Standards (PSIAS) represent "proper internal audit practices". The PSIAS apply to all internal audit service providers within the UK public sector.

6.2. Finance Implications

- 6.2.1. In accordance with the PSIAS, the Audit and Governance Committee should ensure that the function has the necessary resources and

access to information to enable it to fulfil its mandate, and is equipped to perform in accordance with appropriate professional standards for internal auditors. A small contingency allocation has been included at this stage.

6.2.2. The Internal Audit Plan 2020/21 has been prepared, based on current resources, to cover the core areas of work required to deliver an annual audit opinion. This will be compared to resource availability as part of establishing the plan and in monitoring progress against the plan.

6.2.3. If an imbalance between the two arises the Committee will be informed of proposed solutions. Matters that jeopardise the delivery of the audit plan or require significant changes to it will be identified, addressed and reported to the Committee.

6.3. Policy Implications

6.3.1. There are no direct policy implications.

6.4. Equality Implications

6.4.1. There are no direct implications for Equality and Diversity.

6.5. Human Resources Implications

6.5.1. To ensure that the Internal Audit team can continue to deliver the necessary levels of assurance to the organisation, the opportunity is being taken to reflect on the requirements of the organisation and ensure that sufficient resource is available to deliver this.

6.5.2. Internal Audit are currently at reduced capacity pending a restructure and interim arrangements are being explored to address the immediate shortfall.

6.6. Risk Management Implications

6.6.1. Delivery of an appropriately balanced and focused Internal Audit Plan supports the Council's ability to effectively and efficiently identify and manage its risks, with the implementation of recommended actions designed to deliver improvements in governance and the control environment.

6.7. Rural Communities Implications

6.7.1. There are no direct implications for rural communities.

6.8. Implications for Children & Young People/Cared for Children

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.

6.10. Climate Change Implications

6.10.1. There are no direct implications for climate change

7. Ward Members Affected

7.1. The Internal Audit plan supports the operation of the entire Council. All Wards are therefore affected.

8. Consultation & Engagement

8.1. In preparing the Summary Plan, there has been consultation to identify the expectations of senior management, external audit and other key stakeholders. This is covered in Appendix A.

9. Access to Information

9.1. The following are links to relevant standards and regulations

9.1.1. [Public Sector Internal Audit Standards \(PSAIS\)](#)

9.1.2. [The Accounts and Audit Regulations 2015](#)

10. Contact Information

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

Name: Josie Griffiths

Job Title: Head of Audit and Risk

Email: josie.griffiths@cheshireeast.gov.uk

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Internal Audit Plan 2020/21

Audit and Governance Committee 12th March 2020

1. Introduction

- 1.1. This document sets out Cheshire East Council's Internal Audit Plan for 2020/21. It also covers how the service will be delivered and developed in accordance with the Internal Audit Charter and how the plan links to the Council's objectives and priorities.
- 1.2. The provision of assurance is the primary role for Internal Audit. This role requires the Head of Audit and Risk as the Chief Audit Executive, to provide an annual internal audit opinion based on an objective assessment of the framework of governance, risk management and control (i.e. the control environment).
- 1.3. The objectives in producing the Internal Audit plan each year are to ensure that the scale and breadth of activity is sufficient to allow the Chief Audit Executive to provide an independent and objective opinion to the Council on the control environment and that audit activity focuses on areas where assurance is most needed.
- 1.4. This plan, detailed in Table 3, has been produced on the basis of the known, current, resource available. Revised plans reflecting the development of Internal Audit will be produced and brought back to the Audit and Governance Committee in due course.
- 1.5. In developing the plan we have looked to recognise the context of strategic and operational change affecting the Council, and to focus on providing assurance that previously identified significant control

weaknesses have been effectively and efficiently addressed and improved.

- 1.6. This summary plan has been drawn up on the basis that the control environment and risk profile of the Council will continue to change during the course of the next financial year, and the plan will be monitored and re-aligned during the year to ensure it remains responsive, adaptable and resource is directed to those areas where assurance is most required.

2. Responsibilities and Objectives of Internal Audit

- 2.1. 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 that these arrangements are in place and operating properly.
- 2.2. Internal Audit is described in the Public Sector Internal Audit Standards (PSIAS) as "independent, objective assurance and consulting service designed to add value and improve the Council's operations. It helps the Council accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes".
- 2.3. Internal Audit's primary function is the provision of assurance. This is delivered through the provision of the annual internal audit opinion, which informs the Annual Governance Statement and is based on an

objective assessment of the framework of governance, risk management and control.

- 2.4. Subject to the availability of resources, and there being no impact on the core assurance work, non-assurance work, including fraud related, and consultancy work may be undertaken at the request of the organisation.
- 2.5. It is not the responsibility of Internal Audit to detect fraud, but the potential for it to occur is considered in each assignment. It is the responsibility of the organisation to create an environment of no tolerance, and ensure adequate controls are in place to prevent and detect fraud.
- 2.6. The Council's response to internal audit activity should lead to the strengthening of the control environment and, therefore positively contribute to the achievement of the Council's objectives.

3. Standards, Ethics and Independence

- 3.1. Our Internal Audit Charter is designed to conform to the PSIAS which came into effect from 2013 and were revised with affect from 1st April 2017. All internal audit work will be delivered in line with the requirements of the Standards.
- 3.2. All Internal Audit staff comply with the mandatory local Code of Ethics, which is based upon the Code included in the PSAIS. Internal Audit staff are also bound by the requirements of their respective professional bodies.

- 3.3. Declarations of Interest in line with the Council's Code of Conduct are made by the Internal Audit team; these are considered in the allocation of every engagement to ensure there are no conflicts of interest.
- 3.4. In order to provide effective assurance on the Council's arrangements for governance, risk and internal control across all aspects of service delivery, Internal Audit is independent of all the activities of the Council. Internal Audit's rights of access are outlined in the Internal Audit Charter.

4. Planning Methodology

- 4.1. The planning process undertaken recognises and complies with the requirements of the Public Sector Internal Audit Standards in relation to planning. In accordance with PSIAS, the plan is fixed for a period of no longer than one year.
- 4.2. In accordance with the Charter, the annual internal audit plan for 2020/21 has been developed using a risk based methodology to prioritise the audit universe, consistent with the organisation's goals. The risk-based plan takes into account the requirement to produce an annual internal audit opinion and the assurance framework.
- 4.3. The starting point for preparing the Plan is to consider the adequacy and outcomes of the Authority's risk management, performance management and other assurance processes.

- 4.4. As the Council has recognised its current level of risk maturity as between “risk aware and risk defined” and has established the target of becoming “risk managed”ⁱ, additional work has been undertaken by the Internal Audit team to inform and develop the Internal Audit plan.
- 4.5. The Internal Audit Plan needs to be flexible to be able to reflect the changing risks and priorities of the organisation. It is, therefore, presented at a summary level. The plan is monitored regularly throughout the year to ensure that it addresses key areas of risk and emerging issues.
- 4.6. Internal Audit’s own risk assessment, considers issues at an organisation, regional and national level as well as the results of previous audit work. The assessment considers materiality, sensitive and significance of each. This prioritises areas for inclusion in the plan.
- 4.7. Factors considered in the risk assessment are listed below,
- Consideration of the objectives from the Cheshire East Council’s Corporate Plan;
 - Risks and opportunities recognised on the Corporate Risk Register;
 - Briefings from CIPFA’s Better Governance Forum;
 - Items in the current year Plan which are in train at the year end, or need to be rolled forward into the new plan;
- Coverage from previous internal audit plans and the outcome of follow up work;
 - Consultation with key internal stakeholders; Corporate Leadership Team, Senior Management including Strategic Risk Owners/Managers and Internal Audit staff;
 - External stakeholders and other assurance providers; External Audit, Cheshire West and Chester Internal Audit, the North West Chief Audit Executive Group and other inspectorate agencies and providers of assurance.
- 4.8. The Plan will be continue to be reviewed and defined during the year, to ensure the following processes are considered:
- Outcomes from the Strategic Risk Management Process.
 - Outcomes from the business/commissioning planning process, including key organisational objectives and priorities and risks to achieving them.
 - Outcomes from the Annual Governance Statement process.
 - Outcomes from the recent CPC process.
 - Continuing consultation with key stakeholders.
 - The outcome of consultation on a new structure for Internal Audit

- The continuing assessment of an Assurance Framework, to ensure existing sources of assurance provision are captured and understood, ensuring effective planning and efficient deployment of resources.

4.9. In delivering the 2020/21 Plan, there will be a need to take account of the following:

- the requirement to use specialists, e.g. ICT or contract and procurement auditors
- outcomes from the restructure of Corporate Services, and the development of Internal Audit
- Self assessment against the Quality Assurance and Improvement Programme (QAIP) and self assessment against the PSIAS
- clarification on any requirements for internal audit support to the Council's Alternative Service Delivery vehicles, and any other organisations where the Council acts as host or accountable body.

4.10. Minor changes to the plan will be discussed with the Executive Director of Corporate Services, and any significant matters impacting upon the completion of the plan or the ability to provide the annual opinion will be reported to the Corporate Leadership Team and the Audit and Governance Committee.

5. Key Themes and Outputs

5.1. Key themes within the 2020/21 Internal Audit Plan include:

- Reviewing assurance mechanisms to support delivery of statutory responsibilities
- Reviewing key delivery areas associated with high financial values and high levels of customer interaction

5.2. The outputs from the plan fall into two main areas:

Assurance Audits

On completion of an assurance audit an opinion report will normally be issued, in line with the Internal Audit Charter, on the risks and controls of the area under review. The overall opinions used are "Good", "Satisfactory", "Limited" and "No Assurance". Reports are shared with the Council's External Auditors.

The opinions given on individual assurance reports inform the annual audit opinion on the control environment that is reported to the Audit and Governance Committee.

Consulting Services

These are advisory in nature and generally performed at the specific request of the organisation. The nature and scope of the consulting engagement should aim to improve governance, risk management and control and should still contribute to the overall opinion.

In some cases, it may not be appropriate or proportionate to provide a full report and opinion. In these instances advice may be documented by email or a formal memo or email reference and a short note will be made in the annual report.

- 5.3. The main areas of the plan that will deliver an opinion on the risks and controls of the area under review and will inform the Head of Audit and Risk's Annual Internal Audit Opinion include:

- Key Financial Systems
- Corporate Core and Cross Service Systems
- Service Specific Systems
- Anti- Fraud and Corruption – Proactive reviews
- Project/contract audit
- ICT/Computer audit
- Investigations
- Continuous auditing/monitoring
- Probity/compliance audit
- External clients

- 5.4. The main areas of the plan that will not deliver an opinion report but will help inform the Annual Internal Audit Opinion include:

Corporate Governance and Risk

Support to and co-ordination of the production of the Annual Governance Statement (AGS).
Attendance at officer working groups such as Information Governance Group.

Statutory Returns

Internal Audit may be required, as a stipulation of funding or similar, to carry out an audit/give assurance on the programme/project or aspects, thereof, and report back to the statutory/funding body.

Anti Fraud & Corruption

National Fraud Initiative – results are recorded on the Cabinet Office secure website.

Follow Up

Monitoring the effective implementation of agreed audit recommendations to provide assurance that improvements in the control environment are being realised.

Advice and Guidance

The exact nature and scope of any internal audit work, is agreed in advance with the manager.

- 5.5. Other work that will not necessarily inform the annual opinion includes:

Corporate Work

- Supporting the Audit and Governance Committee including production of reports
- External Audit liaison
- Support and contribution to corporate initiatives and working groups.
- Regional Collaboration

Anti Fraud and Corruption and Whistleblowing Reports

- At the request of management, Internal Audit may assist with the investigation of suspected fraud and corruption in response to reports and referrals received under the Council's Whistleblowing Policy
- Awareness raising
- Supporting the production and development of Corporate Policies and Procedures

- 5.6. In accordance with CIPFA guidanceⁱⁱ the Head of Audit and Risk, as Chief Audit Executive, should be made aware of major new systems and proposed initiatives to help ensure risks are properly identified and evaluated and appropriate controls built in.
- 5.7. In addition, time has been allocated in the plan for the service to be developed and improved.
- 5.8. Internal Audit also provides services to PATROLⁱⁱⁱ, as Cheshire East Council is the host Council. Reports on this area provide assurance to the management body of PATROL and do not contribute to the Annual Internal Audit Opinion.
- 5.9. During the course of the year, Internal Audit may be able to undertake assurance work for other external clients, subject to being able to prioritise the delivery of the annual audit opinion for the Council.

6. Resource and Delivery

- 6.1. The Internal Audit Plan 2020/21 has been prepared, based on current resources, to cover the core areas of

work required in order to deliver an annual audit opinion. The resources currently available are outlined in Table 1 below:

Table 1: 2020/21 Resource compared to previous years

Audit Year	2020/21	2019/20	2018/19
Maximum Days	1,798	2,036	1,941
Unavailable Working Days <i>Annual Leave, Bank Holidays, Estimated Sick Leave, Estimated Special Leave</i>	330	434	370
Available Working Days	1,468	1,602	1,571
Non Chargeable Sub Total <i>Training, Planning, Team Management and Service Development</i>	185	285	263
Chargeable Days	1,283	1,317	1,308

- 6.2. There have been staffing movements during 2019/20, including the appointment to the Head of Audit and Risk from within the Internal Audit team, and a Senior Auditor colleague has recently moved onto another role outside of the organisation.
- 6.3. The Internal Audit Manager vacancy is being filled through an acting up arrangement by the Principal Auditor and the other Principal Auditor vacancy is being backfilled with an internal acting up arrangement.
- 6.4. In calculating the resource available for the 2020/21 plan, the Head of Audit and Risk has been included at

a third of their overall availability, and assumptions have been made that a FTE Senior Auditor vacancy will be filled by late Spring.

- 6.5. There is a small reduction in the number of chargeable days available in comparison to previous years, and as referenced earlier, preparations to restructure the team are expected to be implemented from the beginning of the 2020/21 financial year. However the proposed resource outlined above will ensure that sufficient evidenced work can be completed during 2020/21 to inform the Annual Internal Audit Opinion.
- 6.6. The allocation of days to particular areas of the plan as shown in Table 3 is indicative. During the scoping of individual assignments, auditors will work with relevant managers to refine the risks and controls upon which assurance is required, and the allocation will be amended if appropriate.
- 6.7. A contingency figure is normally included to recognise that the plan needs to be flexible to be able to reflect the changing risks and priorities of the Council. The plan does include a small amount of time for advice and guidance in addition to a specific contingency for reactive fraud investigation, which may be undertaken or supported by Internal Audit after appropriate risk assessment.
- 6.8. If there is an imbalance between the work plan required to deliver an annual opinion and the resources available, the Audit and Governance Committee will be informed of proposed solutions. Significant matters

which jeopardise the delivery of the plan or require changes to the plan will be identified, addressed and brought to the attention of the Corporate Leadership Team and the Audit and Governance Committee.

- 6.9. In further defining the audit plan for delivery, areas of work may be highlighted which the Internal Audit function is not currently sufficiently staffed/skilled to provide assurance on, for example, specialist ICT audits. In these cases, there will be a need to consider procuring external resource to provide the necessary assurance.
- 6.10. Internal Audit's key priority will always be to deliver the assurance programme of work in order to provide the Council with an informed annual audit opinion.

7. Progress Reporting

- 7.1. During the year, Internal Audit will produce interim progress reports for the Audit and Governance Committee, detailing key issues arising from audits and progress made against the Audit Plan. Any significant matters affecting the delivery of the plan or requiring changes to the plan will also be reported to the Committee.
- 7.2. At the end of the year, an Annual Report, containing the Internal Audit Opinion, is presented to the Audit and Governance Committee to provide assurance or otherwise on the effectiveness of the internal control framework of the Council. This will be based on the findings of the work carried out during the year.

8. Quality Assurance and Improvement

- 8.1. Internal Audit undertakes quality assurance and improvement activity to support all aspects of its service delivery. This includes evaluation of Internal Audit's compliance with the PSIAS, reviewing compliance with internal auditor's application of the Code of Ethics, and an assessment of the efficiency and effectiveness of Internal Audit, identifying opportunities for improvement.
- 8.2. The outcomes of this activity are reported to the Corporate Leadership Team and the Audit and Governance Committee, including results of ongoing internal assessments and external assessments conducted at least every five years.
- 8.3. The external assessment against PSIAS was carried out under the peer review arrangement with the North West Chief Audit Executive Group and reported to the Audit and Governance Committee in September 2018.

Performance Indicators

- 8.4. Internal Audit has a number of existing Performance Indicators that are reported to the Audit and Governance Committee through the year via interim reporting and the Annual Report.

Table 2: Internal Audit Performance Indicators

Performance Indicator	Initial 2020/21 Target	2019/20 Actual to date	2018/19 Target	2018/19 Actual
Percentage of Audits completed to user's satisfaction	95%	98%	94%	97%
Percentage of significant recommendations agreed	95%	98%	95%	98%
Productive Time (Chargeable Days)	85%	79%	85%	82%
Draft report produced promptly (per Client Satisfaction Form)	95%	91%	95%	96%
Percentage of agreed audit recommendations implemented	90%	100%	90%	91%
Percentage of agreed audit recommendations implemented within agreed timescale	75%	75%	75%	81%

- 8.5. Targets for 2020/21 will be confirmed following assessment of actual performance in 2019/20.

Benchmarking

- 8.6. Benchmarking can be a useful tool to help drive improvements and deliver value for money. Internal Audit participated in the 2015/16 CIPFA Benchmarking Club, and has previously used the feedback from this exercise to inform and develop the Internal Audit function and the plan. Opportunities to undertake further benchmarking will be explored in 2020/21 through CIPFA and the North West Chief Audit Executive Group

Collaboration

- 8.7. The Head of Audit and Risk continues to participate in the North West Chief Audit Executive Group, which meets regularly and acts as a discussion group on various local and national developments affecting Internal Audit, Corporate Governance, Risk Management and Counter Fraud.
- 8.8. The group also has a number of sub groups, including Schools, Fraud and Contract Management which are attended and supported by members of the Internal Audit team. These are extremely useful for sharing best practice, and learning from colleagues' experiences.
- 8.9. Where practical and beneficial, audit work may be undertaken with other partner authorities. The benefits of participation should be to increase the level of assurance available for all partners, to develop strong working relationships and to provide positive learning experiences. Careful consideration is given to the

practicalities of undertaking fieldwork and the reporting of findings as part of developing the scope of each engagement.

Service Priorities

- 8.10. During 2020/21 the Internal Audit team will look to develop and embed the use of computer aided audit techniques; this will allow efficient testing of greater populations of data to be undertaken more regularly, thus improving the level of assurance we are able to provide.
- 8.11. Working practices will be reviewed following the implementation of the upgraded audit management software to ensure the user experience is improved, and to achieve consistent and effective use of the system. This will improve the quality of performance reporting to support monitoring of actions by senior management.

Table 3: Summary Internal Audit Plan 2020/21

Audit Theme/Area <i>Identified Key Areas</i>	Drivers <i>Corporate Risks and Corporate Outcomes</i>	Context	2020/21 Planned Audit Days	2020/21 Planned %
Chargeable Days			1,283	
Less: Corporate Work			154	
<i>Includes:</i> <ul style="list-style-type: none"> Corporate Requirements: Corporate Management Duties, Performance Development Review Process. Corporate Groups and Assurance: Annual Governance Statement, Assurance Framework development Audit and Governance Committee: Reports taken on behalf of other areas of the Council, Committee Administration, Work Plan Development, Member Liaison and Development. 		Activities which the Internal Audit function are required to participate in corporately, or have direct responsibility for providing.		
Available Audit Days	1,129		911	
Corporate Governance and Risk	136		110	12
<i>Includes:</i> <ul style="list-style-type: none"> Audit and Governance Committee: Internal Audit reports to Committee. Corporate Groups – Corporate Assurance Group, Information Governance Group External Audit - Mazaars Liaison Regional Collaboration - Working with regional internal audit partners 	<ul style="list-style-type: none"> CR6: Countering Fraud and Corruption CO6: A responsible effective and efficient organisation 	Statutory requirements Work supporting the overall provision of assurance and the annual internal audit opinion.		

Audit Theme/Area <i>Identified Key Areas</i>	Drivers <i>Corporate Risks and Corporate Outcomes</i>	Context	2020/21 Planned Audit Days	2020/21 Planned %
<ul style="list-style-type: none"> Reviewing corporate and operational risk management arrangements 				
Anti-Fraud and Corruption - Proactive Reviews			45	4
<i>Includes:</i> National Fraud Initiative, Developing an anti-fraud culture, Review associated anti-fraud arrangements and policies	<ul style="list-style-type: none"> CR6: Countering Fraud and Corruption CO6: A responsible effective and efficient organisation 	Statutory requirement – NFI/Responding to fraud trends/Awareness raising.		
Anti-Fraud and Corruption - Reactive Investigations			56	5
Specific contingency for reactive investigations in response to demand.	<ul style="list-style-type: none"> CR6: Countering Fraud and Corruption 	Undertaken/supported as necessary after appropriate risk assessment.		
Key Financial Systems			260	23
<i>Includes:</i> Schools Financial Value Standard Programme Core Financial Systems ERP Replacement (B4B) (<i>Joint with Cheshire West and Chester</i>)	<ul style="list-style-type: none"> CR3: Financial Resilience CO2: Cheshire East has a strong and resilient economy CO6: A responsible, effective and efficient organisation 	<p>Provision of assurance to S151 Officer on identified high risk areas.</p> <p>Review of new arrangements and follow up of previous recommendations.</p> <p>Potential risk of mis-statement in the Authority's financial statements; first year activity in Business World.</p>		

Audit Theme/Area <i>Identified Key Areas</i>	Drivers <i>Corporate Risks and Corporate Outcomes</i>	Context	2020/21 Planned Audit Days	2020/21 Planned %
Corporate Core and Cross Service			169	15
<i>Includes:</i> Debt Management and Recovery LEP (S151 Assurance) Compliance with IR35 requirements HR Policy Reviews	<ul style="list-style-type: none"> • CR1: Increased Demand for People Services • CR3: Financial Resilience • CR5: Information Security and Cyber Threat • CR9: Increased Major Incidents • CR10: Business Continuity • CR11: Employee Engagement and Retention • CO2: Cheshire East has a strong and resilient economy • CO5: People live well and for longer • CO6: A responsible, effective and efficient organisation 	Key Corporate and Cross service risks. Provision of assurance relating to specific service areas, including commissioning arrangements for key service delivery areas and assurance on management and delivery of key projects. Grant certifications.		
People			169	15
<i>Includes:</i> Placement Management (Children's) Fostering Management	<ul style="list-style-type: none"> • CR1: Increased Demand for People Services • CR2: NHS Funding and 	Key Corporate and Cross service risks.		

Audit Theme/Area <i>Identified Key Areas</i>	Drivers <i>Corporate Risks and Corporate Outcomes</i>	Context	2020/21 Planned Audit Days	2020/21 Planned %
Adult Safeguarding Management of Commissioned Services	STP Impact <ul style="list-style-type: none"> • CR4: Contract and Relationship Management • CO3: People have the life skills and education they need in order to thrive • CO5: People live well and for longer • CO6: A responsible, effective and efficient organisation 	Outcome from reviewing key departmental and service risk areas; arrangements for key service delivery areas, reviewing performance management and the achievement of outcomes. Provision of assurance relating to specific service areas, including arrangements for key service delivery areas and assurance on management and delivery of key projects.		
Place			90	8
Includes: Community Infrastructure Levy Heritage asset responsibilities	<ul style="list-style-type: none"> • CRO4: Regeneration Funding • CR8: Community Cohesion • CO1: Our local communities are strong and supportive • CO2: Cheshire East has a strong and resilient economy • CO4: Cheshire East is a green and sustainable 	Outcome from reviewing key departmental and service risk areas. Review of high profile partnership arrangements. Assurance on arrangements for key service delivery areas and reviewing performance management in front line service area.		

Audit Theme/Area <i>Identified Key Areas</i>	Drivers <i>Corporate Risks and Corporate Outcomes</i>	Context	2020/21 Planned Audit Days	2020/21 Planned %
	place • CO6: A responsible, effective and efficient organisation			
Providing Assurance to External Organisations			23	2
<i>Includes:</i> PATROL <i>Other organisations may request assistance in year, subject to available resource</i>	• Host Authority arrangement	Provide assurance in agreed format, similar to former Small Bodies Annual Return		
Advice and Guidance			34	3
<i>Includes:</i> Provision of ad-hoc advice and guidance to services	• CO6: A responsible effective and efficient organisation	Add value and improve overall governance, risk management and control processes within the organisation.		
Other Chargeable Work			147	13
<i>Includes:</i> Certification of grants arising in year Follow up and additional reporting on the implementation of agreed audit actions Note: Contingency is at 25 days	• CO6: A responsible effective and efficient organisation	Specific requests from services Follow up implementation of recommendations, including further testing or additional work where necessary.		
Total Audit Days			1129	100

ⁱ <http://moderngov.cheshireeast.gov.uk/ecminutes/ieListDocuments.aspx?CId=241&Mid=5685>

ⁱⁱ "The Role of the Head of Internal Audit in Public Sector Organisations", CIPFA, 2010

ⁱⁱⁱ The Joint Committee of England and Wales for the Civil Enforcement of Parking and Traffic Regulations outside London.

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Working for a brighter future together

Audit and Governance Committee

Date of Meeting: 12 March 2020

Report Title: Revised RIPA Policy and Procedures

Senior Officer: Jan Bakewell - Director of Governance & Compliance Services

1. Report Summary

- 1.1. This report outlines the changes made to the Council's RIPA Policy and Procedures in order to comply with recommendations made by the Investigatory Powers Commissioner's Office (IPCO) and changes in legislation.

2. Recommendations

- 2.1. That the Committee considers and approves the proposed revised RIPA Policy and Procedures.

3. Reasons for Recommendations

- 3.1 The RIPA Policy and Procedures provide guidance on the undertaking of surveillance under the Regulation of Investigatory Powers Act 2000 (RIPA), the Protection of Freedoms Act 2012 and the Investigatory Powers Act 2016 (IPA). IPCO recently carried out a desktop inspection of the Council's use of its RIPA powers. The proposed changes to the policy and procedures address the recommendations in the IPCO inspection report of October 2019.

4. Other Options Considered

- 4.1 This is not applicable.

5. Background

- 5.1 The Council will occasionally need to use covert surveillance/access communications data/use a CHIS (covert human intelligence source) in order to carry out its enforcement functions effectively.

5.2 The IPCO Inspection Report and action plan were considered by the Audit & Governance Committee at its last meeting on 5th December 2019, which recommended the following updates to the Policy & Procedures:

- Paragraphs 2.18 to 2.26 of the revised Code of Practice for Covert Surveillance and Property Interference 2018 should be incorporated into the RIPA Policy & Procedure. This can be found at Section 5.6.
- Paragraphs 3.10 to 3.17 of the revised Code of Practice for Covert Surveillance and Property Interference 2018 have been taken into account when reviewing Section 10 of the RIPA Policy & Procedure (and also the Council's Online Investigations Policy).

5.3 The Council has also reviewed its authorising officers for RIPA and CHIS surveillance applications as per the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 (2010/521). Applications are now to be authorised by a Director listed in Schedule 1 of the Policy & Procedure in accordance with an authorisation from the Council's Acting Chief Executive dated 16th January 2020. This is considered to be a more appropriate level of decision making for authorisations. Previously, only Executive Directors and the Director of Finance & Customer Services were authorising officers.

6. Implications of the Recommendations

6.1. Legal Implications

6.1.1 Compliance with RIPA, the Protection of Freedoms Act 2012 and the IPA provide a regulatory framework, which enables public authorities to obtain information through the use of certain covert investigatory techniques. Embarking upon covert surveillance outside the scope of the authorisation could result in the criminal investigation being compromised, as the evidence is likely to be considered to have been obtained unlawfully.

6.2. Finance Implications

6.2.1 There are no financial implications arising from this proposal.

6.3. Policy Implications

6.3.1 There are no policy implications arising from this report.

6.4. Equality Implications

6.4.1 There are no equality implications arising from this report.

6.5. Human Resources Implications

6.5.1 Officers are required to be fully aware of their obligations when conducting surveillance. To this end, training is offered on an annual basis to the authorising officers.

6.6. Risk Management Implications

6.6.1 There are no risk management arising from this report.

6.7. Rural Communities Implications

6.7.1 There are no direct implications for rural communities.

6.8. Implications for Children & Young People/Cared for Children

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.

6.10. Climate Change Implications

6.10.1 There are no direct implications for climate change.

7. Ward Members Affected

7.1 There are no direct implications.

8. Access to Information

8.1 All supporting documents are included with this report.

9. Contact Information

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

Name: Helen Sweeney

Job Title: Senior Compliance & Customer Relations Officer

Email: helen.sweeney@cheshireeast.gov.uk

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SURVEILLANCE UNDER THE REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA) AND THE INVESTIGATORY POWERS ACT 2016

POLICY AND PROCEDURES

FEBRUARY 2020

1.0 INTRODUCTION

The Regulation of Investigatory Powers Act 2000 (RIPA) and the Investigatory Powers Act 2016 (IPA) provide a regulatory framework which enables public authorities to obtain information through the use of certain covert investigatory techniques. RIPA includes frameworks around the use of directed surveillance and the use of covert human intelligence sources (CHIS).

The Investigatory Powers Act 2016 (IPA) provides the framework in which communications data can be accessed and obtained. This policy summarises how Cheshire East Council is able to use these frameworks and how applications can be lawfully made. It also provides directions regarding the storage, use and retention of information and data obtained from the use of such actions.

The Protection of Freedoms Act 2012 requires that applications to use directed surveillance and covert human intelligence sources (CHIS) must have prior judicial approval and that the use of these techniques is limited to the investigation of offences which attract a minimal custodial sentence of 6 months.

The Investigatory Powers Act (2016) (IPA) outlines how enforcement agencies can access and obtain communications data, as well as specifying the types of data which can be obtained. Dependent on the type of data being requested, such a request is limited to the investigation of offences which attract a minimal custodial sentence of 6 months (entity data) or 12 months (event data).

The Investigatory Powers Commissioners Office (IPCO) has responsibility for oversight of all investigatory powers since the implementation of IPA 2016.

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2.0 BACKGROUND

An individual has rights, freedoms and expectations are guaranteed by the European Convention on Human Rights and the Human Rights Act 1998. Using the powers under RIPA and IPA can conflict with and cause the suspension of an individual's human rights. Therefore, when investigating wrongdoing, it is important that certain conditions are met in each case so that evidence is obtained lawfully, in order to support any enforcement action as deemed necessary in line with the Council's Enforcement Policy.

By following the authorisation procedures set out by RIPA and IPA, officers of the Council are ensuring that they can demonstrate that the surveillance is necessary for a purpose permitted by the Human Rights Act 1998 and that it is a proportionate measure to take. Compliance with RIPA and IPA will significantly reduce the likelihood of any surveillance carried out by the Council being unlawful, and therefore subject to legal challenge.

Cheshire East Council will occasionally need to use covert surveillance/CHIS/access communications data in order to carry out its enforcement functions effectively. Examples of such enforcement activities are planning enforcement, licensing enforcement, trading standards, environmental health and community protection investigations. Powers under RIPA/IPA can be used where it is demonstrated that viable alternatives to obtaining evidence to mount a prosecution have been considered, but are not appropriate and that any collateral intrusion has been considered.

3.0 USE OF COVERT SURVEILLANCE IN LOCAL AUTHORITIES

Local authorities are not authorised to carry out any form of intrusive surveillance. Intrusive surveillance is defined in Section 26 (3) of RIPA as:

- covert surveillance, which is carried out in relation to anything taking place on any residential premises or in any private vehicle, and involves the presence of an individual on the premises or in the vehicle, or is
- carried out by means of a surveillance device (e.g. a listening or tracking device in a person's home or in his/her private vehicle).

Local authorities are restricted to use of the three techniques mentioned above, i.e.

- using 'directed' surveillance
- deploying a Covert Human Intelligence Source (CHIS)
- acquiring communications data.

The Council is required to obtain the authorisation of a Director listed in Schedule 1 of this policy before using directed surveillance. The use of a CHIS can only be authorised by the Chief Executive. Before acquiring communications data, the Council is required to have a 'made aware' officer within the application process. This is usually at Service Manager level (the

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'made aware' officer does not have to be independent) as well as the Compliance and Customer relations team.

When using directed surveillance or deploying a CHIS, approval must also be granted by a JP/Magistrate. The independent authorisation for local authorities when accessing communications data is provided by the Office for Communications Data Authorisations (ODCA), which has delegated powers from the Judiciary Commissioner.

3.1 Directed Surveillance

Directed surveillance' is essentially covert surveillance in places open to the public. It is defined as:

- covert
- likely to obtain private information
- carried out in a publicly accessible place (including the internet)
- pre-planned against a specific individual or group
- conducted otherwise than as an immediate response to events

It includes surveillance by person or device to:

- observe someone's movements
- eavesdrop on conversations
- photograph or film people or events
- track vehicles

The Protection of Freedoms Act 2012 introduced a crime threshold, whereby local authorities are only able to use this power when investigating offences which attract a custodial sentence of six months or more, or offences relating to the sale of alcohol or tobacco products to minors.

3.2 Covert Human Intelligence Source (CHIS)

A covert human intelligence can be either an undercover officer or a member of the public acting as an informant. The CHIS is someone who:

- establishes and maintains a relationship for a covert purpose
- covertly uses the relationship to obtain information or to provide access to information from another person
- covertly discloses the information derived from the relationship to the Council

Where the CHIS is under 18, special risk assessments need to be carried out for each case.

Before authorisation, a trained handler (day to day responsibility for dealing with the source) and controller (general oversight of the use made of the source) must be identified.

3.3 Obtaining Communications Data

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The Council is limited to accessing only entity and event data (see 7.2) i.e. the 'who', 'when' and 'where' of a communication – not the actual content.

Local Authorities must liaise with the National Anti Fraud Network (NAFN) to acquire Communications Data, as supported by the Investigatory Powers Commissioner's Office (IPCO).

- 3.4** The relevant regimes under which to make an application are as follows:
- a) Directed surveillance – RIPA
 - b) Use of a Covert Human Intelligence Source (CHIS) - RIPA
 - c) Obtaining communications data - IPA
- 3.5** If it is anticipated that there is a likelihood of obtaining confidential information as part of a covert action, e.g. legally privileged or medical information, then this must be disclosed during the application process and only authorised by the Chief Executive or, in his or her absence, an Executive Director.

4.0 APPLYING THE RIPA/IPA PRINCIPLES AND CONCEPTS

4.1 The tests of necessity and proportionality

Use of covert techniques should only be authorised if the Authorising Officer/ODCA is satisfied that the action is both **NECESSARY** and **PROPORTIONATE**. The Human Rights Act 1998 defines a measure or action as proportionate if it:

- impairs as little as possible the rights and freedoms of the individual concerned and of innocent third parties, and
- is carefully designed to meet the objectives in question, is not arbitrary, unfair or based on irrational considerations.

4.2 Collateral intrusion

The Authorising Officer/ODCA must also take into account the risk of intrusion into the privacy of persons other than those who are directly the subject of the investigation or operation. This is termed "collateral intrusion". Officers carrying out the covert action should inform the Authorising Officer/ODCA if the investigation or operation unexpectedly interferes with the privacy of individuals who are not covered by the authorisation. Consideration should be given to whether the authorisation should be amended and re-authorised or whether a new authorisation is required.

5.0 PROCEDURES FOR IMPLEMENTING COVERT ACTIVITY

5.1 General

All covert activity 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. The table below outlines the requirements for each activity:

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Covert technique	Legislation and regime	Crime threshold	Approval
Directed surveillance	RIPA 2000	6 MONTHS (with exemptions)	Authorising Officer (Local Authority) and then Judicial
Covert Human Intelligence Source	RIPA 2000	6 MONTHS	Authorising Officer (Local Authority) and then Judicial
Obtaining Communications Data	IPA 2016	6 MONTHS – ENTITY DATA 12 MONTHS – EVENTS DATA (extra definition includes 'if it involves violence, results in substantial financial gain or by a large number of persons in pursuit of a common purpose')	'Made Aware' (Local Authority) Office for Communications Data Authorisations (ODCA) - NO more Designated Officer (Local Authority) and then Judicial

Any officer intending to undertake covert surveillance or use a covert human intelligence source must only do so if other means of obtaining information have been considered but are not viable.

Embarking upon covert surveillance or using a covert human intelligence source without authorisation, or conducting covert surveillance outside the scope of the authorisation, will mean not only that the “protective umbrella” of RIPA is unavailable, but it may result in disciplinary action being taken against the officer/officers involved. It may also result in the criminal investigation being compromised, as the evidence will be considered to have been obtained unlawfully. Unlawful acquisition (wilful or reckless) of communications data is a criminal offence.

Directed surveillance may only be carried out on residential premises if a member of the public has requested help or made a complaint to the Council, and if written permission to conduct the surveillance has been obtained from the resident from whose premises the surveillance will be carried out.

All relevant Council contracts issued to contractors/subcontractors must include a term that this policy and associated procedures are to be observed when operating on behalf of the Council.

5.2 Closed Circuit Television (CCTV)

CCTV systems are not normally within the scope of RIPA due to being overt. However, if they are used for a specific operation or investigation, or if automatic facial recognition by means of CCTV is used, RIPA authorisation for the use of directed surveillance by CCTV must be initially obtained by the investigating officer depending on who is leading the investigation.

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Any covert activity utilising the CCTV system must comply with the Procedure Manual for the Operation of Cheshire East Council CCTV System.

5.3 Social Networking Sites (SNS) and other Internet sites

The fact that a digital investigation is easy to conduct does not reduce the need for authorisation when necessary and consideration must be given to whether authorisation under RIPA should be obtained.

Different social network sites (SNS) work in different ways and could be considered “open source” if privacy settings are not applied. It is the responsibility of the individual account holder to apply privacy settings in order to protect against unsolicited access to their private information. There is a reasonable expectation of privacy if access controls are applied. Unprotected data may be deemed published and no longer under the control of the author.

Many officers would never envisage carrying out directed surveillance under RIPA; but, they may use SNS for a number of other reasons, such as HR monitoring is the activity of employees; or Children’s Services monitoring the SNS of parents; or chat rooms where they suspect children may be engaged in inappropriate activities. A single view is acceptable (best practice to record the viewing) - but repeat viewing may be considered to be monitoring and is therefore directed surveillance. Therefore may meet the criteria for authorisation as directed surveillance; or even a CHIS. Staff should make a record of any use of SNS or the internet which may assist in their enquiries and document the reasons for the search and the outcome. Officers should always consider other ways of obtaining the information required and document why those options have been discounted in favour of SNS.

If it is necessary and proportionate for the Council to covertly breach access controls, an authorisation for directed surveillance will be required. Consideration may need to be given to authorisation of a CHIS if the Council wishes to establish a relationship with an individual through a SNS or website, i.e. if the activity is more than mere reading of the site’s content.

An officer of the Council must not set up a false identity for covert purposes without authorisation.

An Online Investigations Policy has been developed to provide guidance to Cheshire East Council staff. Further guidance on this can be obtained from the Internal Audit Section or Trading Standards.

5.4 Officers able to make authorisations

The authorisation of applications under the Regulation of Investigatory Powers (Directed Surveillance); or under the Covert Human Intelligence Sources Order 2010 (2010/521) can be authorised by a Director named in Schedule 1.

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Under the IPA 2016 approval for access to and obtaining of communications data is granted only by the Office for Communications Data Authorisations (OCDA)

The Director of Governance and Compliance is not an Authorising Officer. This post assumes responsibility, as the Monitoring Officer, to ensure that the Council complies with the requirements of RIPA and IPA legislation.

Authorising Officers should not be responsible for authorising investigations or operations in which they have had or are likely to have any direct involvement. When such authorisation is required, this should be sought from an alternative Authorising Officer, as appropriate.

5.5 The role of the Investigating Officer

It is the responsibility of the Investigating Officer to present the facts of the application, i.e.

- the crime to be investigated and the offence/sentence it attracts
- the reasons why it is proposed to conduct the investigation covertly
- what covert tactics are requested and why
- on whom the covert surveillance will be focused and who else may be affected by it
- how it is intended to conduct the surveillance
- the 'who, what, when, why and how'

5.6 The role of the Authorising Officer (CHIS and directed surveillance)

It is the role of the Authorising Officer to:

- demonstrate to his/her satisfaction that use of covert surveillance is necessary for the crime being investigated by setting out in their own words why they are satisfied this is so
- demonstrate how he/she has reached the conclusion that the activity is proportionate to what it seeks to achieve and the reasons why the methods are not disproportionate
- ensure the application states explicitly what is being authorised and against which subjects, property or location. It is his/her responsibility to ensure those who conduct the surveillance are clear on what has been authorised.

The guidance below within point 5.6 has been offered within the CHIS Code of Practice (2018).

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/742042/20180802_CHIS_code_.pdf

In many cases involving human sources, a relationship will not have been established or maintained for a covert purpose. Many sources merely volunteer or provide information that they have observed or acquired other than through a relationship, without being induced, asked, or tasked by a public authority. This means that the source is not a CHIS for the purposes of the 2000 Act and no authorisation under the 2000 Act is required.⁷

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Public volunteers

Example 1: A member of the public volunteers a piece of information to a member of a public authority regarding something they have witnessed in their neighbourhood. The member of the public would not be regarded as a CHIS. They are not passing information as a result of a relationship which has been established or maintained for a covert purpose.

Example 2: A caller to a confidential hotline (such as Crimestoppers, the HMRC Fraud Hotline, the Anti-Terrorist Hotline, or the Security Service public telephone number) reveals that they know of criminal or terrorist activity. Even if the caller is involved in the activities on which they are reporting, the caller would not be considered a CHIS as the information is not being disclosed on the basis of a relationship which was established or maintained for that covert purpose. However, should the caller be asked to maintain their relationship with those involved and to continue to supply information (or it is otherwise envisaged that they will do so), an authorisation for the use or conduct of a CHIS may be appropriate.

Professional or statutory duty

Certain individuals will be required to provide information to public authorities or designated bodies out of professional or statutory duty. For example, employees within organisations regulated by the money laundering provisions of the Proceeds of Crime Act 2002 are required to report suspicious transactions. Similarly, financial officials, accountants or company administrators may have a duty to provide information that they have obtained by virtue of their position to the Serious Fraud Office.

Any such regulatory or professional disclosures should not result in these individuals meeting the definition of a CHIS, as the business or professional relationships from which the information derives will not have been established or maintained for the covert purpose of disclosing such information.

Furthermore, this reporting is undertaken ‘in accordance with the law’ and therefore any interference with an individual’s privacy (Article 8 rights) will be in accordance with Article 8(2) ECHR.

This statutory or professional duty, however, would not extend to the situation where a person is asked to provide information which they acquire as a result of an existing professional or business relationship with the subject but that person is under no obligation to pass it on. For example, a travel agent who is asked by the police to find out when a regular client next intends to fly to a particular destination is not under an obligation to pass this information on. In these circumstances, a CHIS authorisation may be appropriate.

Tasking not involving relationships

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Tasking a person to obtain information covertly may result in authorisation under Part II of the 2000 Act being appropriate. However, this will not be true in all circumstances. For example, where the tasking given to a person does not require that person to establish or maintain a relationship for the purpose of obtaining, providing access to or disclosing the information sought or where the information is already within the personal knowledge of the individual, that person will not be a CHIS.

Example: *A member of the public is asked by a member of a public authority to maintain a record of all vehicles arriving and leaving a specific location or to record the details of visitors to a neighbouring house. A relationship has not been established or maintained in order to gather the information and a CHIS authorisation is therefore not available. Other authorisations under the Act, for example, directed surveillance, may need to be considered where there is a possible interference with the Article 8 rights of an individual.*

Identifying when a human source becomes a CHIS

Individuals or members of organisations (e.g. travel agents, housing associations and taxi companies) who, because of their work or role have access to personal information, may voluntarily provide information to public authorities on a repeated basis and need to be managed appropriately. Public authorities must keep such human sources under constant review to ensure that they are managed with an appropriate level of sensitivity and confidentiality, and to establish whether, at any given stage, they should be authorised as a CHIS.

Determining the status of an individual or organisation is a matter of judgement by the public authority. Public authorities should avoid inducing individuals to engage in the conduct of a CHIS either expressly or implicitly without obtaining a CHIS authorisation.

Example: *Mr Y volunteers information to a member of a public authority about a work colleague out of civic duty. Mr Y is not a CHIS at this stage as he has not established or maintained (or been asked to establish or maintain) a relationship with his colleague for the covert purpose of obtaining and disclosing information. However, Mr Y is subsequently contacted by the public authority and is asked if he would ascertain certain specific information about his colleague. At this point, it is likely that Mr Y's relationship with his colleague is being maintained and used for the covert purpose of providing that information. A CHIS authorisation would therefore be appropriate to authorise interference with the Article 8 right to respect for private or family life of Mr Y's work colleague.*

However, the tasking of a person should not be used as the sole benchmark in seeking a CHIS authorisation. It is the activity of the CHIS in exploiting a relationship for a covert purpose which is ultimately authorised by the 2000 Act, whether or not that CHIS is asked to do so by a public authority. It is possible, therefore, that a person will become engaged in the conduct of a

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CHIS without a public authority inducing, asking or assisting the person to engage in that conduct. An authorisation should be considered, for example, where a public authority is aware that a third party is independently maintaining a relationship (i.e. “self-tasking”) in order to obtain evidence of criminal activity, and the public authority intends to make use of that material for its own investigative purposes.

5.7 The role of JPs/Magistrate (CHIS and directed surveillance)

The Protection of Freedoms Act 2012 amended the 2000 Act to make CHIS and directed surveillance authorisations by local authorities in England and Wales subject to judicial approval. These changes mean that local authorities need to obtain an order approving the grant or renewal of a CHIS authorisation from a Justice of the Peace before it can take effect. If the Justice of the Peace is satisfied that the statutory tests have been met and that the use of the technique is necessary and proportionate, they will issue an order approving the grant or renewal for the use of the CHIS as described in the application. The amendment means that local authorities are no longer able to orally authorise the use of CHIS.

5.8 The role of the Office for Communications Data Authorisations (OCDA)

The Office for Communications Data Authorisations considers requests for communications data from law enforcement and public authorities. OCDA carries out the important function of safeguarding an individual’s right to privacy under the Human Rights Act 1998. It makes independent decisions on whether to grant or refuse communications data requests, ensuring that all requests are lawful, necessary and proportionate.

5.9 Outcomes

The order which the Justice of the Peace/OCDA will complete, reflecting his/her decision, will identify one of the three following potential outcomes:

- Approval granted.
- Approval refused - the Council may not use the covert technique but may re-apply if significant new information comes to light or if technical errors in the initial application have been addressed.
- Refuse and Quash – the Council may not use the covert technique. This decision might be used where the JP/OCDA is of the opinion the application is fundamentally flawed.

5.10 The role of the Director of Legal Services/Monitoring Officer

The Director of Governance and Compliance (Monitoring Officer) is responsible for the integrity of the process as follows:

- ensuring compliance with all relevant legislation and with the Codes of Practice
- monitoring authorisations and conducting a quarterly review of applications, authorisations, refusals, reviews, renewals and cancellations.

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5.11 The role of Elected Members

It is considered good practice for Elected Members to undertake a formal scrutiny role in relation to RIPA/IPA and review the Council's use of it on an annual basis. However, they should not be involved in making decisions on specific authorisations.

The Monitoring Officer should ensure that an Annual Report regarding the Council's use of RIPA/IPA is submitted to the Council's Audit & Governance Committee.

6.0 PROCEDURES FOR GAINING APPROVAL (CHIS and Directed Surveillance)

6.1 General

At a departmental level, the application for authorisation must be in writing (electronically typed) and on the appropriate form, which must be completed in full. Officers should ensure that they use the current form available directly from the Home Office website.

Before applications are authorised they must be forwarded to the Compliance and Customer Relations Team to be checked and recorded in the Central Record of Authorisations. A unique reference number will be allocated at this stage. Officers requesting authorisation for directed surveillance and CHIS should complete a risk assessment, which should be submitted with the authorisation request.

6.2 Document Retention

All relevant documentation, including a copy of the authorisation, a record of the period over which surveillance has taken place, any risk assessment, notebooks, surveillance logs and other ancillary documentation should be retained at departmental level for a period of six years from the date of cancellation of the surveillance, at which point they should be securely destroyed.

6.3 Duration of Authorisations

Authorisation of directed surveillance will cease to have effect (unless renewed) either on specific cancellation (within the period of three months) or at the end of a period of three months (directed surveillance) or twelve months ("CHIS"), beginning with the day on which the authorisation was granted by the Justice of Peace/Magistrate.

Authorisation of communications data will cease to have effect when the requested authorised data is provided by the service provider.

6.4 Reviews

Regular monthly reviews of authorisations should be undertaken by the Authorising Officer to assess the need for surveillance to continue. All reviews should be completed using the appropriate form. It is important to

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note that reviews cannot broaden the scope of the original authorisation, but can reduce it for minor changes.

6.5 Renewals

If, at any time before an authorisation would cease to have effect, the Authorising Officer considers it necessary for the authorisation to continue for the purpose for which it was given, he/she may renew it in writing. All applications for the Renewal of an Authorisation for Directed Surveillance should be on the appropriate form, which must be completed in full.

6.6 Cancellations and handling of surveillance material

It is a statutory requirement that authorisations are cancelled as soon as they are no longer required. The Authorising Officer (or Investigating Officer in the first place) who granted (or last renewed) the authorisation must cancel it, if he is satisfied that the activity no longer meets the criteria for which it was authorised, or that it has fulfilled its objective.

If the Authorising Officer is no longer available, this duty will fall to the person who has taken over the role of the Authorising Officer. On cancellation of an authorisation, the Authorising Officer must be satisfied that the product of any surveillance is properly retained and stored or destroyed. If the surveillance product is of no evidential or intelligence value, it should be destroyed without delay, in accordance with Data Protection requirements. If the surveillance product is of potential evidential or intelligence value, it should be retained on the legal file, in accordance with established disclosure requirements, commensurate with any subsequent review.

When cancelling an authorisation, the Authorising Officer should:

- record date and times that surveillance took place and date the order to cease activity was made
- record reason for cancellation
- ensure surveillance equipment is removed and returned
- provide direction for management of product
- record value of surveillance, i.e. whether objectives of activity were met

6.7 Cessation of activity

As soon as the decision is taken that the authorised activity should be discontinued, the instruction must be given to those involved to stop all surveillance of the subject, or to cease using the covert human intelligence source. Documentation detailing the date and time when any cancellation instruction was given by the Authorising Officer should be retained for a period of six years, at which point it should be securely destroyed.

6.8 Central Record of Authorisations

The Compliance and Customer Relations Team is responsible for ensuring that a Central Record of Authorisations is maintained. This must be updated whenever an authorisation is granted, reviewed, renewed or cancelled. These

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records should be securely retained for a period of three years from the ending of the authorisation, at which point they must be securely destroyed. It is necessary that the original hand signed (wet signature) authorisation is maintained within the Central Record of Authorisations, to provide a valid audit trail for court purposes. The Compliance and Customer Relations Team also retains copies of other RIPA forms such as those from the DWP where CEC staff are involved in surveillance but are not the lead officers. The Monitoring Officer should review and sign this Record on a quarterly basis.

With regard to directed surveillance, the Central Record of Authorisations will contain a copy of the authorisation, together with the following information:

- the type of authorisation
- the date the authorisation was given
- the name of the Authorising Officer
- the departmental reference number of the investigation or operation
- the title of the investigation or operation, including a brief description and names of subjects, if known
- date of approval from Magistrates Court, name of Magistrate and outcome
- whether the urgency or oral provisions were used, and if so why
- in the case of a self authorisation by the Authorising Officer, a statement in writing that he/she expressly authorised the action (only in exceptional circumstances)
- if the authorisation is renewed, the date of renewal and who authorised it, including the name and grade of the Authorising Officer
- whether the investigation or operation is likely to result in obtaining confidential information
- the date of cancellation of the authorisation
- where collateral intrusion may be an issue, a copy of the Privacy Impact Assessment

With regard to a CHIS, the Central Record of Authorisations must contain the following additional information:

- a copy of the authorisation, together with any supplementary documentation and notification of the approval given by the Authorising Officer
- a copy of any renewal of an authorisation, together with the supporting documentation submitted when the renewal was requested
- the reason why the person renewing an authorisation considered it necessary to do so
- any urgent authorisation which was granted or renewed orally (in an urgent case) and the reason why the case was considered urgent
- the risk assessment made in relation to the source ("CHIS")
- a record of the results of any reviews of the authorisation
- the reasons, if any, for not renewing an authorisation
- the reasons for cancelling an authorisation - cancellations are to be completed on the appropriate form

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- the date and time when any instruction was given by the Authorising Officer to cease using a “CHIS”
- where collateral intrusion may be an issue, a copy of the Privacy Impact Assessment

With regard to applications for Communications Data, a separate Central Record of Authorisations will be maintained which will contain:

- a copy of the authorisation together with the following information:
- applicant’s name and job title
- the operation name, including a brief description of the nature of the operation and names of subject(s) if known

6.9 Additional requirements for authorisation of covert human intelligence sources only

6.9.1 Covert human intelligence sources may only be authorised if the following additional arrangements are in place:

- There is an employee of the Council with day to day responsibility for dealing with the source and, for the source’s security and welfare, there is a Senior Officer who has general oversight of the use made of the source.
- An officer who is responsible for maintaining a record of the use made of the source; these records will contain any matters specified by the Secretary of State – The Regulation of Investigatory Powers (Source Records) Regulations 2000 (SI 2000/2725) set out these matters.
- Records disclosing the identity of the source and the information provided by him/her will not be made available to others except on a need to know basis

6.9.2 Vulnerable individuals (i.e. a person who is in need of community care services by reason of mental or other disability, age or illness and who is or may be unable to take care or protect himself against significant harm or exploitation) may be authorised to act as a CHIS only in the most exceptional circumstances.

6.9.3 Authorisations for juvenile sources (under 18) should only be granted if the provisions contained in The Regulation of Investigatory Powers (Juveniles) Order 2000 (SI 2000/2793) are satisfied. Any authorisation should be granted by the Chief Executive or (in his/her absence) an Executive Director. The duration of an authorisation for the use or conduct of juvenile sources is four months.

6.9.4 If a juvenile source (under 18) is to be used, the Authorising Officer is responsible for obtaining the written consent of the parent or guardian or the person caring for the juvenile, unless to do so would compromise the juvenile’s welfare or safety. The Authorising Officer is also responsible for ensuring that an appropriate adult is present at any meeting. An appropriate adult is a parent or guardian, a person who has assumed responsibility for the wellbeing of the CHIS or, in their absence, a person who is responsible for the

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wellbeing of the CHIS and who is over 18, who is neither a member of, nor employed by, the Council.

- 6.9.5 On no occasion should the use or conduct of a source under 16 years of age be authorised to give information against his/her parent or any person who has parental responsibility for him/her. The processing of information obtained as a result of surveillance should be restricted to specified employees. Only relevant senior managers should have access to the information collected to enable appropriate action to be taken. They must respect the confidentiality of all information and only disclose the information to other appropriate senior managers where further action is required.
- 6.9.6 When a CHIS is used, a “Handler” (who can be an Officer of the Council), and who must have received appropriate training, should be designated as having the day to day responsibility for dealing with the CHIS. This responsibility should also extend to the security, safety and welfare of the CHIS. In addition, a “Controller” should be designated to have the general oversight of the use made of the CHIS. These requirements also apply in cases in which the CHIS is an officer of the Council. The officer requesting authorisation for the use of a CHIS must also complete a risk assessment and submit it to the Authorising Officer, together with the authorisation request.
- 6.10 Test purchases of sales to juveniles
When a young person (under 16 or under 18) carries out test purchases at a series of premises for age restricted products, it may be necessary to obtain an authorisation for ‘directed’ surveillance dependent on the product and relevant legislation; it is not necessary to prepare authorisations for each premises to be visited, providing each is identified at the outset but, in all cases, it is necessary to prepare a risk assessment in relation to the young person and to have an adult on hand to observe the test purchase.

7.0 AUTHORISATION FOR ACCESS TO COMMUNICATIONS DATA

- 7.1 Local authorities are only able to access the who, what, where and when of communications data – not the content. The legislation requires that a Home Office accredited person, a Single Point of Contact (SPOC), facilitates the acquisition of the communications data requested. It is necessary for all local authorities to use the services of the National Anti-Fraud Network (NAFN) as SPOC to obtain communications data. This is compulsory and is supported by the Investigatory Powers Commissioner’s Office (IPCO).
- 7.2 The Office for Communications Data Authorisations (OCDA) was established to perform functions set out in the Investigatory Powers Act (IPA) 2016. The IPA builds on, and supersedes parts of, the Regulation of Investigatory Powers Act (RIPA) 2000.

The IPA has introduced a 'made aware' officer/rank within Local Authorities which should be the service manager as well as the Compliance and Customer Relations team. There are also offences for officers who obtain data unlawfully. The types of data which can be applied for now include entity and events data.

ENTITY DATA	EVENTS DATA
Subscriber detail Who is using device This data is about entities or links between them and describes or identifies the entity.	Calls or communications between devices (but not the content), known previously as traffic and service use. Numbers, texts Location data (known as cell site data)

8.0 APPLICATION PROCESS FOR ACCESS TO COMMUNICATIONS DATA

- Applicant completes online form on NAFN secure site (must be a registered user with NAFN).
- The application is sent electronically and the 'made aware' officer is notified. This is not an approval stage, just a review and confirmation the Local Authority is aware. The 'made aware' officer does not have to be independent.
- Once made aware, the application goes through to the NAFN SPOC with the possible outcomes being:
 - a) Rework requested
 - b) Reject - whole new application required
 - c) Authorise
- If authorised, the application is sent electronically to OCDA for review. It follows the same process as above. If it is rejected, seven days are allowed for it to be re-submitted.
- If it is approved, it is returned to the NAFN SPOC.
- The NAFN SPOC obtains data and information from service provider e.g. EE, O2, Vodafone.

8.1. When making an application, the following should be taken into account:

- Each application must stand alone.
- Acronyms and abbreviations must be avoided.
- The crime/purpose, legislation, offence and penalties must be clearly stated.
- Dates must be specific (e.g. intelligence).
- The objective of the application and how the data will be used must be clearly stated.
- Standard terms, e.g. suspect, witness, victim must be used.
- It is imperative to be specific about how attribution has been attempted, e.g. has the applicant called the number?

8.2 What Communications Data can Local Authorities request?

Telephony

- Attribution – subscriber details (name and address of subscriber).
- If 'pay as you go' – top up history, customer notes.
- Call data.

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- Location data – start location and end location of a call. Triangulation from mobile cell sites that can be mapped via longitude and latitude. Also with a cell mast location number it is possible to map its coverage via the provider.
- Mobile data event record – shows when data has been used (e.g. logging onto an app) but not the content.
- IMEI/SIM/IMSI – SIM linked to device, shows device capability and numbers linked including network usage.

Internet

- IP addresses – internet protocol address (IPV4 and IPV6) address for a device connecting to the internet – both static and dynamic. Static is usually home internet or often business - dynamic may be shared.
- Social Media and Apps – basic subscriber details, log on history – not the content.
- Email – registration details, log on history, email headers
- Websites – registrant details, preservation of pages, linked services
- Gaming platforms – account details classed as communications data.
- Skype and similar (e.g. Google Talk) – user name and IP address

Others

- Postal/Couriers are covered if there is more than one collection. The Council is able to obtain sorting, conveyance, distribution and delivery details.

9. INSPECTIONS

The oversight for all investigatory powers is now consolidated under one commissioner – the Investigatory Powers Commissioners Office (ICPO). ICPO will carry out direct inspections with the Council for the use of directed surveillance and CHIS. In respect of communications data, the inspection will be made of NAFN, with a potential to request further information from the Council.

10.0 TRAINING

Regular training sessions for Authorising Officers, 'Made Aware' and Investigating Officers will be arranged internally. No officer who has not attended a training session will be permitted to instigate or authorise any application for the use of RIPA/IPA powers.

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Regulation of Investigative Powers Act 2000

Authorising Officers

I, Kath O'Dwyer, Acting Chief Executive of Cheshire East Council, hereby appoint the following officers as authorising officers for the purposes of the Regulation of Investigatory Powers Act 2000, and Regulation of Investigative Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010:

Place Directorate

Andrew Ross, Director of Highways & Infrastructure

Peter Skates, Director of Growth & Enterprise

Paul Bayley, Director of Environment & Neighbourhood Services

Corporate Directorate

Alex Thompson, Director of Finance & Customer Services

Jo Brown, Director of transformation

People Directorate

Jacquie Sims, Director of Children's Social Care

Jill Broomhall, Director of Adult Social Care Operations

Nichola Thompson, Director of Commissioning

Signed

Dated16/01/20.....

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Working for a brighter future together

Audit & Governance Committee

Date of Meeting: 12 March 2020

Report Title: Maladministration Decision Notices from Local Government and Social Care Ombudsman – September – November 2019

Senior Officer: Jan Bakewell – Director of Governance and Compliance

1. Report Summary

- 1.1. This report provides an update on the Decision Notices issued by the Local Government and Social Care Ombudsman "the Ombudsman" when his investigations have found maladministration causing injustice to complainants. This report details the decisions made between 1st September 2019 and 30th November 2019. There were 7 decisions in which the Ombudsman found that there was maladministration causing injustice; the relevant departments have taken the recommended actions and learned lessons from the investigation outcomes. It is not possible to report on any Decision Notices issued from December 2019 onwards, as the Ombudsman imposes a three month reporting embargo. Any decisions received after 30th November 2019 will be reported at a subsequent Audit & Governance meeting.

2. Recommendation

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

3. Reasons for Recommendation

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

4. Other Options Considered

- 4.1. This is not applicable.

5. Background

- 5.1. The Local Government Act 1974 established the Local Government and Social Care Ombudsman. It empowers the Ombudsman to investigate complaints against councils and adult social care providers and to provide advice and guidance on good administrative practice. Once a complainant has exhausted the Council's Complaints procedure, their next recourse, should they remain dissatisfied with the Council's response, is to contact the Ombudsman.
- 5.2. The Ombudsman will assess the merits of each case escalated to them and seek clarification from the Council as necessary before making the decision to investigate a complaint. Once the Ombudsman decides to investigate, they will try to ascertain if maladministration has occurred and whether or not there has been any resulting injustice to the complainant as a result of the maladministration.
- 5.3. In instances where maladministration and injustice is found, the Ombudsman will make non-legally binding recommendations which they consider to be appropriate and reasonable. Although not legally binding, refusal to accept the Ombudsman's recommendation(s) will trigger a Public Report.
- 5.4. A Public Report is a detailed account of the complaint, outlining the failures by the Council in the particular investigation; this can have a significant damaging effect on the Council's reputation.
- 5.5. During the period between 1st September 2019 and 30th November 2019 the Council received 7 Decision Notices in which the Ombudsman has concluded that there has been maladministration causing injustice. The details of these cases can be found in Appendix 1.
- 5.6. Special Educational Needs Complaint 1 – The complaint was as a result of the way in which the Council handled the complainant's request for an Education Health and Care Plan (EHCP) assessment for her son. The complainant specifically raised concerns that there was an unreasonable delay in finalising the EHCP, in requesting a Speech and Language Therapy (SALT) assessment, which in the complainant's view, meant that the EHCP was therefore flawed; she also stated that two Council officers involved in writing the plan made inappropriate and unprofessional comments during meetings with her.
 - 5.6.1. The Ombudsman found the Council was late in issuing the EHCP and, as a result, this delayed the complainant's son from starting school named in the plan with the provisions he was entitled to receive. They recommended that

the Council make a payment of £2800 to the family in recognition of the provisions the complainant's son missed out on and the distress caused by the delay. The Ombudsman did not investigate the issues relating to the SALT assessment and did make comment as to whether or not the EHCP was flawed, as the complainant had exercised her right to appeal the decisions reached through the SEN Tribunal Service. The Ombudsman also did not investigate the concerns raised about the Council officers' comments as it could not elaborate further on the Council's findings about its staff.

- 5.6.2. The required actions set out by the Ombudsman have since been completed. The department have addressed the issues and findings of the Ombudsman by implementing a restructure of the service and staffing, which has moved from a reliance on a high proportion of agency staff to permanent appointments. There has been a move to a locality model within the SEND team, with the recruitment of a manager for each locality, to provide increased management oversight of keyworkers and individual casework and ensure that all families and schools have a designated person as a direct link. The department now have clear and robust trackers in place that are updated and reviewed weekly to support timeliness across all areas.
- 5.7. Special Educational Needs Complaint 2 – The complainant raised concerns with delays in completing an ECHP for her daughter. She also raised concerns that the Council had failed to adhere to proper procedure by not including all the reports she wanted listed in the plan, the Council failed to ensure that the provisions in the plan were being consistently delivered and failed to ensure that all professionals involved worked sufficiently closely together.
 - 5.7.1. The Ombudsman found no fault in the way in which the Council communicated or shared information with professionals and was satisfied the Council had taken sufficient steps to ensure the provisions were being delivered correctly. However, the Ombudsman found fault as the Council was late in issuing the ECHP, which could have been avoided. The recommendation was that an apology be issued to the complainant for the distress caused by the delay.
 - 5.7.2. The required action set out by the Ombudsman has since been completed. The department have addressed the issues and findings of the Ombudsman by introducing clear and robust tracking documents that are updated and reviewed weekly by the locality managers and the Head of Service to support timeliness of plans at each stage.
- 5.8. Special Educational Needs Complaint 3 – The complainant was dissatisfied with the Council's failure to provide education to her son for a two month period in 2017, as well as failing to properly update his EHCP.

- 5.8.1. The Ombudsman concluded that the Council was at fault for having caused undue delays at several points throughout the EHCP assessment process, which resulted in the complainant's son not receiving education for a two month period, which caused unnecessary distress and uncertainty to the family. The Ombudsman recommended that the Council apologise and issue a payment of £1150 to the family in recognition of the injustice caused.
- 5.8.2. The required actions set out by the Ombudsman have been completed. In addition to the restructure and tracking documentations referenced in point 5.6.2, the department has also identified a member of staff with responsibility for attending multi agency meetings that monitor children missing education.
- 5.9. Child in Need / Child Protection Complaint 1 – The complaint was as a result of the Council's decision to start child protection proceedings and the way in which this process was handled. Particular concerns were raised by the complainant about the way in which the Council worked with health professionals and the Council's failure to properly consider the special educational needs of the children. The complainant also alleged that staff stopped access to the complaints process by saying that the complainant was at risk of losing the children if further complaints were made.
 - 5.9.1. The Ombudsman found no fault with the Council's decision to start child protection proceedings and with the way in which it worked with health professionals. They also found no fault with the way the Council considered the special educational needs of the children and were not able to find evidence that staff had stated that the complainant was at risk of losing the children if further complaints were made. However, the Ombudsman found the Council at fault when the complainant's case was transferred to a new social worker. There was a delay between the previous social worker and the new social worker making contact with the complainant, which caused avoidable distress to the complainant, due to not being able to access help and advice when it was needed. The Council was also found at fault for the way information was shared with the complainant. The Council should have responded to the complainant's request to have extra time to consider the reports and minutes from meetings and explained what adjustments it was making or its reasons for not making an adjustment. The Ombudsman recommended that the Council issue an apology and payment of £500 in recognition of the fault identified and the distress caused.
 - 5.9.2. The department has completed the recommendations set out by the Ombudsman. They have reminded staff of the importance of ensuring appropriate arrangements are made with a service user when a social worker is changed. They have also refreshed their Recording Policy, circulating this to all frontline staff, and reminding relevant staff of the importance of recording when documents are shared, so there is a clear record of when and how this was done, and of the importance of sharing documents within the timescales set out in its policies.

- 5.10. Child in Need / Child Protection Complaint 2 – The Complainant raised concerns about the way in which the Council handled a child protection case involving her daughter, in particular that an inexperienced social worker was leading on the case. She says there was no proper basis for starting a child protection and that the social worker had misreported information. She also complains the Council wrongly made referrals to the Office for Standards in Education, Children’s Services and Skills (Ofsted) and the Disclosure and Barring Service (DBS). She says the Council’s actions caused emotional harm to herself and her daughter, and affected her career, causing financial loss.
 - 5.10.1. The Ombudsman concluded that there was no fault in the way in which the Council decided to initiate the child protection process or that the social worker had misreported information. It also found no fault with the referrals that were made to both Ofsted and the DBS or that it had caused the complainant financial loss. However, it found fault as a result of delays in sharing reports and minutes of meetings with the complainant and criticised the Council’s record keeping of when these were shared. As a result the Ombudsman recommended that a payment of £200 be issued in recognition of the frustration caused by the complainant not being able to challenge the contents of reports and minutes of meetings. The Ombudsman also found fault that, although the Council did not have to use the children’s statutory complaints process, having started this process, it should have continued it to the end. The Ombudsman also found fault with the Council for not ensuring that the lead social worker for the child protection case was an experienced social worker, but noted that, under the circumstances, the injustice caused was not significant.
 - 5.10.2. The department has completed the recommendations set out by the Ombudsman. They have also reminded staff of the recording policy expectations, which outlines when minutes should be shared following a meeting and recording that the minutes have been shared. Team and Service Managers have also been reminded of the importance of ensuring that social workers are suitably experienced, based on prior work experience, before a Child Protection case is assigned a Social Worker. The department has also since developed and introduced an Advanced Practitioner role within frontline Social Worker Teams, whose role is also to support those less experienced and assist with their practice and development, offering an additional layer of support and experience.
- 5.11. Development Management Complaint – The Complainant was unhappy about the impact a telecommunication mast may have on her health and amenity. She specifically raised concerns that the Council did not protect the

public, when it considered an application for a telecommunications mast on land near her home.

- 5.11.1. The Ombudsman found the Council at fault because, although it had refused the permitted development proposal, the Council had failed to notify the developer within the permissible time limit to oppose the proposal, and thereby losing planning control of the site. Because of this, the developer can now erect a mast which, in the Council's view, is harmful to the public amenity.
- 5.11.2. The Ombudsman has recommended that the Council review its procedures to ensure that this sort of issue does not re-occur, that the Council ensures that officers are aware of the practices and procedures and that it updates the public records explaining why the development is lawful despite its planning concerns. As a result, the department has reminded all officers of their responsibilities in ensuring that decisions are not only made but also dispatched to the applicants within the 56 day period. There is an understanding of this process and procedure for all staff, including those who have recently joined the Authority. A public file note has been placed on the Council's website and the decision updated, so it is clear that the development could go ahead. Negotiations with the developer on the actual site have concluded, albeit there may still be further discussions about the suitability of an alternative location.
- 5.12. Trading Standards – The complainant was unhappy with the way in which the Council considered his report about a rogue trader which caused him distress and outrage. He specifically complained about the lack of enforcement action by the Council following his report and that he had been misinformed via a third party, Citizens Advice Consumer Service (CACS), who he thought were acting on behalf of the Council.
- 5.12.1. The Ombudsman found no fault with Council's decision making process and concluded that the Council could not be criticised for the actions of CACS, as the Council does not commission or contract them to provide consumer advice to members of the public and, therefore, they fall outside the jurisdiction of the Ombudsman to investigate. As such, the Council could not have misinformed the complainant. Nevertheless, the Ombudsman was of the view that the information on the Council's website and the Trading Standards policy did not sufficiently detail the relationship between CACS and the Council, or how the information received from CACS would be processed.
- 5.12.2. The service has made changes to the web pages, making it clear that CACS is not a service commissioned by Cheshire East (nor any other LA) and that Citizens Advice is a wholly separate organisation. The service has also

made it clear how it will respond and use the different types of referral paths from CACS. Changes have also been made to reflect the same in the Team's Enforcement Policy. Furthermore, this clarification instruction has been passed onto all Local Authority Trading Standards services in the region in a recent executive meeting. The main lesson learnt is to ensure relationships with other partners, organisations and enforcement bodies are clearly described in any communications with the public.

6. Implications of the Recommendations

6.1. Legal Implications

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

6.2. Financial Implications

- 6.2.1. If fault causing injustice is found, the Council can be asked to pay compensation to a complainant, the level of which is determined on a case by case basis. The cost of such compensation is paid for by the service at fault. In the cases outlined, the Council was required to make compensation payments totalling £4650.

6.3. Policy Implications

- 6.3.1. Adherence to the recommendations of the Ombudsman is key to ensuring that customers have objective and effective recourse should they be unhappy with the way in which the Council has responded to their complaint.

6.4. Equality Implications

- 6.4.1. There are no equality implications flowing directly from the content of this report.

6.5. Human Resources Implications

- 6.5.1. There are no HR implications flowing directly from the content of this report.

6.6. Risk Management Implications

- 6.6.1. There are no risk management implications.

6.7. Rural Communities Implications

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

6.8. Implications for Children & Young People/Cared for Children

- 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.

6.10. **Climate Change Implications**

6.11. There are no direct implications to climate change.

7. **Ward Members Affected**

7.1. There are no direct implications for Ward Members.

8. **Access to Information**

8.1. Please see Appendix 1.

9. **Contact Information**

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

Name: Juan Turner

Job Title: Compliance and Customer Relations Officer

Email: juan.turner@cheshireeast.gov.uk

Appendix 1 - Ombudsman Decisions where Maladministration with Injustice has Taken Place

September – November 2019

Service	Summary and Ombudsman's Final Decision	Agreed Action	Link to LGSCO Report	Action Taken	Measures Implemented	Lessons Learnt
Special Education al Needs Complaint 1	<p>Miss B complains about the Council's handling of her request for an Education, Health and Care Plan (EHCP) for her son.</p> <p>The Ombudsman found the Council took too long to issue the final Plan. This meant Miss B's son did not receive special educational provisions he should have received. The Council has agreed to make payments to Miss B and her son to put right the injustice they suffered.</p>	<p>Within two months of the final decision, the Council shall:</p> <ul style="list-style-type: none"> • Pay £2,500 for the educational or social benefit of the child in recognition of the missed special educational provision he should have received from February to May 2018 and from September to November 2018. • Pays £300 for the distress the complainant has suffered because of the Council's delay issuing the EHCP and the missed special educational provisions. • Write to the complainant and the Ombudsman with an update on the action the Council is taking to address the timeliness and quality of 	https://www.lgo.org.uk/decisions/education/special-educational-needs/18-012-621	<p>The department has issued the update letter apologising for the failings identified by the Ombudsman. The payments have also been processed.</p> <p>The department has carried out a restructure of the service and staffing to ensure there is the right capacity within the service and there is increased management oversight of keyworkers.</p> <p>The department have also introduced clear and robust trackers are updated and</p>	<p>The department has carried out a restructure of the department and recruited permanent staff.</p>	<p>To ensure that ECH Plans are processed and finalised in line within statutory time frames.</p>

		EHCP's.		reviewed weekly by managers and the Head of Service to support timeliness of plans at each stage.		
Special Educational Needs Complaint 2	<p>Mrs X complained the Council delayed finalising her daughter's Education Health and Care Plan (EHCP), and failed to ensure the provision outlined in it was delivered.</p> <p>The Ombudsman found the Council at fault for not issuing the final EHCP within the statutory timescales and should apologise. However, there was no fault found in the delivery of the provision detailed in the plan.</p>	<p>Within one month of the final decision, the Council shall:</p> <ul style="list-style-type: none"> • Write to the complainant apologising for the failure to issue a final EHCP within the statutory timescales. 	https://www.lgo.org.uk/decisions/education/special-educational-needs/19-002-127	<p>The department has issued the update letter apologising for the failings identified by the Ombudsman.</p> <p>The department has carried out a restructure of the service and staffing to ensure there is the right capacity within the service and there is increased management oversight of keyworkers.</p> <p>The department have also introduced clear and robust trackers are updated and reviewed weekly by managers and the Head of Service to</p>	<p>The department has carried out a restructure of the department and recruited permanent staff.</p>	<p>To ensure that ECH Plans are processed and finalised in line within statutory time frames.</p>

				support timeliness of plans at each stage.		
Special Education Needs Complaint 3	<p>Miss X complains the Council failed to provide education to her son over a two month period and failed to update his Education and Health Care Plan (EHCP), causing loss of education, stress and financial loss.</p> <p>The Ombudsman found the Council at fault for not updating the EHCP within the statutory timescales. The Council has agreed to apologise, make payments to the complainant and to provide guidance to staff.</p>	<p>Within one month of the final decision the Council shall:</p> <ul style="list-style-type: none"> • Apologise to the Complainant • Pay £800 in recognition of the loss of education for the child; • Pay £250 for the distress and uncertainty suffered by the child and his family; • Pay £100 to the complainant for the time and trouble in bringing the complaint; • Provide training to staff to ensure they are aware of and follow guidance in the SEND Code of Practice 2015. 	https://www.lgo.org.uk/decisions/education/special-educational-needs/18-017-713	<p>The department has issued the apology letter and the payments have also been processed. Staff training has also been developed to ensure that guidance in the SEND Code of Practice 2015 is followed.</p> <p>Also the department has identified a member of staff with responsibility for attending multi agency meetings that monitor children missing education in order to ensure that children and young people who are missing education are supported back into education as quickly as possible.</p>	<p>The department has carried out a restructure of the department and recruited permanent staff.</p>	<p>To ensure that ECH Plans are updated and processed in line within statutory time frames.</p>

<p>Children in Need / Child Protection Complaint 1</p>	<p>The complainant complained about the Council's decision to start child protection proceedings and the way it handled this.</p> <p>The Ombudsman found no fault with the decision to start child protection proceedings. However it found the Council at fault for the way in which it communicated and shared information with the complainant. It also found fault for the delay the complainant experienced in getting access to help and support. The Ombudsman recommended that the Council issue an apology and payment in recognition of the distress caused.</p>	<p>Within one month of the final decision the Council shall:</p> <ul style="list-style-type: none"> • Apologise to the Complainant • Pay £500 in recognition of the loss of education for the child; <p>Within three months it shall:</p> <ul style="list-style-type: none"> • Issue a reminder to relevant staff of the importance of recording when and how information is shared and that documents are shared within the timescales set out in its policies. 	<p>Not being published on the Ombudsman's website.</p>	<p>The department has issued the apology letter and processed the payments. The reminder to staff has also been issued.</p> <p>The department has reminded all staff of the importance of good and timely communication with families in building relationships. It has refreshed the Recording Policy, circulated this to all frontline staff, and reminded staff of the importance of recording when documents are shared. As well as the importance of sharing documents within the timescales set out in its policies.</p> <p>Management oversight is in place to ensure that timely</p>	<p>The department has refreshed their Recording Policy and circulated this to frontline staff.</p>	<p>To ensure that records are correctly updated to demonstrate when minutes/documenta tion has been shared.</p>
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				action is taken for children, including when there is a change of worker.		
Children in Need / Child Protection Complaint 2	<p>Mrs X complains about the Council's handling of her daughter's child protection case, which she says caused avoidable distress to her and her daughter.</p> <p>The Ombudsman found fault for having appointed an inexperienced social worker to lead the child protection process, not sharing reports and minutes in accordance with its policies and refusing a stage 3 panel.</p> <p>The Ombudsman recommended that the Council issue an apology and payment in recognition of the distress caused.</p>	<p>Within one month of the final decision the Council shall:</p> <ul style="list-style-type: none"> • Apologise to the Complainant • Pay £200 in recognition of the frustration caused because she could not challenge the contents of reports and meetings. <p>Within three months it shall:</p> <ul style="list-style-type: none"> • Review its processes to ensure it complies with the requirements of the Children's statutory complaints process • Remind relevant staff of the importance of recording when and how information is shared 	https://www.lgo.org.uk/decisions/children-s-care-services/child-protection/18-010-925	<p>The department has issued the apology letter and processed the payment. A review of the Children's Statutory complaints process has been carried out.</p> <p>The department has reminded all staff of the importance of good and timely communication with families in building relationships. It has refreshed the Recording Policy, circulated this to all frontline staff, and reminded staff of the importance of recording when documents are shared. As well as the importance of sharing</p>	<p>The department has refreshed their Recording Policy and circulated this to frontline staff. They have also developed a new role within the team to help support less experienced staff, assisting with their practice and development.</p>	<p>To ensure that records are correctly updated to demonstrate when minutes/documentation has been shared. Also to ensure that Social Workers are suitably experienced when assigned Child Protection Cases</p>

				<p>documents within the timescales set out in its policies.</p> <p>Team and Service Managers have also been reminded of the importance of ensuring that social workers are suitably experienced, based on prior work experience, before a Child Protection case is assigned a Social Worker.</p> <p>The department has also since developed and introduced an Advanced Practitioner role within frontline Social Worker Teams, whose role is also to support those less experienced and assist with their practice and development.</p>		
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Planning	<p>Mrs X complained about the impact a telecommunication mast might have on her health and amenity because the Council failed to control a prior notification planning application it intended to refuse.</p> <p>The Council accepts it was at fault and has agreed to review its practices and update its records.</p>	<p>Within three months from the final decision, the Council will carry out the following actions to remedy the complaint and report back its findings to the Ombudsman.</p> <p>It will ensure:</p> <ul style="list-style-type: none"> • its processes are robust, so it can ensure the fault found here does not recur and prior notification decision notices are received within the 56-day time limit; • its officers understand its practices and procedures relating to prior notification applications; • its public record is updated so that it shows the reasons why development on the site is lawful, despite its planning concerns <p>If the Council has not completed the remedy or finished its negotiations within a three month time limit, it may provide an</p>	https://www.lgo.org.uk/decisions/planning/planning-applications/19-005-127	<p>The department has reviewed its processes. It has reminded staff and discussed the issue during a Team meeting. It has also updated the public record (website) clarifying why the development is permissible.</p>	<p>The department has reviewed its processes.</p>	<p>To ensure that Determination Applications are processed within their 56 day deadline.</p>
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		update and request an extension.				
Trading Standards	<p>Mr X complains the Council failed to act against a rogue trader, causing him distress.</p> <p>The Ombudsman finds procedural fault by the Council, but cannot say this affected its decision not to take action.</p> <p>The Council has agreed to amend its enforcement policy.</p>	<p>Within three months of the decision the Council shall:</p> <ul style="list-style-type: none"> • Amend its enforcement policy to make clear what information it will take into account in deciding whether or not to investigate a Trading Standards complaint. 	https://www.lgo.org.uk/decisions/environment-and-regulation/trading-standards/18-010-906	The department has updated its Enforcement Policy.	The service has made changes to the its web pages and documentation to clearly define the relationship between Citizens Advice Consumer Service and clarified how it will respond and use the different types of referral paths from CACS.	<p>To ensure relationships with other partners, organisations and enforcement bodies are clearly described in communications with the public.</p>



Working for a brighter future together

Audit & Governance Committee

Date of Meeting: 12 March 2020

Report Title: Committee Work Plan

Senior Officer: Jan Bakewell, Director of Governance and Compliance

1. Report Summary

- 1.1. This report presents a draft Work Plan for 2020/21 (Appendix A) to the Committee for approval.

2. Recommendations

- 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 Recommendations

- 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. 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. The Work Plan will be re-submitted to the Committee for further development and approval at each subsequent meeting.
- 5.4. In order to help with their deliberations, Members are asked to consider the following:
 - 5.4.1. 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.
 - 5.4.2. that the Audit and Governance Committee should operate at a strategic level with matters of operational detail resolved by service managers.
 - 5.4.3. 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.

6. Implications of the Recommendations

6.1. Legal Implications

- 6.1.1. The Work Plan for 2020/21 complies with the requirements of the Accounts and Audit Regulations 2015.

6.2. Finance Implications

- 6.2.1. 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.

6.3. Policy Implications

6.3.1. There are no policy implications in this report.

6.4. Equality Implications

6.4.1. There are no direct implications for equality in this report. The Audit and Governance Committee receives assurances from across the organisation.

6.5. Human Resources Implications

6.5.1. 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.

6.6. Risk Management Implications

6.6.1. 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:

- 6.6.1.1. raise awareness of the need for robust risk management, control and corporate governance arrangements and the implementation of audit recommendations,
- 6.6.1.2. increase public confidence in the objectivity and fairness of financial and other reporting
- 6.6.1.3. reinforce the importance and independence of internal and external audit and any other similar review process
- 6.6.1.4. provide additional assurance through a process of independent and objective review

6.7. Rural Communities Implications

6.7.1. There are no direct implications for rural communities.

6.8. Implications for Children & Young People/Cared for Children

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.

6.10. Climate Change Implications

6.10.1. There are no climate change implications in this report.

7. Ward Members Affected

7.1. All wards affected.

8. Consultation & Engagement

8.1. The proposed Work Plan was prepared following discussion with key officers who regularly provide updates to the Audit and Governance Committee. The proposed Work Plan has also been discussed with the Committee Chair and Vice Chair and was considered by the Corporate Leadership Team.

9. Access to Information

9.1. Not applicable.

10. Contact Information

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

Name: Jan Bakewell

Job Title: Director of Governance and Compliance Services.

Email: jan.bakewell@cheshireeast.gov.uk

Work Plan 2019/20

		Extract from Committee Terms of Reference (February 2020 Constitution)	
Agenda Item	Description	No	Detail
12th March 2020			
Dispensations – ASDV	Update to the Committee on the use of urgency powers in relation to dispensations for ASDVs	131	The Committee is responsible for the Council's standards arrangements which seek to: (a) 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); (b) ensure that Members receive advice and as appropriate on the Members Code of Conduct; and (c) 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.
External Audit Plan (Mazars)	To receive an update from the Council's External Auditors in relation to the external audit report and other issues	118	To consider the external auditor's annual letter, relevant reports and the report to those charged with governance.
		120	To comment on the scope and depth of external audit work and to ensure it gives value for money.
Internal Audit Interim Report 2019/20	To consider a summary of Internal Audit Work undertaken between September 2019 and December 2019.	110	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.
Internal Audit Plan 2020/21	Approval of the summary risk based Internal Audit Plan for 2020/21	106	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.

Work Plan 2019/20

		Extract from Committee Terms of Reference (February 2020 Constitution)	
Agenda Item	Description	No	Detail
Updated Risk Management Framework	To consider and comment upon the updated Risk Management Framework (Appendix A) and recommend it to Cabinet for approval.	97	To monitor the effective development and operation of risk management in the Council.
Revised RIPA Policy and Procedures	To receive the updated policy and procedures for RIPA following the IPCO inspection in 2019.	93	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	<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"> • if there have been any upheld complaints to be reported on to the next agenda • the appropriate part of the agenda for the report to be considered • 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. 	129	<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>
Annual Audit and Governance Committee Self Assessment	Self-assessment of the effectiveness of the Committee, which provides an assurance for the Annual Governance Statement.	126	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.

Work Plan 2019/20

		Extract from Committee Terms of Reference (February 2020 Constitution)	
Agenda Item	Description	No	Detail
Audit and Governance Committee Work Plan	Forward looking programme of meetings and agenda items for 2020/21 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.	95	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.
Unscheduled items – for consideration as to inclusion in 2020/21 Work Programme			
Approach to disclosure of Internal Audit Reports <i>Carried forward from 2018/19 work plan</i>		110	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.
Update on Internal Audit Report on Land Transactions		99	To consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions, including calling managers to explain lack of progress.

Work Plan 2019/20

		Extract from Committee Terms of Reference (February 2020 Constitution)	
Agenda Item	Description	No	Detail
		112	To consider summaries of specific internal audit reports as requested.
Partnerships Governance	TBC	102	To review the governance and assurance arrangements for significant partnerships or collaborations.
Members Code of Conduct <i>Requested in March 2019</i>	Members requested a review of the information provided to Committee regarding the Members Code of Conduct	131	To promote high standards of ethical behaviour by developing, maintaining and monitoring the Code of Conduct for Members of the Council (including co-opted Members and other persons acting in a similar capacity).

Work Plan 2020/21

		Extract from Committee Terms of Reference – (February 2020 Constitution)	
Agenda Item	Description	No	Detail
28th May 2020			
External Audit 2019/20 Progress and Update Report (Mazars)	To consider an update report from Mazars in delivering their responsibilities as external auditors.	118	To consider the External Auditor's annual letter, relevant reports and the report to those charged with governance.
Internal Audit Annual Report (20/19/20)	Annual opinion on the overall adequacy and effectiveness of the Council's control environment	111	To consider the Head of Internal Audit's annual report: a) The statement of the level of conformance with the Public Sector Internal Audit 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
Annual Monitoring Officer Report 2019/20	Annual Report of the Monitoring Officer 2019/20	110	To review the Council's corporate governance arrangements against the good governance framework and consider annual governance reports and assurances.
Annual Information Governance Update 2019/20	This report provides an update on the Council's Information Governance arrangements during 2019/20.	93	To review the Council's corporate governance arrangements against the good governance framework and consider annual governance reports and assurances.
Annual Risk Management Report	Annual report on the effectiveness of risk management arrangements in the Council	97	To monitor the effective development and operation of risk management in the council.

Work Plan 2020/21

		Extract from Committee Terms of Reference – (February 2020 Constitution)	
Agenda Item	Description	No	Detail
2019/20	during 2019/20.		
Draft Pre-Audit Statement of Accounts 2019/20	This item introduces the 2019/20 pre-audit statement of accounts to the Committee. This starts the public inspection period and provides members with detail on the next steps to complete the approval of the accounts	123	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 2019/20	This report introduces the draft 2019/20 Annual Governance Statement to the Committee for consideration and comment	94	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.
Work Plan 2020/21	Forward looking programme of meetings and agenda items for 2020/21 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.	95	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.
30th July 2020			
External Audit Findings and Action Plan (Mazars)	Summary of findings from the 2019/20 audit and key issues identified by External Audit in issuing their opinion on the Council's	118	To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance

Work Plan 2020/21

		Extract from Committee Terms of Reference – (February 2020 Constitution)	
Agenda Item	Description	No	Detail
	financial statements and its arrangements for securing economy, efficiency and effectiveness in the use of resources		
Annual Statement of Accounts 2019/20	Approval of the Audited Statement of Accounts for 2019/20	123	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.
Audit and Governance Committee Annual Report 2019/20	Annual Report of the Chair of the Audit and Governance Committee for consideration and approval by Committee ahead of presentation to Council.	125	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.
		126	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.
		127	To publish an annual report on the work of the committee.
Counter Fraud Report	Annual report on counter fraud work in the Council during 2019/20	101	To monitor the counter-fraud strategy, actions and resources.
	This report will also set out the review of the Council's Anti-Fraud and Corruption Policy against current best practice and identifies any suggestions for improvements to the	128	To approve and monitor Council policies relating to whistleblowing and anti-fraud and corruption.

Work Plan 2020/21

		Extract from Committee Terms of Reference – (February 2020 Constitution)	
Agenda Item	Description	No	Detail
	current arrangements.		
Review of Whistleblowing Policy and Procedure	To provide the Committee with an update on the effectiveness of the Council's Whistleblowing Policy and a breakdown of the number of reports received during 2019/20	128	To approve and monitor Council policies relating to whistleblowing and anti-fraud and corruption.
Annual Governance Statement 2019/20	Approval of the Annual Governance Statement 2019/20	94	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.
General Dispensations	For the Committee to renew, for a period of four years, a number of general dispensations under the Localism Act 2011, as previously approved by the Committee in September 2016	131	The Committee is responsible for the Council's standards arrangements which seek to: (a) 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); (b) ensure that Members receive advice and as appropriate on the Members Code of Conduct; and (c) 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.
Work Plan 2020/21	Forward looking programme of meetings and agenda items for 2018/19 to ensure	ALL	ALL

Work Plan 2020/21

		Extract from Committee Terms of Reference – (February 2020 Constitution)	
Agenda Item	Description	No	Detail
	comprehensive coverage of the Committee's responsibilities.		
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.	95	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.
24th September 2020			
Annual Audit Letter 2019/20 (Mazars)	Summary of the External Audit findings from the 2019/20 audit. The letter will also confirm the final audit fee.	118	To consider the External Auditor's annual letter, relevant reports, and the report to those charged with governance.
		120	To comment on the scope and depth of external audit work and to ensure it gives value for money.
Members Code of Conduct: Standards Report	To note the numbers and outcomes of complaints made under the Code of Conduct for Members between March and August 2020	131	To promote high standards of ethical behaviour by developing, maintaining and monitoring Code 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.	97	To monitor the effective development and operation of risk management in the council.
Referrals to the Local Government and Social Care Ombudsmen 2019/20.	The report will provide a summary of the key issues from the annual report received by the LGO.	93	To review the Council's corporate governance arrangements against the good governance framework and consider annual governance reports and assurances.
Treasury Management Annual Report 2019/20.	This report will update the Committee on Treasury Management activity over the year.	103	To review and monitor the Council's treasury management arrangements in accordance with the CIPFA Treasury Management Code of Practice.

Work Plan 2020/21

		Extract from Committee Terms of Reference – (February 2020 Constitution)	
Agenda Item	Description	No	Detail
Work Plan 2020/21	Forward looking programme of meetings and agenda items for 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.	95	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.
10th December 2020			
External Audit Plan 2019/20 (Mazars)	To receive and comment on External Audit's planned work for the audit of financial statements and the value for money conclusion 2019/20	118	To consider the External Auditor's annual letter, relevant reports, and the report to those charged with governance.
		120	To comment on the scope and depth of external audit work and to ensure it gives value for money.
Certification Report	The report provides a summary of the key findings that have been identified during the External Auditors' certification process for 2019/20 claims and returns.	118	To consider the External Auditor's annual letter, relevant reports and the report to those charged with governance.
Draft Treasury Management Strategy and Minimum Revenue Provision Statement	Update on the contents of the Council's Treasury Management Strategy for 2020/21. The CIPFA Treasury Management Code of Practice requires all local authorities to make arrangements for the scrutiny of treasury management.	103	To review and monitor the Council's treasury management arrangements in accordance with the CIPFA Treasury Management Code of Practice.

Work Plan 2020/21

		Extract from Committee Terms of Reference – (February 2020 Constitution)	
Agenda Item	Description	No	Detail
	This responsibility has been nominated to the Audit & Governance Committee.		
Internal Audit 2020/21 Plan Progress Update	Progress report against the Internal Audit Plan 2019/20.	110	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.
Annual Governance Statement - Progress Update	Update on actions to improve governance arrangements and respond to emerging issues identified in the 2019/20 Annual Governance Statement. Proposed process for the production of the 2020/21 Annual Governance Statement.	93	To review the Council's corporate governance arrangements against the good governance framework and consider annual governance reports and assurances.
Work Plan 2020/21	Forward looking programme of meetings and agenda items for 2020/21 to ensure comprehensive coverage of the Committee's responsibilities.	ALL	ALL

Work Plan 2020/21

		Extract from Committee Terms of Reference – (February 2020 Constitution)	
Agenda Item	Description	No	Detail
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.	95	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.
11th March 2021			
External Audit Progress and Update Report (Mazars)	To receive an update from the Council's External Auditors in relation to the 2019/2-external audit report and other issues	118	To consider the External Auditor's annual letter, relevant reports and the report to those charged with governance.
		120	To comment on the scope and depth of external audit work and to ensure it gives value for money.
Members Code of Conduct: Standards Report	To note the numbers and outcomes of complaints made under the Code of Conduct for Members between September 2020 February 2021.	131	To promote high standards of ethical behaviour by developing, maintaining and monitoring Code 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.	97	To monitor the effective development and operation of risk management in the council.
Internal Audit Plan 2020/21: Progress Report	To consider a summary of Internal Audit Work undertaken between September 2020 and December 2020	110	To consider reports from the Head of Internal Audit's performance during the year.
Partnerships Governance	TBC	102	To review the governance and assurance arrangements for significant partnerships or collaborations.
Work Plan 2020/21 and 2021/22	Forward looking programme of meetings and agenda items to ensure comprehensive coverage of the Committee's responsibilities.	ALL	ALL

Work Plan 2020/21

		Extract from Committee Terms of Reference – (February 2020 Constitution)	
Agenda Item	Description	No	Detail
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.	95	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.
Unscheduled			
Upheld Complaints to the Local Government Ombudsmen (If required)	<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 <u>standing agenda item</u>, 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"> • if there have been any upheld complaints to be reported on to the next agenda • the appropriate part of the agenda for the report to be considered • 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. 	129	<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>

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Audit & Governance Committee

Date of Meeting: 12 March 2020

Report Title: Waivers and Non Adherences (WARNs)

Senior Officer: Alex Thompson – Director of Finance and Customer Services - S151 Officer

1. Report Summary

- 1.1. The purpose of this report is to provide an update to the Audit and Governance Committee on the number of cases where, and reasons why, procurement activity has required the use of waivers and/or non adherences (WARNs). The report covers approved cases between the 31st October 2019 and the 31st January 2020.
- 1.2. The approved WARNs are published retrospectively for information on the next appropriate Audit and Governance Committee. The total number of WARNs to be presented to the July Audit and Governance Committee is 3 (consisting of 2 Waivers and 1 Non adherences).
- 1.3. 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

That the Audit and Governance Committee:

- 2.1. Notes the number and reason for 3 further WARNs approved between 31st October 2019 and 31st January 2020 (14 in total).

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 next Committee meeting. This report contains all WARNs approved from the 31st October 2019 to the 31st January 2020 (3 in total).

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.

Table 1: WARNs have reduced in the last three years

WARNs	2016-2017	2017- 2018	2018-2019	April 2019 - Jan 2020
Non Adherence	33	10	5	1
Waiver	40	20	16	13
Grand Total	73	30	21	14

5.2. The total number of contracts awarded so far in the financial year 2019 – 2020 is 264, with a total estimated contract value of £265 million. The WARNs represent 5% of the total contracts awarded.

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. This is supported by effective commissioning, procurement processes and appropriate contract management.

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. Comments focus on the Service having identified sufficient existing budget to cover the proposal, and has considered how to achieve best value for money via this particular recommended course of action.

6.3. Policy Implications

6.3.1. N/A

6.4. Equality Implications

6.4.1. N/A

6.5. Human Resources Implications

6.5.1. N/A

6.6. Risk Management Implications

6.6.1. The focus is the risk that processes are not complied with, which increases the likelihood of legal challenge causing financial and reputational risk to the Council. This includes procurement processes.

6.7. Rural Communities Implications

6.7.1. There are no direct implications for rural communities.

6.8. Implications for Children & Young People/Cared for Children

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.

6.10. Climate Change Implications

6.10.1. 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

Appendix 1

CPR WAIVERS – CATEGORIES FOR INTERNAL REPORTING

A	Genuine Emergency – which warrant an exception to the requirements
B	Specialist Education or Social Care Requirements
C	Genuine Unique Provider – e.g. from one source or contractor, where no reasonably satisfactory alternative is available.
D	Compatibility with an existing installation and procurement from any other source would be uneconomic given the investment in previous infrastructure
E	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.
F	No valid tender bids received, therefore direct award can be substantiated
G	Lack of Planning
H	Other – Any other valid general circumstances up to the EU threshold

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