



Audit and Governance Committee Agenda

Date: Thursday 28th January 2021
Time: 2.00 pm
Venue: Virtual Meeting

How to Watch the Meeting

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

It should be noted that Part 1 items of Cheshire East Council decision making meetings are 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.

OFFICIAL

For requests for further information

Contact: Rachel Graves

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

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

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

To approve the minutes of the meeting held on 11 November 2020 as a correct record.

5. Audit and Governance Committee Structure and Composition

To receive a verbal update on the Working Group's consideration of the future composition and structure of the Audit and Governance Committee.

6. Internal Audit Update - January 2021 (Pages 13 - 20)

To receive an update on work undertaken by Internal Audit between April and December 2020 and how this, along with planned work for the remainder of the financial year ,will contribute to the Annual Internal Audit Opinion for 2020/21.

7. Maladministration Decision Notices from Local Government and Social Care Ombudsman - September - October 2020 (Pages 21 - 30)

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

8. Business Grants End of Phase 1 Grants - Update (Pages 31 - 38)

To consider a summary of the volume and amount paid in support of businesses, lessons learned through the administration of the scheme and any issues identified through fraud during the period February 2020 to October 2020.

9. Covid-19 - Update on Response and Recovery (Pages 39 - 74)

To consider an Cabinet report on the Council's response to the Covid-19 pandemic.

10. **Committee Work Plan** (Pages 75 - 84)

To consider the Work Plan and determine any required amendments.

11. **Audit Review of Procurement Controls** (Pages 85 - 110)

To consider the findings of an Internal Audit review of procurement controls following the completion of a long-standing police investigation into the award of contracts at Cheshire East Council.

Membership: Councillors R Bailey (Vice-Chairman), C Bulman, D Edwardes, B Evans, R Fletcher (Chairman), A Harewood, M Houston, A Kolker, M Sewart and M Simon

Independent Co-opted Members: Mr P Gardener

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CHESHIRE EAST COUNCIL

Minutes of a virtual meeting of the **Audit and Governance Committee**
held on Wednesday, 11th November, 2020

PRESENT

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

Councillors C Bulman, D Edwardes, S Hogben, M Houston, A Kolker,
M Sewart and M Simon

Independent Co-opted Member

Mr P Gardiner

External Auditor

Mr M Dalton, Mazars

Councillors in attendance

Councillors J Clowes, A Harewood, A Moran, D Murphy, J Rhodes,
L Smetham, A Stott and L Wardlaw

Officers in attendance

Jane Burns, Executive Director Corporate Services
David Brown, Director of Governance and Compliance
Alex Thompson, Director of Finance and Customer Services
Josie Griffiths, Head of Audit and Risk
Michael Todd, Acting Internal Audit Manager
Sophie Thorley, Risk and Business Continuity Business Manager
Juan Turner, Compliance and Customer Relations Officer
Lianne Halliday, Senior Manager Procurement
Rachel Graves, Democratic Service Officer

44 APOLOGIES FOR ABSENCE

Apologies were received from Councillor B Evans.

45 DECLARATIONS OF INTEREST

No declarations of interest were made.

46 PUBLIC SPEAKING TIME/OPEN SESSION

Sue Helliwell stated that within the Council's Constitution the Members Code of Conduct referred to disclosable pecuniary interests and personal interests. A member's code of conduct also applied to Town and Parish Councils and it appeared that the Monitoring Officer dealt with these

complaints. Within the Government legislation it stated that Councillors must declare any employment, office, trade, profession carried for profit or gain, which either the councillor, or their spouse or civil partner, undertakes. She asked if the Committee could confirm that Councillors do not need to declare that they sit on Town and Parish Councils when it came to discuss the Council Tax Precept at Cheshire East Council meetings? She also asked if all Cheshire East Councillors, who sit on Town and Parish meetings, should declare they are members of Cheshire East Council at the beginning of any Town and Parish Council meetings if there were any business on the agenda, members motions, or amendments to motions they put forward that related to Cheshire East Council.

David Brown, Director of Governance and Compliance responded that the Council's Constitution contained a list of standing dispensations which were renewed by the Audit and Governance Committee in July 2020. It is up to each Councillor concerned to decide whether the business for the meeting impacted on the need to make a declaration. The important factor to be considered was that the public interest test needed to be applied. The Localism Act required the Council to maintain a Register of Interests and a Councillor's declaration of interest must include other interest, which included membership of a town or parish council.

47 MINUTES OF PREVIOUS MEETING

RESOLVED:

That the minutes of the meeting held on 24 September 2020 be confirmed as a correct record.

48 EXTERNAL AUDIT FINDINGS AND ACTION PLAN 2019/20

Mark Dalton of Mazars presented the draft Audit Completion Report to the Committee, which summarised the findings from the 2019/20 audit.

The report detailed the status of the audit work, significant finding from the audit, the internal control recommendations, audit adjustments, the value for money conclusion and the Auditor's opinion on the financial statements.

RESOLVED:

That the Audit Completion Report for the year ending 31 March 2020 be received.

49 STATEMENT OF ACCOUNTS 2019/20

Consideration was given to the 2019/20 Statement of Accounts for Cheshire East Group.

The amendments reported in Section 5 of the Audit Completion Report had been agreed and included in the final Statement of Accounts.

Following approval the final audited version of the Statement of Accounts would be published on the Council's website.

RESOLVED: That

- 1 the report be received, and the changes made to the draft Accounts in accordance with the Audit Completion Report be noted; and
- 2 the Chairman of the Audit and Governance Committee be given delegated authority to sign off the final Accounts on behalf of the Committee.

50 ANNUAL GOVERNANCE STATEMENT 2019/20

The Committee considered the Annual Governance Statement which explained how the Council makes its decisions, manages its resources and promotes high standards of conduct and behaviour.

A draft Annual Governance Statement had been considered by the Committee in July 2020 and was now brought to the Committee for approval. Once approved the Statement would be signed by the Leader of the Council and the Chief Executive and published on the Council's website.

Several amendments were suggested, and these included:

- Paragraph 5.5 and 5.14 - ensure that the correct years for the MTFS are quoted
Paragraph 5.29 – to be updated to include the training taken place
Paragraph 5.53 – refer to Little Bus Service to be checked if should read Flexi Bus
Paragraph 5.73 – the full name for ANSA to be included
Paragraph 5.74 - the wording of the last sentence needed to be made easier to understand.

It was proposed the Chairman of the Audit and Governance be given delegated authority to sign off the Annual Governance Statement once the amendments had been made.

RESOLVED: That

- 1 subject to the proposed amendments the Annual Governance Statement be approved; and
- 2 the Chairman of the Audit and Governance Committee be given delegated authority to sign off the final Annual Governance Statement.

51 DRAFT TREASURY MANAGEMENT STRATEGY AND MINIMUM REVENUE PROVISION STATEMENT 2021/22

The Committee considered an update on the Council's draft Treasury Management Strategy and the Minimum Revenue Provision Statement 2021/22.

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 Corporate Scrutiny, Cabinet and then Council in February 2021.

It was noted that the figures in Table 1 and Table 2 in the Report had not been completed and the Committee was informed that these figures were not yet available. It was also noted that the furlough scheme, as mentioned in paragraph 2.6 of the report, had now been extended until the end of March 2021.

RESOLVED:

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

52 COVID-19 - UPDATE ON RESPONSE AND RECOVERY

The Committee considered the Cabinet report on the Covid-19 - Update on Response and Recovery.

The Committee sought clarification was sought on the costs for school transport, which differed from previous reports and the Director of Finance and Customer Services agreed to provide a written response. Questions were also asked in relation to grant funding received, the amount spent to date and access to the 2nd wave grants.

RESOLVED:

That the report be noted.

53 QUARTER TWO REVIEW OF THE STRATEGIC RISK REGISTER 2020/21

The Committee considered the outcomes of the review of the Strategic Risk Register 2020/21 at the end of Quarter 2.

The report detailed the highest rated strategic risks on the Register, the new risks added, the risks on the 'watch list' and any significant changes to the score since the last quarterly review and provided an overview of the Council's operational response to Covid and associated winter risks.

RESOLVED:

That the Quarter Two Review of the Strategic Risk Register 2020/21 be noted.

(The Committee adjourned for a short break at 4.05 pm and resumed at 4.15 pm)

54 AUDIT AND GOVERNANCE COMMITTEE COMPOSITION AND STRUCTURE

The Committee considered a proposal to establish a working group to consider the future composition and structure of the Audit and Governance Committee prompted by the recommendations of the Corporate Peer Review and the term of office of the current co-opted independent member completing in March 2021.

RESOLVED: That

- 1 a working group be established, with the Term of Reference and Membership as set out in the report;
- 2 the working group be asked to recommend to the Audit and Governance Committee for such changes as appear to be desirable in order to address the relevant recommendations from the Corporate Peer Review and the proposed move to the Committee System of governance; and
- 3 following considering of the Working Group's recommendation, the Audit and Governance Committee makes such recommendations for Constitutional change to the Constitution Committee as appear to be desirable.

55 MALADMINISTRATION DECISION NOTICES FROM LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN: APRIL - AUGUST 2020

The Committee consider a report on the Decision Notices issued by the Local Government Ombudsman between 1 April 2020 and 30 August 2020

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

It was noted that a question had been asked at Council on 21 October 2020 on the development of a KPI around the Local Government and Social Care Ombudsman findings of maladministration to enable a comparison over time. It was reported that full details of the number of complaints received by the Council, including a comparison to the previous year, were reported as part of the Monitoring Officer's Annual Report. Details of specific cases of findings of maladministration and recommendations, actions taken by services and lessons learnt were reported regularly to the Committee and service officers were in attendance to answer questions.

The number of referrals to the Ombudsman during 2019/20 had been previously reported in Annual Report of the Monitoring Officer in July 2020. Following receipt of the Ombudsman's Annual Report, the figures had been updated to account for the 39 cases they had decided not to investigate. Appendix 2a and 2b provided a breakdown of the services areas for which complaints had been submitted and a comparison to the previous year.

RESOLVED:

That the content of the report be noted.

56 COMMITTEE WORK PLAN

The Committee considered the Work Plan for 2020/21.

Paragraph 5.5 of the report set out the changes to the Work Plan since it was last considered by the Committee.

It was reported that an additional meeting of the Audit and Governance Committee would take place on Thursday 28 January 2021.

RESOLVED:

That the Work Plan be approved, and the Plan be brought back to the Committee throughout the year for further development and approval.

57 WAIVERS AND NON-ADHERENCES

The Committee considered a report on the number and reasons for Waivers and Non-Adherences (WARNs), which had been approved between 1 September and 30 September 2020.

A total of 2 Waivers had been issued during this period and that a total of 22 WARNs had been issued to date in 2020/21.

RESOLVED:

That the Committee notes the number and reasons for the 2 further WARNs approved between 1 September and 30 September 2020.

58 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 1,2 and 3 of Schedule 12A of the Local Government Act 1972 and the public interest would not be served in publishing this information.

59 WAIVERS AND NON-ADHERENCES

The Committee considered the WARNs.

RESOLVED:

That the WARNs be noted.

The meeting commenced at 2.00 pm and concluded at 5.05 pm

Councillor R Fletcher (Chairman)

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Working for a brighter future together

Audit & Governance Committee

Date of Meeting: 28 January 2021

Report Title: Internal Audit Update – January 2021

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 an update on work undertaken by Internal Audit between April and December 2020 and how this, along with planned work for the remainder of the financial year will contribute to the Annual Internal Audit Opinion 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 on the overall adequacy and effectiveness of the Council's governance, risk and control framework. The opinion is a key source of assurance for the Annual Governance Statement.
- 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. Note the changes in which the annual internal audit opinion will be developed for 2020/21 along with the ongoing challenges brought about by the Covid-19 pandemic and continued lockdown/tier restrictions and the associated impact upon internal audit.

- 2.1.2. Note the areas of work which the internal audit team have undertaken during recent months, including significant proactive counter fraud actions in support of the delivery of various support grants.

3. Reasons for Recommendations

- 3.1. The Public Sector Internal Audit Standards (PSIAS) require the Council's Chief Audit Executive (Head of Audit and Risk) to regularly report on emerging issues in respect of the whole range of areas to be covered in the annual report.
- 3.2. In order to meet this requirement the Committee receives regular reports on Internal Audit's performance to support the effectiveness of the internal audit process.

4. Other Options Considered

- 4.1. Not applicable.

5. Background

- 5.1. The Summary Internal Audit Plan 2020/21 was approved at the March 2020 meeting of Audit and Governance Committee on the understanding that any significant changes would be brought back to the Committee for consideration and approval.
- 5.2. The Committee received and approved a revised internal audit plan in September 2020 which took into account the reduced resource available as a result of staffing changes and the significant impact of the covid-19 pandemic.
- 5.3. The revised plan also refocused the work of Internal Audit to ensure that assurance was sought in relation to high risk areas and new ways of working brought about by the pandemic and the fast paced and reactive reponse that the Coucnil has provided to ensure the safety of residents and provision of services.
- 5.4. As a result of the changes in working arrangements it will not be possible to undergo the normal process for forming the annual internal audit opinion and this paper sets out the way in which this will be undertaken for 2020/21 ensuring compliance with the Accounts and Audit Regulations and the PSIAS.
- 5.5. This issue is not limited to Cheshire East with internal audit teams across the country finding themselves in the same position. As such CIPFA has provided guidance on how to form an opinion under the current

circumstances and how to minimise any limitation or qualification that may otherwise need to be attached to it.

- 5.6. This guidance has been taken into account along with attendance at online briefings provided by CIPFA. In addition, the Head of Audit and Risk and the acting Audit Manager have liaised with colleagues from other authorities to ensure that a consistent and compliant approach is taken.
- 5.7. The annual internal audit opinion for 2020/21 will be built around the following sources of assurance:
 - 5.7.1. Internal Audit Assurance Reports completed in accordance with the revised risk based audit plan. This element of the opinion will be reduced in comparison to previous years due to the significant reduction in the amount of traditional audit work undertaken.
 - 5.7.2. Advice, guidance and consultancy work. This will form a greater part of the opinion than in previous years and will be based upon the support provided to services in designing systems and processes for the delivery of the Council's response to the Covid-19 pandemic. Internal Audit have supported various services in developing systems and procedures ensuring that appropriate and proportionate controls are included within the solution.
 - 5.7.3. Governance arrangements around the response to the pandemic along with established arrangements for decision making across the whole organisation. Internal Audit has been represented on various groups and board tasked with ensuring that decisions are taken in accordance with the Constitution, are in the best interests of the Council and are appropriately evidenced.
 - 5.7.4. Other sources of assurance such as external bodies and confidence in 'first and second lines of defence' arrangements.
- 5.8. By focusing on these areas of assurance in relation to the highest risk areas it is hoped that an annual opinion, albeit more streamlined than normally would be the case, can be delivered with minimal limitation attached to it.
- 5.9. However, Members should be aware that if ongoing lockdown and tiering restrictions require any further significant deflection of audit resource away from this work then it may be necessary to limit the scope of the annual internal audit opinion on the overall adequacy and effectiveness of the Council's governance, risk and control framework.

Assurance Reports

5.10. As previously reported to the Committee, Internal Audit did not undertake any assurance reviews during the first half of 2020/21. However, the following audit reviews are now ongoing or planned to be completed by March 2021:

- Procurement Controls
- Procurement – Contract Awards
- ERP Replacement (B4B)
- Purchase Cards
- People Helping People – Governance Arrangements
- Pre-loaded Cards – Covid rollout
- Discretionary Business Grants – Covid
- Infection Control Grant – PPE Payments
- Fleet Management
- Travel Management System
- Role of the Director of Adult Services
- Role of the Director of Children’s Services
- Fostering
- Local Enterprise Partnership – assurance to the Section 151 Officer

Schools

5.11. 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

5.12. To meet this requirement, a programme of school audits has commenced to facilitate sign off of the annual School’s Financial Value Standard return to

the Department for Education. This programme was agreed with the Section 151 Officer and the Director of Children's Services and will be delivered remotely for the first time. Over recent years, an increasing amount of preparation and testing has been completed off-site, so moving to a full remote audit is an extension of this, rather than a completely new approach.

Consultancy and Advice

- 5.13. Internal Audit has, and continues, to undertake consultancy and non-assurance work to support services across the Council in fulfilling their responsibilities and ensuring appropriate controls are in place to mitigate risk.
- 5.14. The provision of this advice and guidance represents a significant element of the audit work undertaken during 2020/21 particularly during the first half of the year. A detailed breakdown was provided to the Committee in September 2020 but the key areas of work can be summarised as follows:
 - 5.14.1. provision of advice and guidance where new processes or ways of working are required to ensure that the Council is effective in its response to the Covid-19 pandemic whilst also ensuring that proportionate controls are in place to manage new or changing risks.
 - 5.14.2. provision of resource to support Risk Management and Business Continuity and ensure plans are updated and available.
 - 5.14.3. provision of support to the revenues team in designing and implementing a process for the payment of Small Business Grants on behalf of the Government.
 - 5.14.4. undertaking pre-payment checks to ensure that the risk of fraudulent claims for the above grants is minimised and post payment checks to identify and reclaim monies paid outside of the eligibility criteria.
 - 5.14.5. provision of support to the project team tasked with designing the criteria for and roll out of the Covid Winter Grant Scheme.

Grant Certifications

- 5.15. 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.
- 5.16. Internal Audit are working closely with Finance colleagues to monitor the number of Covid related grants received and distributed by the Council. This ensures that appropriate controls are in place around the receipt and

distribution of the grants and that all reporting and signoff requirements are met.

- 5.17. In 2020/21 to date, this has included work on the following non Covid related grants, which were successfully signed off and submitted to the appropriate funding body:

Grant/Return Certified	Funding Body	£
Family Focus (year to date)	MHCLG	197,600
Sydney Road Bridge	MHCLG	10,248,183
Poynton Relief Road	MHCLG	9,373,018
Crewe High Speed Heart Ready (audit is undertaken in our capacity as Accountable body)	MHCLG	3,577,590
CWLEP Growth Hub Grant	BEIS	318,702
Skills & Growth - ADAPT	BEIS	4,313
Local Transport Capital Block Funding	DfT	12,147,000
Bus Service Operators Grant	DfT	347,865
Highways - Crewe NW	DfT	4,893,900
Highways – Macclesfield Movement	DfT	857,097
NW Crewe Sustainable Transport Scheme	C&WLEP	163,870
Wilmslow Strategic Cycle & Walking Route	C&WLEP	70,063
Congleton Link Road 19/20	C&WLEP	41,977,637
Total		84,176,838

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 known 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 operating at slightly reduced capacity due to turnover in the team; interim arrangements are being progressed to address the immediate shortfall pending a restructure.

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



Working for a brighter future together

Audit & Governance Committee

Date of Meeting: 28 January 2021

Report Title: Maladministration Decision Notices from Local Government and Social Care Ombudsman – September – October 2020

Senior Officer: David Brown – 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. The report details the decisions made between 1st September and 31st October 2020. There were 4 decisions in which the Ombudsman found that there was maladministration causing injustice; the relevant departments have actioned the recommendations and learned lessons from the investigation outcomes. It is not possible to report on any Decision Notices issued from November 2020 onwards, as the Ombudsman imposes a three month reporting embargo. Any decisions received after 31st October 2020 will be reported at a subsequent Audit & Governance meeting.

2. Recommendation

2.1. That the Committee notes the contents of this report.

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 with injustice are found, the Ombudsman will usually 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. The number of referrals to the Ombudsman during 2019/20 is shown in the table below for reference and for comparison to the previous financial year.

	2018/19	2019/20
Number of Cases closed	116	112
Number of Decision Notices issued	78	73
Number of Cases Not Investigated	38	39
Number of Cases Not Upheld	14	12
Number of Cases Upheld	14	17
LGSCO Uphold Rate (Upheld vs Not Upheld)	50%	59%

- 5.6. During the period between 1st September and 31st October 2020 the Council received four 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.
- 5.7. **Development Management** – The Council considered two complaints in April 2019 about the way in which a planning application was considered. The complainants raised concerns that the Council granted planning permission for two new homes on land next to their properties without considering the impact on them. Both complainants were also dissatisfied that the Council had

also approved a landscaping condition relating to the development before the deadline for comments from the public.

- 5.7.1. The Ombudsman found fault as it was their view that the Council had misinterpreted the plans and relationship between the new homes and the property of one of the complainants; the Council's failure to properly address this issue has caused unnecessary time and trouble for the complainant. Furthermore, in considering the impact on a nearby historic building, the Council failed to explain why it was of the view that there were no heritage issues. Whilst this fault did not cause either complainant injustice it has contributed to the unnecessary time and trouble they experienced. The Ombudsman also concluded that although there is no requirement in law to notify neighbouring properties about an application to discharge conditions on a planning permission, as the Council had advertised a date by which comments could be received on its website, it should not have made a decision before the advertised deadline as this gave the complainants a reasonable expectation that comments could be made and would be considered.
- 5.7.2. As a result, the Ombudsman recommended that the Council issue apologies to the complainants and payments of £250 and £150 in recognition of the avoidable distress caused by the faults identified. It also recommended that staff be reminded of the need to consult with conservation and heritage officers, where appropriate, and the need to record their reasoning for reaching a view on material planning considerations, particularly where these have been raised in comments made by members of the public. Additionally, the Council should ensure that decisions on Condition Discharge applications are not taken before the advertised deadline has passed.
- 5.7.3. The service has completed these recommendations and has reminded all staff to be aware of the issues raised in these complaints. This has included a specific reference to recognising the need to consult with heritage colleagues when heritage matters are raised in representations and a wider reminder to make sure that all material considerations raised in comments are considered (as advised by the Ombudsman). In addition, Officers have been advised to not determine discharge of condition applications ahead of the published last date for comments. A technical solution is being investigated so that this date does not appear on the website to avoid confusion for the public.
- 5.7.4. **Adult Social Care** – The complainant raised concerns in July 2019 that the Council and the South Cheshire Clinical Commissioning Group (CCG) had failed to provide an appropriate replacement care package after the appointed care provider had incorrectly stopped providing section 117 aftercare for her daughter. The complainant also raised concerns that she has had her own respite requests refused despite being the full-time carer for her daughter after the section 117 aftercare was stopped.

- 5.7.5. The Ombudsman concluded that the care provider was within its rights to stop providing care, as the care provider has a duty to protect its staff from the inappropriate behaviour displayed by the complainant's daughter. It also concluded that the Council had reacted appropriately to the events that led the care provider withdrawing its services. However, it found the Council at fault as, once the aftercare was stopped, it should have held a formal section 117 review with the Trust and/or the CCG before it decided to withdraw the support workers. As a result, the daughter received little support engaging in activities in the community which the Ombudsman concluded was further fault by the Council. The Ombudsman also found the Council at fault for not reviewing the complainant's needs as a carer following the withdrawal of her daughter's aftercare. This missed opportunity caused the complainant and her daughter uncertainty and injustice.
- 5.7.6. The Ombudsman recommended the Council apologise to the complainant and her daughter for the uncertainty caused and that payments of £400 and £200 respectively be issued, in recognition of the Council's fault. It also recommended the Council completes a review of the daughter's aftercare to ensure a comprehensive review of her health and social care needs as well as completing a review of the complainants needs as a carer. The Ombudsman also asked the Council to ensure that commissioned organisations are fully informed when they are providing section 117 aftercare on the Council's behalf and that it ensures it has a joint record with the CCG for members of the public who receive section 117 aftercare in its area.
- 5.7.7. The required actions set out by the Ombudsman have since been completed. Furthermore, discussions are underway with the CCG and Cheshire West and Chester (CW&C's) with regard to the sharing of section 117 information. As although a local agreement has been implemented with the CCG in accordance with the Ombudsman's recommendations, a wider policy will require CW&C's agreement to provide consistency across the CCG footprint.
- 5.8. **Special Educational Needs Complaint –** The complaint was originally considered in September 2019 when the complainant was dissatisfied with the delay by the Council in providing her daughter with suitable education when she stopped attending school due to her anxiety. The complainant also raised concerns that the tuition package that was put in place was insufficient.
 - 5.8.1. The Ombudsman found the Council at fault as it delayed arranging tuition whilst it was trying to find an alternative school that could offer a permanent placement. However, the Ombudsman also concluded that the Council had appropriately considered the needs of the complainant's daughter when it offered the tuition package and found no fault with the Council's actions in the setting of this package.
 - 5.8.2. In order to address the injustice caused by the Council's fault, the Ombudsman recommended that it pays the complainant £500 to be used for

the educational benefit of her daughter in recognition of education she missed before the tuition package was in place. It also requested for confirmation that her EHCP had been amended accordingly.

- 5.8.3. The service has actioned and completed these recommendations. Furthermore, steps have been taken in the last nine months to improve the annual review process. This has involved coproducing a new process, guidance and paperwork with the parent carer forum, alongside this schools have undertaken training on using the portal which has helped to speed up the process.
- 5.8.4. Local provision is also being expanded, through the SEND sufficiency and capital investment programme to ensure that more school places are available within the Local Authority to ensure reduction of drift and delay with identifying provision. Additionally, there are now dedicated SEND tutors within our medical needs team in order to support with short term provision.

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 in this report the Council was required to make compensation payments totalling £1500.

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 – October 2020

Service	Summary and Ombudsman's Final Decision	Agreed Action	Link to LGSCO Report	Action Taken	Measures Implemented	Lessons Learnt
Development Management	<p>Mr X & Ms Y complained the Council granted planning permission for a development next to their respective homes without considering local planning policies.</p> <p>There is fault in the way the Council considered the planning application. It failed to properly consider the impact on their respective homes and a local historic building.</p> <p>The Council should apologise to both Mr X and Ms Y as well as pay £150 and £250 respectively to recognise the unnecessary time and trouble this matter has caused them.</p>	<ul style="list-style-type: none"> • Pay Mr X and Ms Y £150 and £250 respectively to acknowledge the unnecessary time and trouble that has been caused as a result of the fault. • The Council should also ask its conservation and heritage officer to provide their comments on the development in terms of the impact on the historic building. If the officer identifies any issues the Council should consider whether it might be possible to negotiate amendments to the plans or to mitigate the impact of any harm through any conditions which have not yet been discharged. • Remind officers of the need to consult with conservation and heritage officers where appropriate. • Remind officers of the need to records their reasons for reaching a view on material planning considerations, particularly where these have 	https://www.lgo.org.uk/decisions/planning/planning-applications/19-006-558 & https://www.lgo.org.uk/decisions/planning/planning-applications/19-012-719	<p>Both payments and apology letters have been issued.</p> <p>The Conservation and Heritage officer have been consulted who concluded that further action was not necessary.</p> <p>Reminders to Staff have also been issued.</p> <p>The service is currently exploring if changes can be made to the Website as needed.</p>	All staff advised of the issues raised and reminders in respect of material considerations. Technical solution being to remove the uneccesary date from the website is pending.	General reminder to maintain the attention to detail required for consideration of applications. Need to manage expectations from the service.

		<p>been raised in comments made by members of the public. The Council may find the Ombudsman's guidance on officer reports useful.</p> <ul style="list-style-type: none"> Explore whether it is possible to advertise on the Council's website that condition discharge applications may be determined before the deadline for comments has passed. If this is not possible the Council should ensure decisions are not taken before the deadline has passed. 				
Adult Social Care	<p>Mrs M complains on behalf of her daughter, Miss G, that Sagecare Care Limited stopped providing section 117 aftercare to Miss G due to her stalking behaviours.</p> <p>Mrs M says Cheshire East Council (the Council) and South Cheshire Clinical Commissioning Group (the CCG) have not provided a replacement care package.</p> <p>The Ombudsmen find Sagecare Limited did not act with fault when it ended Miss G's support after she harassed staff.</p> <p>However, Cheshire East Council missed the opportunity to carry out a</p>	<ul style="list-style-type: none"> Apologise to Miss G and Mrs M for the uncertainty caused by not completing a formal section 117 review with the Trust/CCG, before it decided to withdraw Miss G's support workers. Pay Mrs M and Miss G £400 and £200 respectively, to recognise the impact of the Council's fault. Introduce a process to ensure when it commissions organisations to provide section 117 aftercare on its behalf, it explains what section 117 is, and why it is asking that organisation to provide it. Complete a formal section 117 review of Miss G's aftercare needs under the CPA. The 	<p>https://www.lgo.org.uk/decisions/adult-care-services/other/19-015-215</p>	<p>Apology letters and payments have been issued.</p> <p>Commissioning contracts have been updated to ensure that organisations are fully informed on the care they are being asked to undertake.</p> <p>Both the needs of the Complainant and the daughter have been reviewed.</p> <p>A joint record has been developed with the CCG to account for any service user receiving</p>	<p>Section 117 Aftercare responsibilities and legislation has been added to the general training needs of all Adult Social Workers to reduce risk of future failures.</p> <p>Providers of care under section 117 Aftercare Arrangements to have a greater understanding of their responsibilities.</p> <p>The Social Worker involved in this case has an action plan in place and must evidence</p>	<p>Clearer guidance in general Adults services is required when using legislation not used routinely by workers.</p> <p>Closer partnership working needed with the CCG when reviewing s117 Aftercare arrangements where the care is funded solely by the Council.</p>

	<p>formal section 117 review with a local NHS Trust and/or South Cheshire Clinical Commissioning Group, before it decided against reinstating that support.</p> <p>That fault caused Miss G and her mother, Mrs M, uncertainty which the Council should remedy.</p>	<p>Council should approach the Trust and the CCG to attend that review to complete a comprehensive review of Miss G's health and social care needs.</p> <ul style="list-style-type: none"> • Carry out a review of Mrs M's needs as carer. The Council should also review its processes to ensure it carries out reviews of carers assessments in accordance with the Care Act 2014 and Care and Support Statutory Guidance. • the Council and CCG should work together to ensure it has a joint record of who receives section 117 aftercare in its area. 		<p>section 117 aftercare in the area.</p>	<p>improvements in this area of practice.</p>	
Special Educational Needs	<p>Mrs X complained the Council failed to ensure her daughter, Y, received suitable alternative education when she was unable to attend mainstream school due to her anxiety.</p> <p>There was fault when the Council did not arrange tuition for Y for several weeks after it became aware she was no longer attending school. The Council has agreed to pay Mrs X £500 in recognition of the injustice Y suffered.</p>	<p>The Council has agreed to pay Mrs X £500 to remedy the injustice Y experienced when she missed out on education between May and September 2019. The money should be used as Mrs X feels best for Y's educational benefit.</p> <p>The Council has also agreed to confirm it has amended Y's EHC plan.</p>	<p>https://www.lgo.org.uk/decisions/education/special-educational-needs/19-010-135</p>	<p>The payment has been issued and the EHC plan been amended.</p>	<p>An interim annual review team has been set up to provide an increase in capacity with processing annual reviews.</p> <p>The annual review process and guidance has been reviewed and all paperwork has been updated and shared on the Council's webpages.</p>	<p>Ensure suitable alternative education provision is in place for pupils who are not attending school sooner.</p> <p>Ensure that change of placements are progressed efficiently</p>

				<p>Improved case management systems and protocols are in place which ensures that SEND Keyworkers are alerted when pupils are not attending school</p> <p>Dedicated SEND tutors within the medical needs team to support with short term provision and support has been introduced.</p> <p>Local provision is being expanded, through the SEND sufficiency and capital investment programme to ensure that more school places are available within the LA to ensure reduction of drift and delay with identifying provision.</p>	
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Working for a brighter future together

Audit & Governance Committee

Date of Meeting: 28 January 2021

Report Title: Business Grants – End of Phase 1 Grants - Update

Senior Officer: Alex Thompson Director Finance & Customer Services

1. Report Summary

- 1.1. In response to the Coronavirus pandemic and the restrictions placed on businesses, the Government announced several schemes to provide financial support to those business affected. Grant funding was provided by the Government with responsibility for administering the schemes falling to Local Authorities.
- 1.2. The first of these Schemes was announced in February 2020 and provided support to small businesses and those businesses within the Retail, Leisure and Hospitality Sectors. Futher schemes followed to provide wider financial support to businesses affected by the response to COVID-19.
- 1.3. Although there are ongoing schemes, in-light of further restrictions, this report focuses on schemes that have now closed. This report provides a summary of the volume and amount paid in support of businesses, lessons learned through the administration of the scheme and any issues identified through fraud during the period February 2020 to October 2020.

2. Recommendations

- 2.1. That the Committee note the content of the report, including lessons learnt and the actions taken to administer new Business Grants between March and October 2020.

3. Reasons for Recommendations

- 3.1. To provide the Committee with assurance of the financial and administrative processes followed in the delivery of Government business grants.

4. Other Options Considered

4.1. N/a

5. Background

- 5.1. In February 2020 the Government announced funding to support businesses in response to the impact of the Coronavirus pandemic and the subsequent restrictions placed on businesses. Grants were made available to support eligible business in line with the following criteria:
- Small Business Grant - Eligible businesses in receipt of either Small Business Rates Relief (SBRR) or Rural Rates Relief (RRR) in the business rates system - eligible for a payment of £10,000.
 - Retail, Hospitality and Leisure Grant (RHLG) – Eligible businesses that would have been in receipt of the Expanded Retail Discount on 11th March with:
 - A rateable value of less than £15k - eligible for a payment of £10,000
 - A rateable value of over £15k but less than £51k - eligible for a payment of £15,000
- 5.2. In May 2020 the Government announced an additional fund aimed at small and micro businesses who were not eligible for the initial Small Business Grant Fund or the Retail, Leisure and Hospitality Fund. Whilst this Scheme contained some national criteria, Local Authorities were asked to use local knowledge and discretion in determining which cases to support within those criteria.
- 5.3. Cheshire East received funding to the value of £95,514,000 based on the Government's understanding of our need through NNDR3 returns and Valuation Office Agency¹ data. Subsequent guidance removed the possibility to provide payments to certain business which limited the maximum amount payable locally.
- 5.4. Up to 5% of the funding could be utilised for the additional Discretionary payments scheme. The 1st tranche of the funding was received on 25th March 2020 and the remainder on 1st April.
- 5.5. Over the period 3rd April to 29th October 7,794 grants were issued across all grant categories with a total value of £91,813,500. Administration of the Grants was delivered primarily through the Council's Business Rates Team and Economic Regeneration Team (for Discretionary Grants) and with support from

¹ Valuation Office Agency (VOA): responsible for providing the government with valuations and property advice needed to support taxation and benefits. NNDR3: The Local Authorities certified return of their non-domestic rating income and a calculation of the final sums due by way of section 31 grant in compensation for certain Government funded rates relief measures.

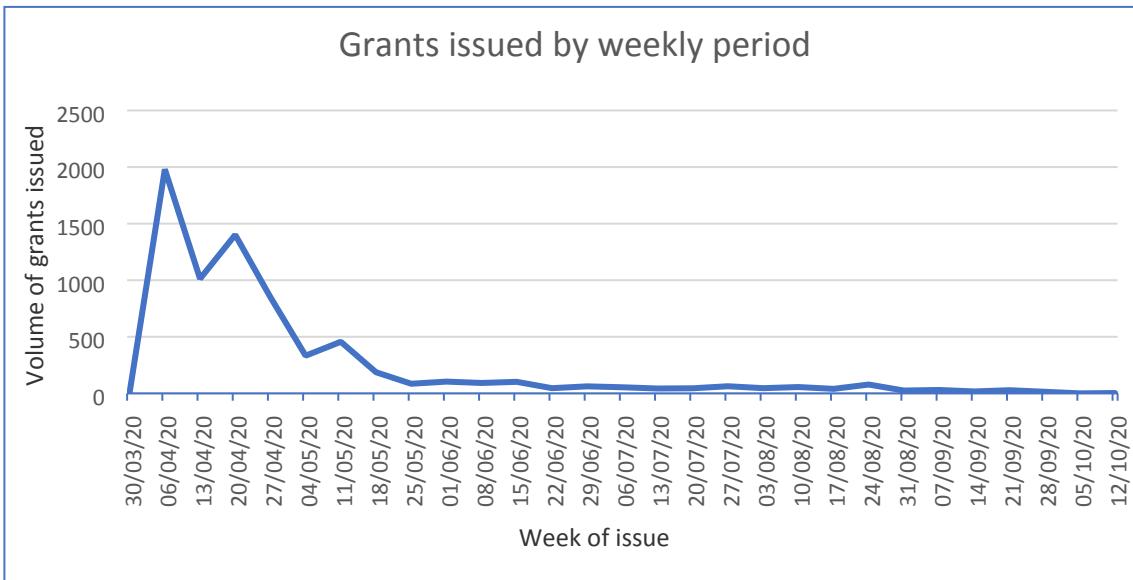
the Cheshire and Warrington LEP, local voluntary business organisations, and Council colleagues including the Corporate Contact Centre, Web Team, Audit and Communications.

- 5.6. Elected members also supported the process, using their local knowledge to identify businesses closed and to encourage take up by those still operating.

Table 1: Breakdown of Grants

Grant type	No.	Value £
Small Business Rate	5,549	55,490,000
Retail, Hospitality & Leisure	1,706	31,955,000
Discretionary	540	4,368,500
Total	7,794	91,813,500

- 5.7. The majority of eligible businesses were identified through analysis of the business rate database. Application and payment of the grants were facilitated through an online application form and through the banks' BACS payment service.
- 5.8. Over 85% of all grants issued were made within the first 8 weeks following an audit-approved checking process intended to enable speedy payment to local businesses whilst minimising the possibility of fraud.

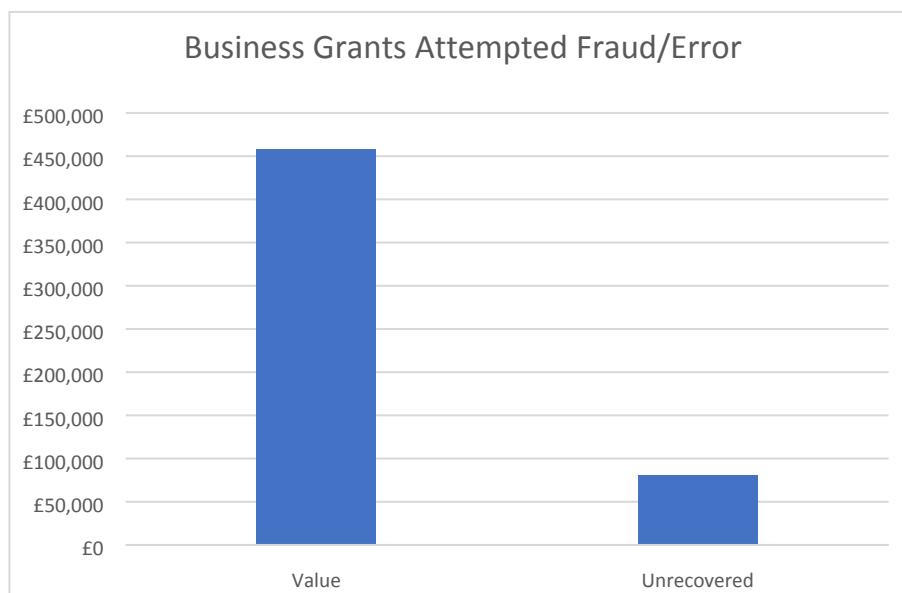
Table 2: Grants issued by period

- 5.9. Considerable effort was expended in contacting those businesses that did not initially engage in order to extend funding to as many local businesses as possible. This included email, post and telephone contact, website interrogation, visits where possible and the use of local business agencies and through Council Members.
- 5.10. The grants scheme closed on 30th September and over 97% of businesses considered initially eligible received a grant payment. Those that did not receive a payment are considered to have either closed or moved on without notifying the council.
- 5.11. Challenges and lessons learnt: Internally, the challenge came from a requirement to set up and begin processing the schemes whilst adapting to the new ways of home/mobile working. Externally, initial challenges came from the short notice and lack of guidance provided by government to allow local authorities to set up their grants processes. This in turn led to pressure from stakeholders whose expectations regarding timeframes for payment were unrealistic given the task at hand.
- 5.12. Enquiries from local businesses meant that the Business Rates team experienced a 10-fold increase in enquiries. Despite additional support being provided, the specialism required meant that the team bore the brunt of some desperate business owners.
- 5.13. It was evident that whilst an online form allowed businesses to supply their payment details easily and quickly, hindsight has taught us that the web and

online communications could be clearer in order to prevent high volumes of invalid applications.

- 5.14. Fraud reduction and reconciliation: The internal audit team provided excellent support to the verification process, offering advice, guidance and resource throughout. This enabled us to report minimal incidences of fraud and/or incorrect payment to BEIS via monthly reports.
- 5.15. Of the 7,794 grants issued only 39 were identified as potential fraud or error. Of these only 8 remain unrecovered at this time. The financial impact of this is shown in Table 3

Table 3: Financial impact of Business Grant fraud/error identified



- 5.16. The majority of erroneous payments appeared to be as a result of misunderstanding rather than deliberate fraud however a few fraudulent incidences were identified . As examples:-

- XY Traders have submitted a lease, utility bill and have claimed that they are in occupation of a shop in Macclesfield, the grant has already been paid to BC Ltd who are in occupation of the property. Inspection confirmed that XY Traders were not in occupation of the property.
- Application for grant made by Mr K has supplied bank statements and npower utility bill but the fonts on the address for these did not look correct. Phoned landlord who gave a different name for the occupier however the landlord has now emailed in to say Mr K is the tenant. Monrose (the bank) have now confirmed that the bank statements are forgeries. Grant refused and Internal Audit to consider further action.

- 5.17. A small number of Valuation Office Agency (VOA) issues were anticipated to be outstanding following the closure date. BEIS intended for those to be dealt with as exceptions after the closure date if necessary. Those VOA issues have now been resolved and have been included in the final reconciliation returns to Central Government.
- 5.18. An appeals process was implemented for ambiguous cases whereby the Portfolio Holder for Finance, Communication and ICT and the Director of Finance were able to determine approval or otherwise of some applications. Examples of the appeals process included determining whether businesses met the requirements to be “open to visiting members of the public”, were trading on the date required or should be classified as “retail, leisure and hospitality”.
- 5.19. The Business Rates and Economic Regeneration Teams have been able to use the lessons learnt from the administration of grants between March and October to implement improvements for subsequent grants based on ongoing restrictions to business under COVID-19. The teams continue to support local businesses through the delivery of the next phase of Business Grants announced by the Government including Additional Restrictions Grants, Local Restrictions Grants (Open, Closed and Sectors) and most recently announced the Christmas Support Payment for ‘Wet-led Pubs’. Improvements include a single application form, re-use of existing applications and improved communications to make the process easier for businesses facing difficulties brought about through the response to the pandemic.

6. Implications of the Recommendations

6.1. Legal Implications

6.1.1. None

6.2. Finance Implications

- 6.2.1. The reconciliation process ended on 30th October with all necessary returns submitted. Initial guidance had advised that any unspent grant would need to be returned. It is unclear how the initial grant allocations were calculated and there is a lack of confirmation on this from BEIS. The consensus amongst Authorities however is that a combination of VOA & NNDR3 data was used. This would include assessments which did not qualify for the Grants including for example ATM's, stables and empty properties.
- 6.2.2. The majority of Authorities have returned some of their initial allocation. For Cheshire East we anticipate this to be in region of £3.75M or 3.8% of Cheshire East's total allocation. This places the Council mid table in terms of grant allocation returns with Midlands and Greater Manchester

Councils reporting between 20% and -8% of funds and an average return of 6%.

6.3. Policy Implications

6.3.1. Small Business Grants and Retail, Leisure & Hospitality Grants were issued to eligible businesses as per guidance set by Government. Delegated powers were given to Executive Director of Place in consultation with the Portfolio Holder for Environment and Regeneration and the Portfolio Holder for Communities to determine the Local Discretionary Grants Scheme.

6.4. Equality Implications

6.4.1. n/a.

6.5. Human Resources Implications

6.5.1. **None**

6.6. Risk Management Implications

6.6.1. **None**

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 impacts on public health.

7. Ward Members Affected

7.1.1. All

8. Access to Information

8.1. n/a

9. Contact Information

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

Name: Helen Gerrard

Job Title: Head of Customer Services

Email: helen.gerrard@cheshireeast.gov.uk



Working for a brighter future together

Key Decision: Y

Date First
Published: 31/7/20

Cabinet

Date of Meeting: 1st December 2020

Report Title: Covid-19 – Update on Response and Recovery

Portfolio Holder: Cllr Sam Corcoran - Leader of the Council

Cllr Craig Browne - Deputy Leader of the Council

Senior Officer: Lorraine O'Donnell - Chief Executive

1. Report Summary

- 1.1. Cabinet have received reports in June, July, September, October and November on how the Council, working with its partners, continues to respond to the COVID-19 pandemic and plan for the recovery from it.
- 1.2. This report provides a further update of the work undertaken in response to this national and international public health emergency since the November report.
- 1.3. The report also summarises the latest information on infection rates, the local measures instigated as a result and the second national lockdown.
- 1.4. The financial impact of the pandemic on the council continues to be significant. The report provides a further update, which will also be of interest to the Corporate Overview and Scrutiny and the Audit and Governance Committees.
- 1.5. It is important to note that there will be other new developments following the publication of this report. Verbal updates will be given at the meeting, as appropriate.

2. Recommendations

- 2.1 That Cabinet notes the issues outlined in the report.
- 2.2 That Cabinet approves a Supplementary Revenue Estimate for £880,472, fully funded from the Covid Winter Grant.
- 2.3 That Cabinet provide delegated responsibility to the Executive Director of People to distribute the Covid Winter Grant, to provide assistance to vulnerable households over the winter period, in line with the eligibility criteria outlined within this report.
- 2.4 That Cabinet approves a Supplementary Revenue Estimate for £500,000, fully funded from Covid-19 Emergency Grant, to provide an increase in the 2020/21 management fee payment to Everybody Sport and Recreation Trust to support the continuation of Leisure Services in the Borough.
- 2.5 That Cabinet note that a Supplementary Revenue Estimate was approved by the Chief Executive for the 2020/21 Financial Year, of £15,262,935, to be funded from the Local Restrictions Support Grant. The grant will support businesses affected by measures introduced in the response to Covid-19, in accordance with government guidelines, and in accordance with the Discretionary policies also approved under urgency powers.

3. Other Options Considered

- 3.1 Not applicable.

4. Background

- 4.1 At the time of writing the most recent WHO Weekly Epidemiological Update issued on 15 November showed a continued steep rise with almost 4 million new cases of Covid-19 reported in the previous week (9-15 November).
- 4.2 From 30 December 2019 through 15 November 2020, over 53.7 million COVID-19 cases and 1.3 million deaths have been reported globally. Whilst the European Region reports the highest number of new cases globally (46%), it saw a 10% fall in the previous week following strengthening of public health and social measures. The number of new deaths in Europe has increased substantially with over 29,000 deaths reported in the past week. The Region of the Americas saw a sharp upward trend with a 41% increases in new cases in the past week. The South-East Asia Region reported a decline in the number of new cases and new deaths. (Source WHO)
- 4.3 The latest international, national and local statistics are available from the following data dashboards:

- 4.4. <https://covid19.who.int/>
- 4.5. <https://coronavirus.data.gov.uk/>
- 4.6. In England, the Department of Health and Social Care report that there has been an average of 19,373 new cases over the last seven-day period (as at 17 November) with a high number of cases in Yorkshire and Humber, North East England, West Midlands and the North West.
- 4.7. To counter rising rates of infection and increasing hospital admissions, the UK Government introduced a new set of National Restrictions on 5 November to apply to the whole of England. These restricted day to day contact with others requiring individuals to stay at home, except for specific purposes, avoid mixing with others and the closure of non-essential premises. Schools, colleges and universities have stayed open. Currently, national government is signalling these measures will continue until 2 December. Details of this change are found here: <https://www.gov.uk/guidance/new-national-restrictions-from-5-november>
- 4.8. The respective administrations of Northern Ireland, Scotland and Wales have introduced measures that have been tailored to their country's circumstances.
- 4.9. In terms of the daily confirmed cases, in the last full week of data, 732 people in Cheshire East have tested positive (as at 16 November, 2020). This figure compares to the 626 people who in the last Cabinet report were recorded as testing positive. The local infection rate was recorded as 191 cases per 100,000 population. The corresponding rate for England was 241 cases per 100,000.
- 4.10. Within Cheshire East the current data suggest a decline in cases from a rate of 250 per 100,000 seen around 11 November to the current rate of 191 per 100,000. This may indicate the National Restrictions taking effect. However, we have seen well-publicised problems with data in the past few months and we need to be cautious in the interpretation of this potential down turn in cases. It is more realistic to say we have no evidence of cases increasing.
- 4.11. Over the last month case rates for all age groups have increased. This increase remains the highest for the 16-29 age group. Of note, those aged 65 plus have increased from a low of 82 in late October to 139 per 100,000. However in the last few days all groups have seen small decreases in the case rates per 100,000.
- 4.12. Covid-19 infections linked to schools have increased in both staff and pupils. At 11 November, there were 66 pupils and 34 staff with current positive tests making 47 schools with positive cases. There was a small decrease in activity following half term, but current figures show a continued rise.

- 4.13. Care homes continue to be a focus for infection prevention and control and the weekly testing of staff continues and this is helping to detect people who may not have symptoms and as a result reduces the risk of a serious outbreak. Data to 13 November showed outbreaks in 18 care homes.
- 4.14. National testing capacity has improved. This change is due to additional laboratory capacity coming on stream. Whilst access to testing is still controlled nationally our local monitoring of testing demand indicates that local residents are not experiencing the problems of accessing tests locally. A significant factor has been the deployment of a Local Testing site in Crewe that is open seven days a week from 8am-8pm. A second local testing site is under consideration for Macclesfield on the site of a former vehicle depot.
- 4.15. The Government has acknowledged that the national contact tracing system that is coordinated by Serco is not achieving the level of follow up required. Following the introduction of its new Tier system the Government has written to all Tier Two Local Authorities to advise them of the additional funding being made available to them to enhance the local Test and Trace Programme. For High Risk areas such as Cheshire East the allocation is £3 per head of population. This funding is a non-recurrent allocation.
- 4.16. Financial support for Local Authorities at Local COVID Alert Level Medium and High is to fund the following activities:
 - a. Targeted testing for hard-to-reach groups out of scope of other testing programmes.
 - b. Additional contact tracing.
 - c. Enhanced communication and marketing e.g. towards hard-to-reach groups and other localised messaging.
 - d. Delivery of essentials for those in self-isolation.
 - e. Targeted interventions for specific sections of the local community and workplaces.
 - f. Harnessing capacity within local sectors (voluntary, academic, commercial).
 - g. Extension/introduction of specialist support (behavioural science, bespoke comms).
 - h. Additional resource for compliance with, and enforcement of, restrictions and guidance.

5. Update on Council Actions

5.1. Cheshire East Council continues to respond to the Coronavirus pandemic. At the same time the Council has continued to strive to

- deliver essential local services

- protect our most vulnerable people
- support our communities and local businesses.

5.2. A summary of the actions that have continued to be delivered by the Council is provided below.

5.3. *Test and Trace and Outbreak Management* – There are several developments within the Test and Trace Programme:

- As the COVID-19 infection rate has continued to rise over recent months, the need for local contact tracing has become more apparent. Subsequently, pressure has been mounting on local authorities across England to provide locally supported contact tracing that complements, not replaces, the national Contact Tracing Advisory System. According to Public Health England, the national Contact Tracing Advisory System (CTAS) responds to approximately 70% of positive test results within Cheshire East. Around 30% of cases are classified as 'lost to follow up', which means the national system has not made contact within 24 hours. From 25 November 2020, these cases are being handed over to the local Cheshire East contact tracing team that has recently been created. It will be a phased delivery, initially switching on only postcodes of significant concern from 25th November and by early 2021 this will be a service being delivered for the whole of Cheshire East. It will be led by the Contact Centre and specialist support provided by a Public Health team.
- Cheshire East Council is taking part in a national Mass Asymptomatic Testing (MAST) pilot project. This will involve a new kind of technology that could enable us to identify and isolate more asymptomatic people might spread the virus. They are known as Lateral Flow Tests (LFTs), which use the same swab method as the usual testing method but offer a rapid turnaround time of approximately 20-30 minutes, without the need for laboratory processing. We are in the process of working with the national team to receive a starter pack of 10,000 initial test kits and will be provided with enough kits to test 10% of the Cheshire East population. This will enable local teams to direct and deliver targeted testing based on their local knowledge and need. We are working with internal teams to identify pilot projects to test out this new technology before rolling it out more widely.

5.4. *Covid-19 Mass Vaccination* – Whilst an effective vaccine has yet to be manufactured for population usage, local authorities are being asked to assist the NHS to develop their plans for conducting mass vaccination. Cheshire East Council staff are working closely with Clinical Commissioning Group and Cheshire West and Chester Council colleagues to identify possible locations for

delivering the core programme and localised programmes for those unable to attend the core centres. The Government has requested local health and social care economies to be ready to support COVID vaccination by 1 December 2020. When a vaccine is available we will support our local care homes to access the vaccine working in partnership with the NHS.

- 5.5. Depending on the COVID vaccinations made available, more than one dose may be necessary to provide a sufficient level of protection for the population. This requirement will place a significant pressure on the health and social care system to deliver effectively, even with the phased approach that is planned to offer protection to every member of the population. Due to demand for influenza vaccination and delays in the supply chain, this programme may overlap with the COVID vaccination programme.
- 5.6. *Communities - People Helping People* is a service created by Cheshire East Council which works collaboratively with new and existing Voluntary, Community, Faith and Social Enterprise (VCFSE) sector partners and local volunteers to channel community-based support to meet the needs of our residents. The service is delivered for the local community, by the local community. To date the service has provided support to over 4,000 residents with 400 active cases still receiving support. This service has been instrumental in reducing demands and work is now underway to embed this into the Communities Team recovery planning, fully utilising volunteers to support people to keep safe and well at home. As the country has entered a second national lockdown this service has been key to be able to respond at speed to the most vulnerable cohort in the community ensuring they remain safe and well in their own homes having good access to volunteers or community based activities that meet their basic physical and mental health needs. This service is quickly becoming recognised amongst all residents across the borough as a vital community service. Some key recent updates associated with this service are as follows:
- Support for the Clinically Extremely Vulnerable (CEV) was re-introduced on 5 November alongside the introduction of the four-week national lockdown. The 16,000 CEV cohort were advised by the Department of Health and Social Care to stay at home closely mirroring the advice provided around "shielding" in the spring. The Council is expected to make contact with all of the CEV people who have registered requesting support. This is anticipated to be around 10% of the cohort (1,600). Once contact is made during a welfare check, support is provided assessing both physical and mental health needs with either food provision or by linking the individual to an appropriate local community-based service. Funding has been allocated by the Ministry of Housing, Communities and

Local Government to provide this support which is being allocated to related activity.

- Leading on the Community & Vulnerable people workstream of the Test, Trace, Contain and Enable plan.
- The Cheshire East Social Action Partnership have developed 15 Volunteer Coordination Points (VCPs) which supported the response to date providing localised support, longer term plans are now under development of their continuation including sustainability as this initiative is becoming embedded into longer term practice.

5.7. The Covid-19 Community Response and Recovery Fund which was launched at the end of June 2020 has since provided funding to 69 successful applicants, totalling just over £300,000. This fund was also bolstered with an additional £246,000 of DEFRA funding to support vulnerable people around food poverty and accessing essential supplies. In consultation with the Voluntary, Community and Faith Sector the grant amounts applied for has increased from £5,000 to £20,000. This will welcome proposals that are collaborative, sustainable, and have a high impact to support vulnerable residents over the winter months. The target aims based on needs gathered from residents will focus on tackling food, fuel and digital poverty.

5.8. *Adult Social Care* - The Commissioning Team have provided significant support for the Adults Social Care Market during the Covid-19 pandemic to ensure market stability and the safe service delivery and provision of care for the residents of Cheshire East. This includes Care Homes, Care at Home (Domiciliary Care), Complex Needs, Extra Care Housing and Supported Living schemes.

5.9. Infection Prevention Control training has now been delivered to all care providers in the Borough. Infection Prevention Control webinar refresher training sessions continue to be delivered on a monthly basis to all Care Homes across the Borough.

5.10. Cheshire East received the first tranche of funding from Round 2 of the Infection Control fund on 2 October 2020 equating to £2.356 million. Of this £1.567 million has been passported directly to care homes to support with the Infection Control measures specified in Government guidance. These measures are designed to limit staff movement within the home, support safe visiting among other workforce resilience and infection control measures. £672k has been distributed to community care providers with a registered office in Cheshire East from this funding in accordance with Government guidelines around use of the fund.

- 5.11. All care homes have an Infection Prevention Control Outbreak Plan supported by an Outbreak Management Toolkit issued by the Council. These can be quickly stepped up in the event of an outbreak and appropriate support put in place from the Infection Prevention and Control service and the Council's Quality Assurance team.
- 5.12. Officers are also working with care providers to ensure that their staff and care home residents continue to access flu vaccinations to ensure that there is resilience in the care workforce.
- 5.13. Monthly care home webinars have been set up in partnership with Cheshire CCG for care home providers with themed agendas such as Winter Planning, infection control, digital services etc. The next webinar is taking place on Thursday 26 November 2020 and has a focus on Infection Prevention Control, Flu Outbreak common themes and trends, Visiting advice, and Counselling and Bereavement Support for Care Home staff.
- 5.14. Weekly mutual aid calls continue to be well attended by Care at Home providers. These now include guest expert speakers and offer an opportunity for providers to work together to develop collective solutions to common problems. Professor Rod Thomson, CEC, Public Health Consultant attended the mutual aid call as a guest speaker and answered providers COVID-19 related Public Health questions.
- 5.15. 74 Care Homes across the Borough have been allocated a free iPad via NHSE. The iPads continue to enable residents to stay in touch with their loved ones and facilitate GP consultations.
- 5.16. Whole home testing continues with care home residents and staff. This has proved effective in identifying asymptomatic staff members at an early stage enabling them to self-isolate to prevent onward transmission in the care home. The whole home testing pilot continues to be working well across the Extra Care Housing and Supported Living Schemes.
- 5.17. The Care Home vaccination delivery plan has been completed, verified and submitted to Cheshire CCG. Ongoing local planning continues with Cheshire CCH and Public Health in relation to timescales and the administration of the vaccination.
- 5.18. Planning is underway with the Council's Public Health Team to explore the possibility of Lateral Flow Testing across Care Homes. Lateral flow tests allow a quick turnaround of results (within 20 minutes) and so, if implemented correctly and with the normal precautions around PPE and social distancing, can support safe visiting within care homes.

- 5.19. A Multi-Disciplinary Team has been established to design a relatives visiting strategy for Care Homes across Cheshire East that complements the existing Department of Health and Social Care guidance. The purpose of the strategy is to offer guidance and support to homes around facilitating creative visiting options for family members in a safe way. The strategy will offer comprehensive guidance, advice and support to Care Homes that can be referenced within the home's Dynamic Risk Assessment. Once the strategy is finalised it will be agreed by Cheshire East Council's Director of Public Health and monitored locally via Infection Prevention Control and the Council's Quality Assurance Team.
- 5.20. The Quality Assurance Team continue to undertake weekly contact calls to all care homes across the Borough. The purpose of this contact call is to seek assurance of the effective ongoing safe service delivery.
- 5.21. PPE support has been key to our Covid-19 response and recovery. The position changes rapidly but the current position at the time of writing is as follows:
- The Local Authority have been supplied with some PPE via the Local Resilience Forum (LRF) and the Department for Health and Social Care (DHSC) since the 24 March 2020. The Council have distributed PPE to eligible organisations across Cheshire East.
 - All registered adult social care providers, opticians, pharmacists and urgent dental care have now been requested to register on to the government PPE Portal to continue to access free supplies. Orders are subject to limits according to capacity. Providers are asked to continue to develop their own supply chain. However, it is widely recognised that the PPE market has not recovered from the impact of Covid-19.
 - To ensure all agencies are supported and services are able to deliver safe care to local residents, as well as protecting the care workforce, we are currently reviewing various options and opportunities to support external Care Providers to access PPE in emergencies or when they have issues with their PPE supply chain. A survey was opened to providers, educational settings and partner organisation to understand the overall impact of PPE at this juncture and how best to proceed forward.
 - A stock has been locally purchased as part of the Council's recovery and outbreak planning, and we will continue to receive LRF PPE supplies on a fortnightly basis until March 2021 to support Local Authority, people in receipt of direct payment and all educational settings.

- A joint effort by the Fire Service and Cheshire East Highways to deliver PPE to schools has been very well received and we continue to work with schools to ensure their practices are aligned to the Public Health guidelines.

5.22. Adults and Children's Commissioning - Commissioners have worked closely with our 'Early Intervention and Prevention,' 'Community Wellbeing' and 'Public Health' contracted providers which have adapted but continued to deliver effective services during the Covid-19 Pandemic. Commissioners have worked with providers to re-instate contingency plans where needed in line with the second national lockdown. Despite the restrictions to service delivery of contracted services due to the pandemic and now the second national lockdown, we are seeing increasing demand for services as well as innovation in the way that services are delivered for example:

Substance Misuse Service – Our Substance Misuse Provider CGL have seen a rise in demand and referral for alcohol treatment and support since the beginning of the pandemic. The service has received 402 referrals during quarter 2 2020/21 in comparison to 261 referrals during quarter 2 2019/20. Over 60% of all referrals to CGL identified alcohol as the primary substance use at assessment. CGL have identified alternative safe ways of working and supporting people in Cheshire East such as offering Safe Storage to all service users in response to more service users having to take home medication. At the start of Q1, 13% of service users had safe storage at home. This was previously for people with children. By the end of June 2020 90% of all service users on a prescription have safe storage now in their homes. Throughout the pandemic treatment for Hepatitis C has still been delivered. Staff have delivered a Covid-safe outreach service utilising their clinic van and actively engaging the service users rather than requiring them to attend treatment services. This has helped to support many service users to keep safe and those that are shielding.

Carers Hub: Evidence from Carers UK shows that 4 in 5 unpaid Carers (81%) are currently providing more care than before the initial lockdown. Most Carers (64%) have not been able to take any breaks at all in the last six months. Connections were therefore made between the People Helping People service and the Carers Hub at the beginning of the pandemic to ensure that Carers were recognised and supported where needed via the Carers Hub. A temporary service to deliver breaks for carers during lockdown was set up (Take a Break) and delivered by Crossroads Together. The referrals received by the Carers Hub are reviewed for carers needs and then referred to Crossroads Together for assessment for the 'Take a Break' service. A positive relationship has developed between the two services with them working collaboratively to support carers.

Domestic Abuse Service: The Domestic Abuse Contract is within its second annual term. Despite not being able to offer the same community-based services as pre-lockdown, the service have ensured they remain visible on social media, with partner agencies and stakeholders to make the community aware the service is very much open and available to those who need it. Additional resource has also been positioned into the Domestic Abuse Hub to ensure clients are supported with early intervention work.

- 5.23. *Children's Social Care* – We have reviewed our service offer in light of the national lockdown and revised government guidance, and agreed it is important to maintain statutory service provision in line with our usual processes where it is safe to do so, including face to face visits, in order to effectively safeguard children and young people. Visits are carefully risk assessed to consider the risk of Covid to the child and wider family members. We have changed our recording system to ensure this risk assessment is clearly documented on children's files, so it is clear how decisions have been made. The guidance on face to face visits has been updated in line with the new national guidance.
- 5.24. Family time is continuing to take place as we recognise the importance of this to children and young people's wellbeing and long-term relationships. The individual circumstances and arrangements are being reviewed for each child to determine if this can be held safely face to face or whether this needs to take place virtually.
- 5.25. We have reviewed our contingency plans in light of the national lockdown, and we have a sufficiency plan in place for placements and residential settings. We are planning for our 14 care leavers to return home from university at Christmas.
- 5.26. As reported previously, we have experienced an increase in demand and complexity across Children's Social Care as a result of Covid. This is due to a unique year in terms of conversation rate from contact to referrals into the child in need team, Court delays and discharging children from care, particularly adoption. The increase in social workers' caseloads has made it more challenging to step down children within our usual timescales. Children are being stepped down to ensure they receive the right support, however the number stepping down has increased demand to the Council's Family Service. The complexity of work has increased in relation to challenges such as children and parental mental health, substance and alcohol misuse and social isolation. This is resulting in social worker and personal advisor caseloads being higher than we would want them to be. A clear plan is in place to reduce caseloads by the end the year. To support the increase in demand, we have stepped children down to early help where appropriate and developed additional step down meetings to increase frequency, challenged the Court around matters of delay, offered additional resources to families, care leavers and foster carers and

continue to recruit to vacant posts to ensure we have capacity to meet the demand. We have also worked closely with the partnership to ensure consistency of approach.

- 5.27. As learning from local and national themes have emerged we have used the operational Safeguarding Children Partnership meetings to understand what this has meant for children in Cheshire East. For example, following the Children's Minister's letter on the 29 September identifying concerns regarding risk to babies and young people attending alternate provision, we ran a themed meeting to look at these areas of our practice from a multi-agency perspective. This concluded that while there was some good practice in how we supported and safeguarded young people attending alternative provision, this could be strengthened further. A multi-agency task and finish group has subsequently been set up to progress the work in this area.
- 5.28. During the pandemic, there was local concern that the nationally imposed restrictions would have an adverse impact for those living in abusive relationships. The fear was that not only were the risks to victims heightened and the pressures on relationships magnified, but that also there would be limited access to support from both social networks and professional services. The action taken in Cheshire East Council, and across the Partnership has been effective, swift, responsive to changes in demand and proactive in preventing further harm. The data and more importantly the stories from victims, children and those who harm have illustrated that whilst we have not experienced the surge in demand expected after lockdown restrictions were lifted, we have seen that the level of abuse experienced has been more severe (an increase of 20% for IDVA services), we have seen victims who present with multiple issues (mental health, substance misuse) rise, and a faster escalation in the seriousness in the impact of their situation. On the positive side we have also seen that the inventiveness and creativity that has been necessary, has resulted in some changes which have had real benefit and which we will seek to sustain. We have continued to follow the needs of survivors to ensure we have responded to their wishes with partial opening of centres for one to one work. Work has been carried out on how it has felt for them during Covid-19, and their feedback and comments have been collated in a [video](#) which has been shared with the partnership, senior managers and elected members to raise the profile and understanding of survivors' experiences.
- 5.29. Covid caused significant delays in achieving permanency for cared for children, this included delays in finalising care plans in Court, challenges in the timeliness of discharge of Care Orders and the making of Adoption Orders. We have been active in challenging this through the Local Family Justice Board. There were also delays in planned transitions for children to move to live with their adoptive families between March and July 2020. We worked closely with Adoption

Counts, foster carers, birth families and adoptive parents to transition children to live with their adoptive families as soon as restrictions began to ease in June and July 2020 ensuring we minimised the impact of Covid as much as possible for these children. However, the pandemic has delayed the move to adoptive families for some of our children and young people which has had an imapct on our overall cared for numbers.

5.30. Ofsted ILACS inspections have been paused due to the national lockdown. We are continuing to prepare for inspection for when these recommence from 5 January 2021.

5.31. *Prevention and Early Help* – As reported previously we are continuing to see the needs of families increasing, alongside an increase in referrals, which is resulting in a significant pressure for the Family Service. We are recruiting additional capacity to support the service.

5.32. 98% of our early years settings continue to be open and 96% of Childminders, with 100% attendance from our vulnerable children which is positive. A comprehensive programme of activities was provided for children and young people over half term.

5.33. Cheshire East Council offered free school meal vouchers over half term to ensure that vulnerable children and young people continued to be supported. The process had to be set up at short notice and staff quickly mobilised support for families; 18 staff ran the provision of vouchers, providing vouchers to 1,316 families with 2,546 children. Local businesses and communities also offered support with meals during half term for families which was fantastic, and we also shared the details of these on the Cheshire East website.

5.34. Performance on the Troubled Families programme continues to be positive; we have met all required performance by results claims for quarter 2 and we have submitted our expected 90 claims despite the current situation.

5.35. Child Health Hubs have been established in partnership with the NHS and are operating from some of our Children's Centres. This means that more children will be able to have their health needs met in their community rather than needing to attend an acute setting. Further work to expand the support offered through these settings will take place following the pandemic.

5.36. The service is planning the implementation of the **Winter Support Grant** programme launched by DWP on Sunday 8 November. This grant of £880K is to offer practical payment support to families with children in the form of food and utilities payment support at the discretion of the Local Authority. The grant is described as not a replacement for Free School Meals (FSM), however given the links to the Marcus Rashford Campaign to ensure that Children do not go

hungry during lockdown, it is recommended that the following eligibility criteria will be adopted by Cheshire East Council in distributing this grant from December to 31 March 2021. It is proposed to pay families or individuals via vouchers and pre-paid cards which will enable flexible purchases by families/individuals and can enable food and utilities payments with clear tracking of expenditure. We want to utilise a blend of distribution through schools prior to Christmas and via the Childrens Services workforce on an ongoing basis. We anticipate this arrangement to be confirmed in DWP guidance for the WSG by 22 November 2020.

**Please note all figures are indicative as they are based on the current cohort which could change in the period before the end of March 2021. Some children will fall into multiple cohorts but will only be eligible for one payment. Some cohorts are unknown at this stage and have been estimated.*

Eligibility criteria	Payment	Estimated total
All children in receipt of Free School Meals (10,325 children)	£15 per week per child over 3 school holiday weeks including Christmas	£464,625
Young people who are care leavers up to age 25 (188 young people)	£45 payment	£8,460
Young people who are NEET aged 16-18 (170 young people)	£45 payment	£7,650
Children who are Young Carers for their parents/carers (392 children)	£45 payment	£17,640
Children Open to Childrens Social Care and Early Help Services who do not fit in to criteria above (eg. families entitled to Free Early Years Childcare and 16-18 learners in low income families) (1,800 children)	£15 per week per child over 3 school holiday weeks including Christmas	£81,000
Children living with parents who have been exposed to Domestic Abuse (352 children)	£15 per week per child over 3 school	£15,840

	holiday weeks including Christmas	
Parents/ carers who are experiencing financial hardship due to being unable to work as their children are self-isolating due to Covid 19 infection (50 parents/ carers)	To be agreed on a case by case basis	£2,250
Vulnerable children who are in need as referred by a partner agency	£15 per week per child over 3 school holiday weeks including Christmas	£9,000
Children who are vulnerable due to financial hardship	£15 per week per child, with a limit of 3 payments per child outside of school holidays.	£9,000
Estimated total cost		£615,465

5.37. *Education and Skills* – We have sent a letter from the Leader of the Council, Deputy Leader and Cabinet Member for Children and Families as a public thank you to leaders, teachers, college and school staff for all that they are doing to keep our children and young people safe and to ensure their education continues during the current crisis.

5.38. Attendance has remained high (48,976 pupils, 89% attendance at 13 November) and is above national, statistical neighbours, and the North West average. This is despite pupils isolating due to positive Covid test results in schools. As at 16 November there were 2,659 pupils not attending schools as they are isolating either due to Covid symptoms, testing positive for Covid or having been in close contact with a person who has tested positive. Attendance of pupils with an Education, Health and Care Plan and pupils with a social worker also remains good at 88% and 87% respectively.

5.39. The Education Covid Response Team which responds to reports from schools on positive cases, and offers advice and guidance on the appropriate measures and pupil isolation, continues to receive positive feedback from schools. As at 8 November, there had been 504 contacts to the helpline from 132 settings, 109 of whom had positive cases (170 staff and 256 pupils with a positive test).

Through providing support to settings in their contact tracing, the numbers of children and staff needing to isolate in response to a positive case has significantly reduced over time; meaning there is less impact on pupils' learning. We ran Public Health briefing sessions in November where schools shared the learning from their cases in order to help to continue to minimise infections and disruption to learning. As a significant number of pupils and teachers are isolating the support needed for schools is considerable.

5.40. Following the national lockdown on 5 November, all schools and colleges were asked to consider the new restrictions and to review and revise their risk assessments in line with these.

5.41. To enable us to provide information to the DfE on the impact of recent restrictions and the impact of the new lockdown measures, we asked all schools to complete an online survey in relation to current staff who are clinically vulnerable and extremely clinically vulnerable. We had an 83% response rate to the survey in less than 24 hours. This provided the following intelligence:

- Workforce absences were a concern for 70% respondents, but they anticipated the school remaining fully open with the capacity for children to physically remain in school.
- 9% said the school is regularly experiencing significant absence and are close to the point where they may have to switch to rotas/remote teaching.
- The biggest workforce issue is teaching staff absence followed by teaching assistant absence followed by issues with supply cover.
- 19% have had issues with access to supply or temporary cover. This increases to 40% in our special schools.
- 55% said funding is a constraint but even with additional funding there are other, larger constraints to remaining fully open.
- 29% said funding is the biggest constraint in keeping the school fully open.

5.42. We are continuing to provide intensive support to schools around how to implement the DfE guidance to ensure we have a consistent and safe approach across all schools. An updated FAQ including advice on Clinically Extremely Vulnerable and Pregnant staff has been provided to schools by HR along with an updated Risk Assessment and guidance document. We have also shared information on why Down's syndrome adults, but not children have been added to the high-risk list and provided an easy read document helpful around why certain adults, and not children with the same conditions, have been added to the clinically extremely vulnerable list.

- 5.43. From 2 November we introduced Compulsory Face Coverings on School Transport for all students aged 11 and over, unless exempt. As part of lock down this became a requirement from 5 November.
- 5.44. We are seeing an increase in schools saying they will exclude pupils as they can't cope with the behaviour of children – some are our most vulnerable. We are working together with schools on this as a cross service approach to prevent exclusions wherever possible. To date, we have had two unavoidable exclusions due to serious one off incidents.
- 5.45. We have an increasing number of schools challenging why we are not issuing fixed penalty notices or fines for attendance. DfE guidance is clear that schools should consider any concerns from pupils, parents and households, who may be reluctant or anxious about attending school and put the right support in place to address this. However, the guidance also states that usual school attendance powers and duties continue to apply, including schools and local authorities' ability to use parental responsibility measures, such as fixed penalty notices, where appropriate. We continue to monitor absence on a case by case basis and offer support to schools to work with families to encourage attendance.
- 5.46. We have now established an Action Hub through 'Edtech' to support better use of IT in remote learning in schools. We have a group of 30+ schools involved in the first wave of schools in receiving a wide range of support to use Google or Microsoft platforms.
- 5.47. The focus of the National Tuition Programme (NTP) is on supporting disadvantaged pupils, including those eligible for Pupil Premium funding. However, participating schools will be able to decide which of their pupils will most benefit from additional support. A further aspect of this programme is academic mentors who again support vulnerable learners. All eligible schools have been supported to access this programme with CE schools having success in accessing the additional £19,000 as from January 2021 as part of wave 2.
- 5.48. We are providing targeted support for catch up in the core subjects through a programme of support commissioned through 'Literacy Counts' which consists of 20 sessions of training and development. A launch event was very well attended in early November on Reading, Writing and Phonics. We are now planning the launch of sessions on maths in early 2021.
- 5.49. A programme to support disadvantaged learners using the latest national research into the most effective practice has been commenced for around 15-20 schools. Priority schools have been approached to be part of this work which is led by the Education Endowment Foundation (EEF) who are the leading organisation in educational research.

5.50. We launched our Wellbeing in Education Programme in November. Each school will receive two training sessions which aim to empower key staff with knowledge, understanding and clear strategies, so that they can use these to influence school/college policy, procedures and responses in regard to supporting and enhancing wellbeing and resilience for all. This is a national training programme which we have tailored to meet our local needs. So far there has been good attendance from schools.

5.51. *Homelessness and Rough Sleepers* - From the 26th March 2020 to 31st October 2020 Housing have accommodated 185 households who presented to us as homeless and have placed them in emergency provision, predominately hotels who had agreed to continue to work with us. Of those 185:-

- 143 have successfully been moved on from the hotel placements into a mix of other accommodation, long and short-term provision.
- 14 Lost their accommodation due to their behaviour
- 12 abandoned the hotel or they disengaged.
- 16 are ongoing

5.52. Those accommodated were predominantly singles, but we also accommodated five families. As of 31 October 2020, we had 12 households in Bed and Breakfast and plans were in place to move those onto more appropriate accommodation

5.53. In addition to those placed in emergency accommodation the Housing Options Team have also prevented or relieved 602 from homelessness.

5.54. The Cheshire East Rough Sleepers Outreach team work proactively to support individuals who are rough sleeping. We are currently seeing the number fluctuate and are between 6 and 10 rough sleepers, located across the Local Authority.

5.55. With the introduction of new restrictions, the Housing team have been preparing for a possible increase in homelessness presentations and also the possibility of a further call from Government to bring Everyone in. This includes extending our accommodation solutions, tailoring them to meet a number of housing needs.

5.56. Cheshire East has been successful in securing funding through the Government's "Next Steps" programme. There were two funding streams, one providing short term funding to be used by March 2021 and Cheshire East has been awarded £56,000 to provide rent in advance and support to 38 individuals to enable them to access the private rented sector. Concrete, who is one of Cheshire East's commissioned Housing Support Providers, will be providing the support.

- 5.57. The second funding stream provides funding to secure additional accommodation. Housing submitted a bid in conjunction with the Plus Dane Group to enable them to purchase 8 properties to use for those with complex issues and to provide intensive support. Cheshire East was awarded £450,000 grant funding, with a requirement to provide £100,000 towards the purchase costs and the intensive support for 2 years at a cost of £119,700 per annum, both of which will be funded via our Flexible Homelessness Grant.
- 5.58. MHCLG have allowed us to re-profile some of our Rough Sleeping Intervention funding in order to support the short term bid and we are also undertaking a tendering exercise to develop a Fresh Start scheme, which will provide 6 units of accommodation and support for those with complex needs, with a history of offending.
- 5.59. The Housing Options team continues to work with landlords to prevent the increase in eviction rates. A number of early intervention plans have been put in place including establishing an early notification protocol with social housing providers in relation to tenants who are in arrears, looking at ways we can work together to prevent them from becoming homeless. We are working with the private landlords on our database providing information on assistance available for tenants in arrears and advice on how to get direct payments if they are on Universal Credit. We are also giving advice in respect of any anti-social behaviour and details of any changes to the legislation.
- 5.60. We are utilising our Homelessness Prevention funding to try and prevent evictions or assist those at threat of homelessness to access alternative accommodation
- 5.61. *Town Centres* - The monthly data reports on visits to town centres in the Borough's Principal Towns and Key Service Centres indicate that in October the majority of the Borough's centres experienced either a levelling off or a slight fall in visitor numbers from September. This may have been influenced by darker evenings but also could indicate an increase in nervousness due to rising Covid cases. When compared to the same month last year total visits in the Borough's centres ranged from -25% to + 23%. As with September, impacts on visits appear to be less severe than that recorded as a national average.
- 5.62. *Tatton Park* - Tatton Park's attractions reopened on a phased basis from 3rd June 2020 when the Parkland reopened. Adjustments to visiting arrangements were made, such as pre-booked visits to Garden, Farm and Mansion, to ensure a safe and enjoyable experience, complying with national guidance and to maintaining best practice. Since then Tatton has been a popular visitor destination with its outdoor attractions doing well. The continuing appetite for visits to the outdoors has also seen an increase in visitor numbers in Cheshire East's country parks and countryside sites.

- 5.63. Overall since June, paid visits at Tatton Park have been 42% up on the same period last year despite the lack of the major outdoor events. However, like comparable indoor attractions elsewhere, the Mansion did not see such an uplift, with visitors focusing more on outdoor elements of a visit. The Mansion closed at the end of September and apart from the October half-term, is now closed for the winter.
- 5.64. Taking account of restrictions, national guidance and recent visitor trends, Tatton's popular Christmas events have been redesigned. The Christmas Mansion will not take place in 2020 but is replaced for this year with a Christmas event in the gardens. Christmas at the Farm has been reconfigured to take account of the need to be Covid-secure but is able to continue on a pre-booked basis, with all slots now sold-out.
- 5.65. The recent lockdown has had an impact on Tatton, with closure of the Farm attraction, Gardener's Cottage tearoom and non-essential shops. The Parkland, Gardens, take-away food and the Housekeeper's Store food shop have remained open in line with government guidance. The closure of the Farm has led to a reduction of 28% in paid visits overall and led to cancellation of its first Christmas event weekend (Nov 28th/29th). Since lockdown, the Parkland and Gardens have continued to do well, remaining 37% and 26% up on the equivalent period last year
- 5.66. *Business Support* - On Business Grants, the Government announced four new grant funds to support business since the introduction of the Local Covid Alert Level (LCAL) and the national lockdown. These grants have an estimated total value of £15,262,935.
- 5.67. The grants are different to those that the Council received during Lockdown1. A brief explanation of each grant is:
- 5.68. Local Restrictions Support Grant (Closed) - The grant amount £6,520,842 and is 90% of the estimated grant funding requirement, calculated using Valuation Office Agency data. This grant is to support those businesses that are required to close as a result of the national restrictions and have a business property that has a rateable value as determined by the Valuation Office Agency. It will be a one-off payment for the four-week national lockdown period, with the amount payable dependent on the rateable value of the business premises. The Council has no discretion over this grant and will make payments to eligible businesses in line with the government guidance.
- 5.69. Local Restrictions Support Grant (Open) - The grant amount is £1,059,053, it is part of the wider set of measures to support businesses in response to Coronavirus (Covid-19) and specifically for businesses that were still open but have been severely impacted by Local Covid Alert Levels 'High' (LCAL 2) and

'Very High' (LCAL 3) restrictions since 1 August to 4 November 2020. Cheshire East entered Local Covid Alert Level 'High' (Tier 2) on 14th October. The grant funding will therefore cover the 22-day period from 14 October to 4 November 2020. The Grant is aimed at hospitality, accommodation and leisure businesses in the Local Authority geography, there is a small discretionary element to this grant of 5%

- 5.70. Local Restrictions Support Grant (Sectors) - This grant scheme is to support eligible businesses that have been required to close and have been unable to reopen since 23 March 2020. This includes nightclubs, dance halls and discotheques, adult entertainment venues and hostess bars. Grant funding for eligible businesses will be payable by Local Authorities in 14-day payment cycles with eligibility starting on 1 November 2020, the scheme will close when LRSG (closed) comes into effect on 5 November 2020. The Council has no discretion over this grant and will make payments to eligible businesses in line with the government guidance.
- 5.71. Additional Restrictions Grant - Local Authorities will receive a one-off lump sum payment amounting to £20 per head. This amounts to a total of £7,683,040 in Cheshire East. The funding can be used across financial years 2020/2021 and 2021/2022. Once a Local Authority exits national or LCAL 3 restrictions they will not receive additional funding under this grant scheme if the Local Authority then re-enters national or LCAL 3 restrictions. It is expected this grant will primarily take the form of discretionary grants, but Local Authorities could also use this funding for wider business support activities.
- 5.72. A new policy for the discretionary grants has been developed and to simplify the process for businesses, a single application has been put in place. This application is available on the Council's website and it went live on the 16 November. The Local Restrictions Support Grants (LRSG) are being administered by the rates team and the Additional Restrictions Grant (ARG) by Economic Development, at the time of writing (19/11/20) the Council has received 1662 applications for grant, 1437 for LRSG and 225 for ARG.
- 5.73. *Leisure Centres and Libraries* have temporarily closed in accordance with the legislation for the second lockdown. The legislation does provide some exceptions, and consequently 3 libraries continue to provide access for work clubs half a day a week on an appointment basis. Leisure Centres co-located on school premises continue to provide access for schools where required.
- 5.74. Everybody Sport & Recreation has seen very significant reductions in its income due to the pandemic, with receipts from fees and charges effectively reduced to zero during periods of closure required under lockdown rules. Whilst the Trust has strived to manage down its expenditure – including furloughing staff – it has been necessary for the Council to provide advance payments of

management fee to Everybody Sport and Recreation to ensure service continuity for the Council's leisure centres during and after the coronavirus pandemic.

- 5.75. With the second lockdown, the latest views of post pandemic recovery and most recent estimates of the operating position for the Trust, it is clear that without further financial support they will not be able to meet their costs and liabilities through to March 2021. Whilst there is a prospect of Government funding from the recently announced £100m support package for public leisure centres – which may replace the aid provided by the Council, in due course – it is considered essential that the Trust is given assurance as regards support to help maintain its cash flow, at this time; and it is therefore recommended that a Supplementary Revenue Estimate is provided of £500,000, to provide a budget for an additional management fee payment to Everybody Sport & Recreation Trust in 2020/21.
- 5.76. *Kerbside waste and recycling* collections continue as normal. In a change from the first lockdown, Household Waste and Recycling Centres are permitted to remain open.
- 5.77. The risk of increased demand on *Bereavement Services* from Covid related deaths continues to be monitored. Contingency plans are in place to increase the number of cremations that can be undertaken each day by lengthening the working day and shortening service durations if required.
- 5.78. The new guidance and legislation for the second lockdown has led to an increase in enquiries and complaints to Regulatory Services as the list of businesses that must close is not comprehensive. However, compliance by businesses across the borough with the new regulations is generally good, with Regulatory Services providing advice and guidance initially to encourage compliance, but ready to follow up with formal enforcement action if required.
- 5.79. *Highways, Transport & Parking* - The Government have announced the outcome of the bid process for the second tranche of Active Travel funding. For the borough, an indicative allocation of £612,000 was provided and the award is £588,000. The difference this time is the term "emergency" has been removed from the fund and there is a requirement to demonstrate consultation activity. The schemes will be brought forward integrated with the Council's existing active travel programmes.
- 5.80. *Parking* use has dropped in this second lockdown to around 30 to 40% of pre COVID levels but this is much higher than the first lockdown. Consideration is being given to what support could be provided to attract people back into our towns once the situation around COVID makes this feasible.

- 5.81. *Travel on public and community transport* has dropped as we enter into the second lockdown but, as with parking, travel in the borough remains significantly higher than in the first lockdown. Concessionary bus travel and the use of the Council's FlexiLink service is lower but still remain important services for essential journeys for these residents. All services are applying the COVID rules put in place to seek to control the rate of infection.update
- 5.82. *Highways maintenance operations* and the construction of the borough's infrastructure programme is continuing, applying the COVID rules and regulations. The borough has a significant on-going programme of works and the team and our contractors are successfully delivering despite the changes that have had to be put in place, in particular on site. Construction activity relating to utility works and housing development sites as it affects the borough's roads is higher than pre COVID levels placing an increased workload on the team.
- 5.83. *Workforce and Workplace* - Those staff who can work from home were encouraged to do so when the lockdown was introduced in March. That has continued to be the case as the situation has evolved. We have made a significant investment in mobile IT to allow staff to operate as effectively remotely. As at 17 November, 95% of staff have been migrated. However, to support services who need more flexibility to continue to deliver services while still working under COVID-19 restrictions, we have introduced team zones which allocated spaces within our buildings that will be carefully managed by heads of service. We continue to communicate with staff on a regular basis and have had positive feedback on this.
- 5.84. Frontline staff continue to deliver services with adjustments to working practices in line with the COVID guidelines to ensure they are protected from the virus as far as practicable. In some areas this has added to the cost of running the service, with the purchase of additional PPE and vehicles for example. Staff also continue to work flexibly and divert from their normal duties to support the Council's varied roles on COVID.
- 5.85. We are continuing to monitor COVID-19 related absences on a regular basis, including the numbers of staff self-isolating and/or off sick. As at 19 November 2020, there are currently 36 staff self-isolating and working from home, 32 staff self-isolating not working from home, 13 staff with COVID related sick absences and 89 staff off with non-COVID related sickness. The enduring nature of the pandemic is leading to increased feedback from staff about fatigue. We are encouraging staff to take leave and making available a range of well-being support.
- 5.86. *Governance and Decision Making* - The Council moved quickly to facilitate remote meetings. All Members were provided with laptops and support to

operate effectively. Formal meetings are taking place remotely as standard now, including two remote Council meetings. A survey of Members, overseen by the Members Forum, has gathered helpful feedback on the use of the technology. Members have responded positively to the changes and the support they have received. Advice and guidance has been provided in terms of accessing office buildings, risk assessment and adapting to remote working on a longer term basis.

6. Implications of the Recommendations

Legal Implications

- 6.1. The Coronavirus Act 2020 received Royal Assent on 25 March 2020. The Act has extensive schedules setting out a wide framework to life under lockdown. The Act has been followed with copious and frequent guidance notes, frequently with implementation dates ahead of what is practically possible, e.g. Household Waste and Recycling Centres, administration of School Admission Appeals, restrictions on and subsequent opening of certain business premises, Test and Trace.
- 6.2. The Coronavirus Act also set out a framework by which Local Authorities could reduce their statutory duties in relation to the Care Act 2014, for Adult Social Care. These Care Act Easements could be implemented should the capacity of Adult Social Care staff become so reduced that it could not continue to meet its duties. To date Cheshire East Council has not initiated any Care Act Easements.
- 6.3. Any necessary urgent decisions have followed the process set out in the Constitution.
- 6.4. Local authority meetings - on Friday 31 July 2020, the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) (Amendment) Regulations 2020 came into force and will expire on 7 May 2021 unless extended. It removes the requirements to hold annual meetings; allows councils to hold all necessary meetings virtually, to alter the frequency and occurrence of meetings, without the requirement for further notice and to enable members, officers and the public to attend and access meetings and associated documents remotely. However, the amended regulations do not specifically mention 'hybrid' meetings.
- 6.5. The Health Protection (Coronavirus, Restrictions) (England) (No 3) Regulations 2020 came into force on 18 July 2020 and will expire at the end of 17 January 2021. They give local authorities (LA) power to give directions which impose prohibitions, requirements or restrictions relating to premises, events and public

outdoor spaces, more commonly known as local lockdowns in order to tackle local coronavirus outbreaks. The LA must ensure the conditions set out in the Regulations are met before it can give such a Direction. It must also have regard to advice from its Director of Public Health when deciding whether or not to make a Direction. If a Direction is made, the Secretary of State (SoS) must be notified as soon as reasonably practicable, and the Direction must be reviewed at least once every seven days to ensure the conditions for making it are still met. Similarly, the SoS has the power to direct a LA to make a Direction under the Regulations, if the SoS considers the conditions for making a Direction are met.

- 6.6. Directions relating to premises may require closure of premises, restriction of entry or restrictions relating to the location of persons in the premises. A LA may not make a Direction relating to premises which form part of essential infrastructure.
- 6.7. Directions may be given in relation to specified events or events of a specified description.
- 6.8. If the LA gives a direction which imposes a prohibition, requirement or restriction on a person specified by name, the LA must give notice in writing to that person and also publish the notice to bring to the attention of persons who may be affected by it. Persons who are given a direction under the Regulations have a right of appeal against the direction to a magistrate's court and also to make representations to the SoS.
- 6.9. LA designated officers and constables have enforcement powers. Persons who contravene directions under the Regulations or obstruct persons carrying out functions under the Regulations commit offences.
- 6.10. Officers continue to consider both formal Regulations and Guidance issued by Government which informs the Council's approach to the relevant subject matter. By way of example, the government's advice on COVID-19: Guidance for the safe use of council buildings was updated on the 9th September 2020. See link for full details:

<https://www.gov.uk/government/publications/covid-19-guidance-for-the-safe-use-of-council-buildings/covid-19-guidance-for-the-safe-use-of-council-buildings>

- 6.11. Particular reference is drawn to section 3c 'Meetings' which states:

"We continue to recommend that where meetings can take place digitally, without the need for face-to-face contact, they should do so. Where council buildings need to be used for physical meetings, these meetings must be managed within the social distancing guidance and principles set out above."

- 6.12. As referenced in para. 7.1.4 above, the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) (Amendment) Regulations 2020 enable remote meetings. The key question to consider in all cases would be, is it necessary to hold face to face meetings in council buildings? Such risk assessment would need to consider the availability of alternative methods, i.e. virtual meetings, the risk and data pertaining to infection rates both locally and nationally, any particular local considerations and vulnerabilities of those who may be impacted by a decision, and equality considerations when considering the necessity if it should hold in person meetings.
- 6.13. The Health Protection (Coronavirus, Restrictions) (No. 2) (England) (Amendment) (No. 4) Regulations 2020 which came into force on 14th September 2020, amended the Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020, so that people may not participate in social gatherings, in any place, in groups of more than 6, unless they are members of the same household, two linked households, or exceptions apply. The changes apply to England, in so far as an area isn't subject to additional or enhanced restrictions by way of specific regulations.
- 6.14. The Health Protection (Coronavirus, Restrictions) (Obligations of Hospitality Undertakings) (England) Regulations 2020, came into force on 18th September 2020 by way of emergency Regulations. The Regulations make provision for requirements for pubs, restaurants, cafes and other businesses involved in providing food for consumption on the premises to take reasonable steps or measures to limit customers to parties of six, and to keep tables an appropriate distance apart.
- 6.15. The Health Protection (Coronavirus, Collection of Contact Details etc and Related Requirements) Regulations 2020 came into force on 18 September 2020, again by way of emergency Regulations. The Regulations make provisions requiring designated venues to collect certain contact details mainly from customers, visitors and staff (as set out in the regulations), store this information for 21 days, and share it with NHS Test and Trace or local public health officials, if requested. This is with the purpose of enabling NHS Test and Trace and local public health officials to contact people who may have been exposed to coronavirus and give them appropriate public health advice to help stop the further spread of the virus.
- 6.16. The Health Protection (Coronavirus, Local COVID-19 Alert Level) (High) (England) Regulations 2020 were made on 12 October 2020 and came into force on 14 October 2020. Cheshire East Council fell within the area covered by these Regulations, known as Tier Two restricted areas. In general, these regulations make provision for local restrictions in the affected areas in terms

of social interaction and operation of some businesses. People must not socialise with anybody outside of their household or support bubble in any indoor setting, whether at home or in a public place, nor must they socialise in a group of more than 6 outside, including in a garden or other space like beaches or parks. The Regulations make provision for certain lawful exceptions to these restrictions. Similarly, businesses and venues can continue to operate, in a COVID-Secure manner, other than those which remain closed in law. Certain businesses selling food or drink on their premises are required to close between 10pm and 5am. Businesses and venues selling food for consumption off the premises, can continue to do so after 10pm as long as this is through delivery service, click-and-collect or drive-thru. Schools, universities and places of worship remain open. Weddings and funerals can go ahead with restrictions on the number of attendees. People can continue to travel to venues or amenities which are open, for work or to access education, but should look to reduce the number of journeys they make where possible. There is also an expectation that any national guidance in place at the time will be followed for example the wearing of face masks where mandated and maintaining social distancing. The Regulations make provision for a constable, a police community support officer or a person designated by a local authority, to enforce the regulations, with any offence/breach being punishable by a fixed penalty notice fine, which operates on an increasing scale should there be repeated breaches of the regulations. The fines can be levied against individual, or businesses who fail to adhere to the regulations.

- 6.17. The Health Protection (Coronavirus, Restrictions) (England) (No. 4) Regulations 2020 are in force between 5 November 2020; expiring on 2 December 2020 and provide for a temporary 28 day lockdown. People must not leave or be outside of their home without 'reasonable excuse'. 'Reasonable excuse' to leave one's home includes: shopping for basic necessities, for example food and medicine (Schedule 3) Reg 6(2)(a), to exercise outdoors or visit an outdoor public place - with the people you live with, with your support bubble or, when on your own. Additionally, you must not meet socially indoors with family or friends unless they are part of same household or support bubble. Outdoor public places include parks, beaches, countryside, public gardens, allotments, playgrounds.
- 6.18. Places of Worship will be closed with minor exceptions, funerals or essential voluntary and public services, such as blood donation or food banks. Other exempted activities include some support groups education, voluntary or charitable work or providing emergency assistance.
- 6.19. Visiting relatives in care homes – specific guidance has now been published <https://www.gov.uk/government/publications/visiting-care-homes-during-coronavirus/update-on-policies-for-visiting-arrangements-in-care-homes>

which supplements the legal position set out in the health Protection (Coronavirus, restrictions)(England)(No.4) Regulations 2020 and requires all decisions to be taken in light of general legal obligations e.g. Equality Act 2010 and the Human Rights Act 1998 as applicable. Enforcement is by a person so designated by the local authority and is a 'relevant person' for the purpose of enforcement under the Regulations (Reg. 19(11)(b)(iii)). Matters against which a LA may enforce are constrained to Regulations 15 – 18 inclusive. The provisions broadly align with those in place during the first lockdown and local authorities are limited to matters concerning business restriction. Methods of Enforcement include Prohibition Notice and Fixed Penalty Notices.

Financial Implications

- 6.20. The potential financial impacts of the COVID-19 pandemic have been reported to Cabinet each month since July with the October update including the additional link to the Council's underlying budget performance in 2020/21. Members outside of Cabinet have received briefings via the Audit and Governance and Corporate Overview and Scrutiny Committees or direct Member briefing. This report presents the latest financial position and identifies Government funding already provided or claimed to date.
- 6.21. Significant levels of uncertainty remain over the potential financial implications for local authorities. The financial issues facing Cheshire East Council are just part of an ongoing national issue for public services, and the whole UK economy. Central Government continues to react with funding support packages for both general and specific purposes. The Council continues to support MHCLG in gathering evidence, on a monthly basis, of the potential costs and income losses for 2020/21 based on information and guidance available at the date of the Government return. The information from the Council contributes to the ongoing negotiations between the LGA, MHCLG, HM Treasury and other Government Departments and sector-led organisations such as the County Councils Network.
- 6.22. The nature of financial issues, and the approach to funding costs and income losses associated with the pandemic, has inevitably changed over time as the severity of the pandemic has changed. This creates issues with producing an accurate forecast of financial consequences compared to the Council's Medium-Term Financial Strategy which had been approved by Council on 20 February 2020.
- 6.23. The returns to Central Government identify three main types of financial pressure:

- (i) **Un-ringfenced Expenditure and Income Losses**
The most recent forecast of financial pressures from COVID-19 on the Council's 2020/21 budget for Services is £33m. The figures are under monthly review and expenditure is expected to rise with the rising number of infection cases. Grant funding to support expenditure and income losses is detailed in Table 1 below, in a format consistent with previous reports. £25m of un-ringfenced Support Grant has been allocated to date; and £2.1m has also been claimed so far under the Income Compensation Scheme and is pending analysis before payment. The Government has also announced that £100m has been top sliced from national grant provision totals to provide support to keeping leisure centres open; and a claims process to access this funding will be announced shortly.
- (ii) **Collection Fund**
Potential losses on the Collection Fund relate to Council Tax and Business Rates income. At the time of writing, the Council expects to have to bear these losses. Latest guidance from Government requires councils to spread the impact over the next three years. However, there is ongoing consideration from MHCLG and the LGA on this issue and further information will be provided when it is available. Cash shortfalls in-year are expected to be in the region of £9.6m. The Council will continue to recover late payments where practicable, however some losses will be permanent; for example, where businesses have ceased trading, individuals are now entitled to Council Tax Support Payments, or where growth in the tax base has slowed down compared to forecasts.
- (iii) **Ringfenced Expenditure**
Table 2 provides information about the activities the Council has been undertaking which have received specific Government funding.

Table 1: The approach to un-ringfenced funding has changed over time

Announced	Funding for CEC	Notes
(England total)		
19th March	£9.150m (£1.6bn)	Adult Social Care based payment
18th April	£10.539m (£1.6bn)	Payment per capita to help reflect lost income
Sub-Total	£19.689m (£3.2bn)	
2nd July	£2.712m (£0.5bn)	Adult Social Care / deprivation based payment
12th October	£2.578m (£1bn)	To provide resources for winter. This tranche of funding has been used to equalise all payments using the same approach as the July payment.
Total	£24.979m (of £4.6bn)	
2nd July	£6.1m (£n/k) for Income Compensation	Estimated total – subject to claims process. £2.1m claimed so far, in 1 st of 3 data collection rounds Compensation at 75p in £1 for losses above 5% of sales, fees and charges budgets
2nd July	£nil for Collection Fund	Defer Collection Fund Deficit over 3yrs

- 6.21 Un-ringfenced government funding received to date as detailed in Table 1 (above) is currently **£25m, of which £1m was utilised in 2019/20**; and the income compensation scheme is anticipated to bring in **£6.1m**, if settled in full. Including for £9.6m of losses on the Collection Fund, it is currently estimated that there is a shortfall for the Council of c. **£13m**. However, the financial impact is increasing, due to increasing number of cases of COVID-19, and at this point it is not clear whether the forecast shortfall will change; it will be subject to ongoing analysis and review.
- 6.22 Mindful of the possibility for further expenditure/ net cost pressures going forward, it will be important to continue to review, understand and mitigate the potential shortfall between additional financial impacts and the funding provided by Government. The Council continues to engage in several activities:

1. Managing and reviewing the financial forecasts in response to guidance and the local response to the emergency, and how this affects the Council's revenue budget
2. Further analysing the Government proposals to compensate losses from Sales, Fees and Charges
3. Analysing the level of Collection Fund losses across the three financial years 2021/22 to 2023/24
4. Reviewing the consequences of funding shortfalls on the Council's Capital Programme and how this impacts on the Council's long-term funding of capital expenditure

Table 2: Specific Grants are valued at c.£198m

Activity (National Total)	Spending forecast*	Funding	Variance
Test & Trace (£300m)	£1,533,331	£1,533,331	£0
Towns Fund (Capital £5bn)	£750,000	£750,000	£0
Dedicated Home to School and College Transport (£40m)	£294,536	£294,536	£0
Rough Sleeping/ Next Steps Accommodation (£3.2m + £91.5m +£10m + £105m)	£158,516	£51,000	£107,516
Active Travel (£225m)	£743,050	£743,050	£0
Re-Opening High Streets (£50m)	£339,533	£339,533	£0
Culture Recovery Fund (£1.57bn)	£180,000	£180,000	£0
Infection Control (£600m)	£5,320,292	£5,320,292	£0
Business Grants (£12.3bn)**	£87,445,000 (spending to date)	£95,514,000	Awaiting guidance
Discretionary Business Grants (£617m)**	£4,357,000 (spending to date)	£4,372,250	

Local Restrictions Business Support Grants **	£15,262,935	£15,262,935	
Business Rate Holiday (£10.7bn)	£62,339,000	£60,561,068	£1,777,932
Council Tax Hardship (£500m)	£2,691,326	£2,062,635	£628,691
Local Bus Network (£167m)	£229,632	£229,632	£0
Emergency Assistance Food and basic necessities (£63m)	£326,293	£326,293	£0
Contain Outbreak Management Fund (£n/k)	£3,073,216	£3,073,216	£0
School Condition Grant (Capital) (£n/k)	£589,604	£589,604	£0
Wellbeing for Education Return (£8m)	£55,403	£55,403	£0
Compliance and Enforcement Grant (£60m)	£158,572	£158,572	£0
Bus Service Support Grant (CBSSG) Restart scheme (£254m)	£299,634	£305,467	(£5,833)
Self Isolation Test and Trace Support Payment (n/k)	£250,979	£250,979	£0
Infection Control in Care Homes (£546m) 2 nd Tranche	£4,712,872	£4,712,872	£0
Clinically Extremely Vulnerable Individuals (£32m)	£210,000	£210,000	£0
Covid Winter Grant Scheme (£170m)	£880,472	£880,472	£0
Domestic Abuse Building Capacity Fund (£6m)	£50,000	£50,000	£0
Leisure Centres (£100m)	£n/k	£n/k (pending claims process)	£n/k

*Note: where ‘Spending Forecast’ equals ‘Funding’ this does not necessarily indicate the full extent of spending but does demonstrate the expectation that funding will be fully utilised.

**Business Grant scheme funding has been combined to date. Scheme totals can also vary if payments are subject to review or appeal

- 6.2.3 Further specific grants may become payable and require local administration in response to the emerging status of the pandemic response.
- 6.2.4 LGA and CCN collate returns from all member councils, though the types of financial pressure vary from council to council depending on their circumstances. For example, whether they provide social care, have a strong tourist economy, or the extent of deprivation. The overall impacts are similar across councils and Cheshire East Council is not an outlier. The Council will continue to support lobbying by the LGA and CCN in their aim to ensure fair settlement of the financial pressures facing local authorities
- 6.2.5 As noted in Table 2 above, the Council has been allocated £880,472 in respect of the Covid Winter Grant Scheme; this is for extra targeted financial support to those in need over the winter period, to provide direct assistance to vulnerable households and families with children particularly affected by the pandemic. A Supplementary Revenue Estimate is required to be approved, in respect of the expenditure to be incurred, as fully funded by the grant, and the matter is included as a recommendation in this report.
- 6.2.6 As noted in 5.74-5.75, it is recommended that a Supplementary Revenue Estimate is approved of £500,000, to provide a budget for an additional management fee payment to Everybody Sport and Recreation Trust to maintain its cash flow. This will be fully funded from the un-ringfenced Covid-19 Emergency Grant for Local Government.

6.3 Policy Implications

- 6.4 COVID-19 is having a wide-ranging impact on many policies. Any significant implications for the Council’s policies are outlined in this report.

6.5 Equality Implications

- 6.6 Implications of the changes will continue to be reviewed. We are carrying out individual risk assessments for staff with protected characteristics, particularly in relation to BAME colleagues and staff with a disability.

6.7 Human Resources Implications

6.8 The report provides information in relation to the Council's workforce and workplace. Throughout the pandemic, there has been regular communication with staff and good co-operation with the Trade Unions.

6.9 Risk Management Implications

6.10 Risk registers have been maintained as part of the Council's response to date and the plans for recovery. Business Continuity Plans are being kept under review and plans have been tested against concurrent risks of EU Exit and winter pressures.

6.11 Rural Communities Implications

6.12 COVID-19 is having an impact across all communities, including rural communities. The support for small businesses will support rural business

6.13 Implications for Children & Young People/Cared for Children

6.14 There are implications for children and young people. There are implications for schools, early help and prevention and children's social care which are summarised in the report.

6.15 Public Health Implications

6.16 COVID-19 is a global pandemic and public health emergency. There are implications for Cheshire East which are summarised in the report.

6.17 Climate Change Implications

6.18 There have been positive benefits of fewer cars on the road. This includes most staff who have been working from home. There has also been lower demand for heating/lighting offices. This is outlined in paragraph 6.5.14.

7 Ward Members Affected

7.1 All Members.

8 Consultation & Engagement

8.1 Formal consultation activities were initially paused due to the lockdown restrictions. We are reviewing on a case by case basis to ensure that we can continue to operate effectively.

9 Access to Information

9.1 Comprehensive reports on COVID-19 can be found on the Council's and the Government's websites.

10 Contact Information

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

Frank Jordan, Executive Director Place and Deputy Chief Executive

Mark Palethorpe, Executive Director People

Jane Burns, Executive Director Corporate Services

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Working for a brighter future together

Audit & Governance Committee

Date of Meeting: 28 January 2021

Report Title: Committee Work Plan

Senior Officer: Jane Burns, Executive Director Corporate Services

1. Report Summary

- 1.1. This report presents the Committee Work Plan for 2020/21 (Appendix A) to the Committee for consideration and update.

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.
- 5.5. Changes to the Work Plan since the November 2020 meeting of the Committee are as follows:
 - 5.5.1. A report on the closure of the initial round of Business Grants has been included for the Committee's information. This report includes total number and value of awards and lessons learned.

2021/22 Committee Meetings

- 5.6. The calendar of meetings for 2021/22 will be provided to the March 2021 meeting. The scheduled meetings will need to ensure that the requirements of the Accounts and Audit Regulations 2015, and any further legislation varying the timescale requirements for this are accommodated.

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 Work Plan is prepared following discussion with key officers who regularly provide updates to the Audit and Governance Committee. The Work Plan is discussed with the Committee Chair and Vice Chair.

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: Jane Burns

Job Title: Executive Director Corporate Services

Email: jane.burns@cheshireeast.gov.uk

Work Plan 2020/21

	Extract from Committee Terms of Reference			
	Agenda Item	Description	No	Detail
28th January 2021				
1	Audit and Governance Committee Structure and Composition	To provide an update on work undertaken following the November 2020 Committee. (Verbal update)	n/a	No specific reference – the consideration of the Committee's composition is required to ensure it is effective in achieving its purpose.
2	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.
3	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 	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>

Work Plan 2020/21

	Extract from Committee Terms of Reference			
	Agenda Item	Description	No	Detail
		• 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.		
4	Business Grants Closure	Briefing for the Committee on the initial round of Business Grants, including total awards and lessons learned	90	To provide independent review of the Council's governance, risk management and control frameworks and oversees the financial reporting and annual governance processes.
5	Covid-19 Update	As requested by the Committee – update on the Council's response to Covid 19	90	To provide independent review of the Council's governance, risk management and control frameworks and oversees the financial reporting and annual governance processes.
6	Work Plan 2020/21	Forward looking programme of meetings and agenda items to ensure comprehensive coverage of the Committee's responsibilities.	ALL	ALL
7	Internal Audit Report into Procurement Controls	To consider a report from Internal Audit following a review of operational procurement and contract award arrangements.	112	To consider summaries of specific internal audit reports as requested.
	11th March 2021			
1	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.

Work Plan 2020/21

	Extract from Committee Terms of Reference			
	Agenda Item	Description	No	Detail
2	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.
3	External Audit Plan 2020/21 (Mazars)	To receive and comment on External Audit's planned work for the audit of financial statements and the value for money conclusion 2020/21.	118	To consider the External Auditor's annual letter, relevant reports, and the report to those charged with governance.
4	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.	120	To comment on the scope and depth of external audit work and to ensure it gives value for money.
5	Covid19 – Update on Response and Recovery	As requested by the Committee – update on the Council's response to Covid 19	90	To provide independent review of the Council's governance, risk management and control frameworks and oversees the financial reporting and annual governance processes.
6	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 and 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).

Work Plan 2020/21

	Extract from Committee Terms of Reference			
	Agenda Item	Description	No	Detail
7	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.
8	Internal Audit Plan 2021/22	To receive the proposed Internal Audit Plan for 2021/22	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.
9	Partnerships Governance	To consider assurance in relation to the governance arrangements in place to manage significant partnerships in which the Council participates.	102	To review the governance and assurance arrangements for significant partnerships or collaborations.
10	Upheld Complaints to the Local Government Ombudsmen (If required)	Members have requested that they receive a report where there is a complaint upheld by the Local Government Ombudsmen.	129	Subject to the requirements set out below, to consider all findings of the Local Government Ombudsman, including reports resulting in a finding of maladministration against the Council, and to make recommendations as to actions that may be necessary in connection with the Ombudsman's findings. (a) There are statutory obligations which will, in some circumstances, require reports to be taken to Cabinet or full Council. (b) The Ombudsman operates protocols in relation to the timing of the publication of findings. The Council would have to give consideration to those protocols when determining how to manage the Audit and Governance Committee's agenda.
11	Work Plan 2020/21 and 2021/22	Forward looking programme of meetings and agenda items to ensure	ALL	ALL

Work Plan 2020/21

	Extract from Committee Terms of Reference			
	Agenda Item	Description	No	Detail
		comprehensive coverage of the Committee's responsibilities.		
12 & 13	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.

Work Plan 2020/21

		Extract from Committee Terms of Reference	
Agenda Item	Description	No	Detail
Unscheduled Items			
Review of the Council's Standards Arrangements	Members have requested a review of the Council's Standards arrangements to be undertaken. <i>Scheduling of this report is reliant upon the publication of the model Standards Code and the appointment of a new Monitoring Officer.</i>	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).
Highways; allocation and use of funding	Requested by Members; a report on the allocation and use of Highways funding	96	To consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the council



Working for a brighter future together

Audit & Governance Committee

Date of Meeting: 28 January 2021

Report Title: Audit Review of Procurement Controls

Senior Officer: Jane Burns, Executive Director Corporate Services

1. Report Summary

- 1.1. This report presents the Committee with the findings of a recent Internal Audit review of procurement controls following the completion of a long-standing police investigation into the award of contracts at Cheshire East Council.
- 1.2. The report provides observations and assurances from an audit perspective relating to the current functioning of Cheshire East Council and the level of assurance that can be given based on the findings of testing undertaken. It is not the purpose of the report to make any comments or observation on any individual, company or entity.

2. Recommendations

- 2.1. That the Committee:
 - 2.1.1. Note the content of the report and management actions agreed as a result of the work undertaken.

3. Reasons for Recommendations

- 3.1. Receiving this report aligns with the Audit and Governance Committee's terms of reference in considering reports on the effectiveness of internal control and requesting summaries of specific internal audit reports.
- 3.1. The report is also intended to provide assurance to the Committee that any historic weaknesses in the control environment have been addressed.

4. Other Options Considered

- 4.1. Not applicable

5. Background

- 5.1. In August 2015, Cheshire East Council received whistleblowing referrals regarding the award of contracts which raised concerns around preferential treatment and a bullying culture within parts of the Council.
- 5.2. Concerns raised by whistleblowers are subject to an initial amount of testing to substantiate the concerns being shared and determine the appropriate route for further investigation. The nature of the concern raised will determine how this testing is undertaken.
- 5.3. In the case of the referral received in August 2015, senior members of the Council's Internal Audit team undertook testing of the concerns which had been raised and incorporated this into a procurement audit which was already ongoing as part of the 2015/16 Internal Audit plan. Enquiries were made at the time with the External Auditors (Grant Thornton) who agreed that Internal Audit would progress their work, before the External Auditors would consider the issue within the scope of their reporting powers.
- 5.4. The Audit and Governance Committee were advised in December 2015 that Internal Audit had been commissioned to carry out this review of procurement arrangements, which would be reported back to the Committee in March 2016.
- 5.5. Later that month, Cheshire Police commenced an investigation into allegations of misconduct in public office as a result of information received about Cheshire East Council and the award of contracts. On the instruction of the police, internal investigations were required to cease at this point and the work of the External Auditors was also paused. The Council co-operated with all requests for information made by Cheshire Police throughout its investigation.
- 5.6. Following requests from Audit & Governance Committee, an Internal Audit review of procurement was undertaken in 2017/18 and the findings were reported to the July 2018 meeting of this Committee. The scope of the Internal Audit work was agreed with the Police and provided satisfactory assurance around improvements in the control environment since 2015.
- 5.7. In June 2018, upon completion of their investigation into the allegations of misconduct in public office, the Police handed their file to the Crown Prosecution Service (CPS) for consideration.
- 5.8. On 12th June 2020, Cheshire Police announced that the Crown Prosecution Service had advised that "although there were issues in relation to procurement, there was insufficient evidence to provide a realistic prospect of conviction against any individual."

- 5.9. In response to this announcement, the Chief Executive requested a health-check be undertaken by Internal Audit to seek assurance on current procurement arrangements; reviewing the contract award process to identify weaknesses in the design of the processes and procedures operated in 2015, and provide assurance on that the processes now in operation would prevent or identify non-compliance.
- 5.10. This work was undertaken by Internal Audit and the report at Appendix A presents the findings and recommended actions arising.
- 5.11. A “Satisfactory” opinion has been given on the effectiveness of the arrangements now in place to manage the procurement and the risks associated with it and implementation of the recommended actions will further improve the control environment.
- 5.12. As a significant part of the Council’s key financial systems, the procurement lifecycle will continue to be subject to regular Internal Audit reviews in accordance with the annual risk based Internal Audit Plan.
- 5.13. The purpose of the internal audit review was to provide assurance on the current control environment. Nothing has arisen during the work undertaken that requires a recommendation to consider further investigation on any new activity or the conduct of any current Member or employee of Cheshire East Council.
- 5.14. If any such matter requiring additional consideration had arisen, this would have been referred to the appropriate route for current staff or Members; these are outside the terms of reference of the Audit and Governance Committee and are the responsibility of other bodies of the Council.
- 5.15. It should be noted that the outcome of this work will also be used by external auditors Grant Thornton as part of their considerations with regards to the outstanding audit certificate for 2015/16 under the Local Audit and Accountability Act 2014. The scope of the work undertaken by Internal Audit was discussed with Grant Thornton at the outset.
- 5.16. Whilst the Council’s review will be taken into account, the work of Grant Thornton will be undertaken in accordance with their own powers and their report will not be constrained to the scope of this review.
- 5.17. Following completion of Grant Thornton’s work and receipt of the findings, consideration will be given as to whether any further work is required by the Council, including Internal Audit.

6. Implications of the Recommendations

6.1. Legal Implications

- 6.1.1. There are no direct legal implications although a failure to comply with procurement legislation would have a significant impact in this area.

6.2. Finance Implications

- 6.2.1. There are no direct financial implications although a failure to effectively manage procurement activity would have a significant impact in this area.

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. There are no human resources implications in this report.

6.6. Risk Management Implications

- 6.6.1. This report provides assurance that the risks of a similar situation, to that which led to the police investigation, reoccurring are being managed effectively and that appropriate action has been taken to address identified weaknesses.

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 terms of reference for the Internal Audit review were agreed with the Chief Executive.

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: Michael Todd

Job Title: Acting Internal Audit Manager

Email: michael.todd@cheshireeast.gov.uk

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Internal Audit – Assurance Report Procurement Controls

Report Status: Final

Report Date: 7 January 2021

Prepared by: Michael Todd - Acting Internal Audit Manager

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- Lorraine O'Donnell, Chief Executive
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Distribution List – Final Report:

- Lorraine O'Donnell, Chief Executive
- Jane Burns, Executive Director Corporate Services
- David Brown, Director of Governance and Compliance

Final Report Owner:

- Lorraine O'Donnell, Chief Executive

Preface

This report deals solely with changes in working practice from an organisational perspective. The report does not consider the role of any individual, company or entity. It is not the purpose of the report to make any comments or observation on any individual, company or entity.

The report provides observations and assurances from an audit perspective relating to the current functioning of Cheshire East Council and the level of assurance that can be given at October 2020 based on the findings of testing undertaken.

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Background

- 1.1. In August 2015 Cheshire East Council received whistleblowing referrals regarding the award of contracts. The referrals raised concerns around preferential treatment in the award of contracts and a bullying culture within parts of the Council. Similar concerns were also raised anonymously through correspondence with two local MPs, the external auditor and the Council's then Mayor.
- 1.2. Concerns raised by whistleblowers are subject to an initial amount of testing to substantiate the concerns being shared and determine the appropriate route for further investigation. The nature of the concern raised will determine how this testing is undertaken.
- 1.3. In the case of the referral received in August 2015, senior members of the Council's Internal Audit team undertook testing of the concerns which had been raised and incorporated this into a procurement audit which was already ongoing as part of the 2015/16 Internal Audit plan. Enquiries were made at the time with the External Auditors (Grant Thornton) who agreed that Internal Audit would progress their work, before the External Auditors would consider the issue within the scope of their reporting powers.
- 1.4. The Audit and Governance Committee were advised in December 2015 that Internal Audit had been commissioned to carry out this review of procurement arrangements, which would be reported back to the Committee in March 2016.
- 1.5. Later that month, Cheshire Police commenced an investigation into allegations of misconduct in public office as a result of information received about Cheshire East Council and the award of contracts. Internal investigations were required to cease at this point and the work of the External Auditors was also paused.
- 1.6. In 2017/18, with the agreement of Cheshire Police, Internal Audit undertook a review of Procurement activity. The Terms of Reference for this piece of work were designed to provide assurance on improvements in the control environment which had been made since 2015, without compromising the Police investigation which remained ongoing at that time. The review provided a satisfactory assurance opinion and the findings of this audit were shared with the Council's Audit and Governance Committee in [July 2018](#).
- 1.7. In June 2018, upon completion of their investigation into the allegations of misconduct in public office, the

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- Police handed their file to the Crown Prosecution Service (CPS) for consideration.
- 1.8. On 12th June 2020, Cheshire Police announced that the Crown Prosecution Service had advised that “although there were issues in relation to procurement, there was insufficient evidence to provide a realistic prospect of conviction against any individual.”
- 1.9. At the same time, Cheshire Police announced that a separate investigation into grant funding for a primary school car park had concluded, with no further action to be taken. Five other allegations referred to Cheshire Police by Cheshire East Council remain under investigation. Grant Thornton is holding the audit certificate open on a number of years in relation to ongoing matters.
- 1.10. During the time from the initial concerns being raised, to the CPS decision announcement, there have been considerable changes in senior management posts, and the political leadership of the Council.
- 1.11. Lorraine O'Donnell, took up the post as Cheshire East Council's Chief Executive in March 2020 and requested a health-check be undertaken in relation to this matter to seek assurance on current arrangements, ensure all necessary improvements

have been undertaken, and consider whether further actions are required.

- 1.12. This work has been undertaken by Internal Audit and this report presents the findings, recommended actions for improvement and an opinion on the effectiveness of the arrangements in place to manage procurement and the risks associated with it.
- 1.13. The outcome of this work will also be used by Grant Thornton (GT) as part of their considerations with regards to the outstanding audit certificate for 2015/16 under the Local Audit and Accountability Act 2014. Whilst the Council's review will be taken into account, the work of GT will be undertaken in accordance with their own powers and consideration and their report will not be constrained to the scope of this review.

2. Scope of Review

- 2.1. The objective of the exercise was to undertake a review of the contract awards identifying weakness in the design of the relevant processes and procedures as they operated at the time, and provide assurance on whether the processes now in operation would prevent or detect non-compliance, and at what stage, recognising the substantial changes to process and culture introduced since 2015.

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- 2.2. Although reasonable assurance can be drawn from these findings it is never possible to give complete assurance that all issues have been uncovered, as we are unable to test every transaction
- 2.3. The review concentrated on the procurement element of the situation and has not examined the initial decision to commence a pilot in this area or the supporting documentation. However, the use of pilots is being considered by Internal Audit as an area for further work.

3. Key Findings

- 3.1. In October 2014, 6 invoices were passed to the Procurement Team, via senior management, relating to work undertaken in primary schools to provide fitness classes to pupils. In addition to arranging payment of the invoices, Procurement were instructed to progress the procurement of a longer-term arrangement.
- 3.2. Enquiries undertaken prior to processing the invoices identified that a trial of the activities had taken place at 2 schools in June 2014. Following this, the Council wrote to Cheshire East primary schools in September 2014 inviting them to take part in a pilot scheme. The letter also indicated that Cheshire East would be funding the scheme.
- 3.3. Following some discussion with Children's Services around the appropriateness of the Council commissioning services of this nature it was agreed that the invoices would be paid but that a WARN (Waiver and Record of Non-Adherence) form would be required to formalise the arrangements.
- 3.4. A WARN is the means by which the Council record and authorise waivers and breaches of the Contract Procedure Rules:
- It allows prior authorisation of the Contract Procedure Rules to be waived under certain circumstances. For example, where it is not possible to obtain the required number of quotations.
 - It allows the retrospective authorisation of a breach of the Contract Procedure Rules whilst acknowledging that appropriate steps have been taken to prevent the situation from occurring in future.
- 3.5. Completion of a WARN form required signatures from the following officers:
- the relevant Decision Making Officer
 - the relevant Head of Service
 - the Monitoring Officer
 - Chief Operating Officer as Section 151 Officer

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- Legal and Finance officer comments
- 3.6. The following actions were progressed by Procurement and Business Support:
- The provider was set up as a new supplier.
 - The service requested that a requisition be raised amounting to £20,000 with the requisition description of "*Improving the fitness of children across Cheshire East Schools*". In approving the requisition, the Procurement Officer recorded on Oracle that the procurement had been requested without competition and therefore a WARN was required.
 - Checks were undertaken to ensure that the invoices were accurate, and all billed services had been delivered.
 - A draft WARN was produced to recognise the non-adherence to Contract Procedure Rules.
- 3.7. The draft WARN was produced on 30 October 2014 to provide a fitness programme in schools between 1 June 2014 and 31 March 2015. This was recorded as a non-adherence and was signed by Procurement as "*a retrospective record of non-adherence which is duly noted*" on 6 November 2014. However, the WARN was not completed and remained unsigned.
- 3.8. The failure to approve the WARN means that the non-adherence to Contract Procedure Rules was not authorised and the invoices should not have been paid. Furthermore, whilst a completed WARN would have authorised payment of the invoices for work already completed, there was no contract in place and therefore a waiver was also required for the direct award of a contract to undertake the pilot.
- 3.9. On 29 January 2015, Procurement were approached by the service to arrange a procurement exercise for the provision of a Child Powered Physical Activity Programme. This is in accordance with agreed procedure and a Procurement Engagement Form was submitted in support of the request.
- 3.10. The procurement exercise was undertaken via The Chest which is the Council's electronic tendering system and 13 bids were received.
- 3.11. There is evidence that the provider of the pilot scheme received assistance from Council officers in relation to registering on The Chest.
- 3.12. On 20 February 2015, the requisition for £20,000 was increased by £9,000 to take into account increased costs. These costs are believed to be in relation to

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insurance cover which the provider was required to have and had not previously been in place.

- 3.13. The procurement exercise also ended on 20 February 2015 and the quality element of the submissions were forwarded to two officers within the commissioning service for evaluation in accordance with normal procedures.
- 3.14. The evaluation process does not appear to have been straight forward with queries raised by Procurement around the allocation of scores which were dismissed by the service. There was also some difficulty in evaluating the price element of the submissions on a like for like basis and several clarifications were issued to bidders via The Chest.
- 3.15. On 11 March 2015, following receipt of clarifications from bidders, Procurement produced a set of evaluation scores based upon price and quality. This ranked the provider at fifth overall out of 13 bidders.
- 3.16. There is evidence of this outcome being challenged by senior managers and a meeting was held to discuss the award of the contract. Notes of this meeting provide details of the following outcomes:
 - Pricing varied so unable to evaluate like for like

- Various methods of analysing the pricing were attempted but due to it being too varied across the supplier base it was agreed that the tender would be abandoned.
 - Pilot to be extended to allow sufficient time to evaluate the service and market to inform the specification.
 - WARNs to be drafted.
 - Soft market questions to be developed and sent to potential suppliers.
 - Understand what is already supplied in schools.
 - Tender to be started September – November 2015.
- 3.17. The following day, a notification was posted on The Chest stating that the tender process had been withdrawn because 'it was not possible to evaluate the pricing of submissions received from bidders fairly'.
 - 3.18. On 13 March 2015, an officer from the Communities service produced a draft grant agreement between Cheshire East and the provider for the provision of two projects; Extension to Pilot in Schools, and Community Wellbeing Pilot in Community Hubs. The grant was valued at £115,000.

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- 3.19. The draft agreement was passed to Legal Services who raised concerns about a grant being awarded rather than the services being provided under a contract. Legal advice further recommended that a direct award may be possible via a WARN if there was only one provider.
- 3.20. This is an example of a control operating effectively as Legal Services prevented a breach of the Contract Procedure Rules.
- 3.21. The process for producing a WARN to approve a waiver of the Contract procedure Rules was commenced on 9 April 2015 and approved on 29 April 2015 although Procurement Manager sign off and finance/legal comments were sought retrospectively.
- 3.22. Although this WARN seeking approval to waive competition requirements was authorised, there are several issues with the content and way it was completed:
- Guidance states that the WARN should not be completed prior to the Procurement Manager agreeing to the action.
 - The WARN states that a short-term funding opportunity became available and a decision taken to extend the pilot so that a comprehensive evaluation could take place. It makes no reference to the aborted tendering exercise.
- The Partnerships Give Back Grant is referenced as a funding source. However, the grant scheme had agreed and published funding criteria which do not appear to cover initiatives of this nature.
 - It subsequently transpired that a contract for an extension of Pilot for Schools and Communities was issued on 13 March 2015. This was signed by the provider on 19 March 2015 and by the Council on 20 March 2015.
- 3.23. This contract was therefore entered into without the appropriate authority to waive the Contract Procedure Rules and a record of non-adherence should have been completed.
- 3.24. An invoice for £30,000 was received from the provider on 27 March 2015 relating to the extension of the pilot for an initial payment to enable set up and recruitment of staff including advertising costs and training.
- 3.25. This invoice was not paid until 29 April 2015, the same day that the WARN was approved. However, it would appear unusual that a direct contract award would be made to a company that required over 25% of the

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- contract value to be paid in advance to enable the recruitment and training of staff.
- 3.26. On 5 May 2015 an officer from Communities contacted the Procurement team and provided them with a signed contract for a Mental; Health and Wellbeing Pilot and a draft WARN to authorise the direct award to the same company.
- 3.27. Neither Procurement nor Legal Services had previously been consulted on this matter. Had that advice been sought, this could have been dealt with via a contract modification which was allowable under Contract Procedure Rules.
- 3.28. As a result of a failure to seek advice from Legal Services and Procurement, the actions of the Communities service constituted a breach of the Council's Contract Procedure Rules and a WARN for a non-adherence was subsequently produced.
- 3.29. The WARN approving the non-adherence was approved on 26 May 2015. The comments on the WARN recognised the failure to consult with Procurement and Legal Services along with the fact that had the service done so the actions could have taken place as a modification to the existing contract.
- 3.30. Around 25 June 2015, discussions commenced with regards to extending the scope and value of the contract to include a Community Hub advisory role. This increased the value of the contract by £23,000 and was allowable as a modification under the Contract Procedure Rules and therefore no WARN was required.
- 3.31. The Modification Request Form was authorised on 27 July 2015. However, a letter was issued to the provider on 30 June 2015 informing of the proposed modification and returned confirming acceptance on 15 July 2015. Therefore, the proposed modification was communicated and agreed prior to authority being granted for it to take place.
- 3.32. During a meeting between the commissioning service and the provider on 11 August 2015, concerns were raised in relation to an absence of DBS checks, the absence of defined escalation routes for issues identified during the mental health and wellbeing sessions and general parental consent for the physical activities. Actions were agreed during the meeting to address the concerns.
- 3.33. On 16 September 2015 the Council issued a notice of material breach of contract in relation to both the extension of pilot for schools and the mental health and

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- wellbeing pilot which referenced the issue discussed at the above meeting.
- 3.34. Two days later, the Council issued the provider with a notice of termination of both contracts.
- 3.35. Work was undertaken following the termination of the contract to ensure that upfront payments made to the provider relating to services yet to be delivered were identified and returned to the Council.
- 3.36. The series of events described above demonstrate a failure of control in relation to the application of Contract Procedure Rules brought about in the main from management override of those controls.
- 3.37. Further weakness would appear to have existed in the evaluation and letting of contracts.
- 3.38. It is of concern that the repeated WARN forms detailing non-adherence to Contract Procedure Rules did not appear to raise concern with the officers who were responsible for their approval, and that there was no independent scrutiny of the circumstances that led to breaches of these rules or situations whereby their application was waived.
- 3.39. It should be noted that the use of WARNs within the Council was widespread at this time which may have had the effect of normalising their use and thus reducing the level of scrutiny and challenge attached to them. During 2014/15 a total of 82 WARNs were approved which comprised 20 non-adherences and 62 waivers.
- 3.40. Work undertaken within the Council following the receipt of the whistleblowing referrals highlighted that this was an issue and in response, Audit and Governance Committee requested that all WARNs be presented to them at the December 2015 meeting of the Committee. This arrangement which provides independent overview and challenge to the process, commenced at the March 2016 meeting and remains in place.
- 3.41. The use of WARNs has seen a significant decrease since 2014/15:
- | WARNs | 2014-2015 | 2015-2016 | 2016-2017 | 2017-2018 | 2018-2019 | 2019-2020 | Apr 20-Sept 20 |
|---------------|------------|-----------|-----------|-----------|-----------|-----------|----------------|
| Non-Adherence | 24 | 25 | 33 | 10 | 5 | 1 | 2 |
| Waiver | 81 | 45 | 40 | 20 | 16 | 17 | 20 |
| Total | 105 | 70 | 73 | 30 | 21 | 18 | 22 |
- 3.42. It should be noted that the slight increase in 2016/17 was due to 16 WARNs relating to ICT as a result of

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CoSocius coming back in house. The high level of Waivers since April 2020 is due to 10 required to facilitate the Council's response to Covid-19.

- 3.43. There are various reasons for this significant decrease since 2014/15 including an increased awareness of the importance to properly plan procurement exercises as a result of the publicity around the police investigation.
- 3.44. However, the key reason is improved contract management arrangements that were introduced by Procurement and promoted by senior management in response to the issues identified in response to the whistleblowing referrals.
- 3.45. With regards to the WARNs process, this was centralised to provide control to Procurement rather than services who were previously responsible. This ensured a consistent approach and better governance and oversight.
- 3.46. The WARN process has been subject to testing as part of this review and this has confirmed that all WARNs raised during 2019/20 and 2020/21 have been completed, are appropriate and have all been reported to Audit and Governance Committee.
- 3.47. It was noted, however, that the final authorisation of several WARNs appeared to have taken place after the contract start date. Further enquiries identified that the contracts were actually dated after the approval but the WARN log had not been updated to reflect the actual start date.
- 3.48. Although Internal Audit are satisfied that this area is now subject to robust controls, testing has identified a weakness in the system with regards to the numbering of WARNs. Currently the log includes waivers, non-adherence, contract extensions and contract modifications.
- 3.49. As Audit and Governance Committee only receive reports on the first two categories it would be difficult for Members to identify where a WARN may be missing. As such it is recommended that from 1 April 2021, modifications and extensions are recorded separately.
- 3.50. It was also noted that although the constitution and the service guidance documents are explicit in stating that "*any non-adherence with these Rules is a breach of the Officer Code of Conduct / Member Code of Conduct and could result in disciplinary action being taken against them*" the guidance available on Centranet and the WARN form do not make this clear.

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- 3.51. As such, it is recommended that the appropriate documents are updated to ensure that officers are made aware of the potential consequences of significant or repeated breached of Contract Procedure Rules.
- 3.52. The recent review of current procedures sought to identify ways in which it may be possible to arrange a contract without the appropriate approval and competitive tender process. This identified that any requisition raised in excess of £5,000 requires electronic approval by Procurement prior to it being approved.
- 3.53. Upon receiving notification of a requisition, contact is made with the service to determine whether a contract is in place, how it was procured and whether there has been a breach of Contract Procedure Rules. On the few occasions where this is the case, the requisition is not approved until the WARN has been approved which prevents any unauthorised payments from being made.
- 3.54. The review identified the potential for numerous requisitions of less than £5,000 to be processed and sought assurance as to how this risk is managed. This has been identified and to mitigate this risk, Procurement run regular reports on spend below this threshold and the results are analysed to identify suppliers with multiple payments. Similar reports are also produced to analyse spend on purchase cards.
- 3.55. Contract Procedure Rules require all procurements over £10,000 to be subject to a Contract Risk Assessment which is undertaken by members of the Procurement team and ensures that the Contract Register is updated at the earliest opportunity. For contracts between £10,000 and £25,000 the service is responsible for evaluating quotations and appointing the most appropriate supplier whereas for contracts above this amount, Procurement oversee the process.
- 3.56. Additional testing is currently being undertaken to ensure that all contract awards below £25,000 during 2019/20 and 2020/21 have been subject to appropriate evaluation and are supported by documentary evidence to support the decision taken. This work has also been extended to test a sample of contract awards in excess of £25,000 which are controlled by Procurement rather than the commissioning service and will be subject to a separate audit report.
- 3.57. The review has also confirmed that detailed guidance is available to officers on CIntranet which provides a step by step guide through the procurement lifecycle and offers advice and training to officers who need

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- additional support in undertaking procurement exercises.
- 3.58. As previously stated, the review has identified that management override of control played a significant part in the circumstances that led to the whistleblowing referrals and subsequent police investigation.
- 3.59. Typically, this behaviour is linked to the culture of an organisation and may only come to light if someone feels strongly enough to raise concerns.
- 3.60. Concerns around the culture of Cheshire East and allegations of bullying were raised as part of the whistleblowing referrals in 2015 and significant efforts have been made by the organisation to address these issues.
- 3.61. In October 2017, an external independent culture review was jointly commissioned by the then Leader and the then Acting Chief Executive. This review was undertaken by the Local Government Association (LGA) during November and December 2017.
- 3.62. The purpose of the review was to provide an objective assessment of the culture of Cheshire East Council at that time, identifying positive aspects to build on, and identifying areas for change and improvement. The review had particular regard to an ongoing perception of significant issues relating to bullying and harassment.
- 3.63. The LGA's report was published by the Council in [January 2018](#) with the recommendations of this report progressed as part of the Brighter Future Together (Culture) Programme, initially with the support of an external partner.
- 3.64. The Brighter Future Community was established as a key aspect of the Programme to facilitate engagement between staff and the Council. Brighter Future Champions (staff volunteers) continue to provide a key link for the engagement, feedback and development for our workforce. A cross party Member Forum was also established, with responsibility for shaping the new member culture and role-modelling the desired behaviours
- 3.65. A key aspect of the Brighter Future Culture Programme was the creation of the workplace vision, values and behaviours and employee deal. These outline the core values and behaviours for staff, managers and Members of Cheshire East Council.
- 3.66. Key aspects of the workplace vision of relevance for this report are:

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- We are supported and well led; Ultimately, we feel free to speak and safe to act
 - We are treated fairly and highly valued; Our concerns are listened to and where action is required – we act on it.
- 3.67. These two aspects of the workplace vision are particularly critical to the ongoing commitment of staff and Members to creating and maintaining a supportive, constructive and open environment where issues, concerns and questions can be raised and discussed without fear of negative consequences.
- 3.68. The Programme made regular updates to the Council's Staffing Committee throughout the development of the Culture Programme and has continued to receive regular updates on the work of the programme as it embeds and develops. Staffing Committee receive regular performance information in relation to key areas such as attendance management, staff turnover, and exit interviews.
- 3.69. Feedback from staff was also sought as part of "The Big Conversation" staff survey. The actions which are taken in response to issues raised in the survey are shared with staff and Members.
- 3.70. The Council also appointed the whistleblowing charity, Protect, (then known as Public Concern at Work (PCaW)) to deliver additional whistleblowing support to complement and undertake a review of its current arrangements.
- 3.71. In March 2018, the Audit and Governance Committee considered a report on the outcome of the review of the Council's Whistleblowing Policy and arrangements.
- 3.72. Protect carried out a desk based review of the current policy, procedures and supporting documents and had produced a RAG rated report with recommendations and an action plan for improvement. In recognition of the comments and feedback on the length of the existing policy, the potential for mixed messages and the benefits of a uniform definition of whistleblowing, a revised Whistleblowing Policy, based on the model policy provided by Public Concern at Work, was brought to the Committee for approval.
- 3.73. Additional communication and training for Managers who may receive a referral has been carried out since the updated policy was introduced. The Audit and Governance Committee receives updates on whistleblowing as part of the Annual Monitoring Officer's reports.
- 3.74. It is therefore important that staff and Members have confidence in the Council's whistleblowing

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arrangements and are aware of how to make a referral. Although information is available on CIntranet and several positive comments have been received in relation to the clarity of this information, it is vital that the policy and arrangements are subject to regular publicity.

- 3.75. It is therefore recommended that awareness of the whistleblowing policy is raised through Team Voice and briefings to Departmental Management Teams for cascade to individual teams.

4. Conclusion and Opinion

- 4.1. The review concluded that whilst the control environment at the time could have been more robust and has been improved since these issues were raised, the situation which arose was not due to an absence of control, but rather as a result of a widespread failure to follow due process and the Council's Constitution.
- 4.2. The culture of the Council at that time indicates collective behaviour that anticipated desired outcomes. The desire to achieve an anticipated outcome resulted in the acceptance of behaviour which modified safeguards to achieve that which had been anticipated.

- 4.3. Where systematic management override of control at a senior level within an organisation takes place, this reflects poorly on the culture and often the only way for concerns to be raised is through a robust whistleblowing process. This is ultimately how this matter came to light.
- 4.4. Significant steps have been taken by Cheshire East to create a positive and inclusive culture within the organisation where colleagues treat each other with respect and individuals feel empowered to call out negative behaviour. This is supported by an established whistleblowing policy that is in line with best practice and subject to regular review.
- 4.5. The current culture actively discourages deviation from due process through clear behavioural values, additional transparency through reporting to a cross party Audit Committee where members can raise concerns, and the reinvigorated whistleblowing policy.
- 4.6. It is clear from the work undertaken that the Procurement Lifecycle is now subject to far more stringent controls and monitoring, which coupled with the organisational changes brought about by the Culture Review would make it far more difficult for such a situation to unfold in the manner it did.

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- 4.7. The combination of these factors provides assurance that the same behaviours are less likely to occur and if these behaviours reoccur, they are more likely to be identified and challenged.
- 4.8. However, the possibility should not be dismissed, and it should be recognised that regardless of how robust a control environment is within an organisation, the opportunity for senior managers to facilitate the override of control remains a risk. As such it is essential that Cheshire East continues to operate an effective whistleblowing process that signposts whistleblowers to appropriate contacts outside of the Council should they feel unable to raise their concerns internally.
- 4.9. With regards to the current control environment it is concluded that the controls in place to manage procurement are operating effectively and take account of the associated risks with this activity.
- 4.10. Internal Audit use a formal opinion system, details of which are given in Appendix C. Based upon the findings and actions raised, a **Satisfactory** assurance opinion has been given.

Satisfactory Assurance:

Testing has shown that controls are adequate to address the risk identified in the terms of reference. Testing has shown that there are some inconsistencies in the application of controls.

- 4.11. In line with our Audit Charter, the agreed action plan will be subject to a follow up review to provide assurance that recommended actions have been implemented.

Appendix A – Action Plan

	Finding	Implication	Recommended Action	Priority
1	<p>The WARN log includes waivers, non-adherences, contract modifications and contract extensions and is numbered sequentially.</p> <p>Audit and Governance Committee receive regular reports relating to waivers and non-adherences, but these do not include the modifications and extensions.</p> <p>As such, the WARN numbers reported to Members are not sequential.</p>	Unreported WARNs may not be identified and challenged.	<p>The WARN log should be updated to ensure that waivers and non-adherences are numbered sequentially to ensure that Members are able to identify any WARNs that are missing or reported out of sequence.</p>	Medium
Management Response				
Agreed: Yes Responsibility: Procurement Manager Target Date: 1 April 2021 If no, please provide further details: n/a				

	Finding	Implication	Recommended Action	Priority
2	<p>Testing identified that where the commencement of a contract subject to a waiver had been delayed pending authorisation, the Contract Start Date field in the WARN log was not always updated to reflect this.</p> <p>This gave the impression that waivers were authorised after the start of the contract which is not accurate.</p>	Inaccurate records may erode the level of assurance provided by them.	<p>The WARN log should be reviewed to ensure that all contract start dates are accurate.</p> <p>Officers should be reminded of the importance of ensuring that the log is accurate and up to date.</p>	Medium
Management Response				
Agreed: Yes Responsibility: Procurement Manager Target Date: 1 December 2020 If no, please provide further details: n/a				

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Appendix A – Action Plan

	Finding	Implication	Recommended Action	Priority
3	Although information relating to the Council's Whistleblowing Policy and how to raise or respond a concern available on Centranet, and several positive comments have been received in relation to the clarity of this information, it is vital that the policy and arrangements are subject to regular publicity.	If staff are unaware or unsure of an organisation's arrangements for whistleblowing, they may be unable or unwilling to raise concerns resulting in a failure to identify and address breaches of control.	Awareness of the Council's whistleblowing arrangements should be maintained via regular Team Voice articles and briefings to Departmental Management Teams for cascade to officers.	Low
Management Response				
Agreed: Yes				
Responsibility: Director of Governance and Compliance				
Target Date: 31 March 2021				
If no, please provide further details: n/a				

	Finding	Implication	Recommended Action	Priority
4	Although the constitution and service guidance documentation are explicit in stating that “any non-adherence with these Rules is a breach of the Officer Code of Conduct / Member Code of Conduct and could result in disciplinary action being taken against them” the online guidance and form do not make this clear.	Officers may be unaware of the possible consequences of significant or repeated breaches of Contract Procedure Rules.	Guidance published on Centranet around the completion of WARNs and the WARN form should be subject to review and update to ensure that officers are aware that failure to comply with Contract Procedure Rules could result in disciplinary action being taken.	Low
Management Response				
Agreed: Yes				
Responsibility: Procurement Manager				
Target Date: 31 March 2021				
If no, please provide further details: n/a				

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Appendix B – Audit Opinion and Priority Rating for Individual Findings

Audit Opinion

An overall opinion on the control environment will be given on completion of the audit work. This opinion relates only to those risks identified or systems tested. Where the audit opinion given is either limited or no assurance, consideration will be given to including those areas in the Annual Governance Statement.

There are four possible opinions: good assurance, satisfactory assurance, limited assurance, and no assurance.

The following table explains the various assurance levels in terms of the controls in place and how testing has shown them to be operating. It also gives an indication as to the priority rating of recommendations you might expect at each assurance level, although please note this is for guidance only as the final opinion lies at the discretion of the Auditor.

Assurance Level	Explanation
Good Assurance	<p>Controls are in place to mitigate against the risks identified in the terms of Reference. Testing has shown that controls are working effectively and consistently to ensure that key risks are well managed.</p> <p>No high level recommendations have been made although there may be a small number at medium level. Some changes in the control environment may be beneficial to enhance performance and realise best practice.</p>
Satisfactory Assurance	<p>Controls are adequate to address the risks identified in the terms of reference. Testing has shown that there are some inconsistencies in the application of the controls, and attention is needed to improve the effectiveness of these controls.</p> <p>Recommendations will normally be no higher than medium level.</p>
Limited Assurance	<p>Controls are either not designed to mitigate the risks identified in the terms of reference, or testing has shown there to be significant non-application of controls. There are likely to be a number of high priority recommendations and/or a large number at the medium level.</p> <p>Attention is needed to improve the quality and effectiveness of the control environment in order to ensure key risks can be managed well.</p>
No Assurance	<p>There is an absence of controls to mitigate against the risks identified in the terms of reference. The majority of recommendations made are high priority, and key risks are not being properly managed. Urgent attention is required by management to improve the control environment.</p> <p>This area may be considered for inclusion in the organisation's Annual Governance Statement. It may also be appropriate for this area to be included in the sections/directorate Risk Register, and for the action plan to address these fundamental weaknesses to become part of the Service Delivery Plan.</p>

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Appendix B – Audit Opinion and Priority Rating for Individual Findings

Priority Rating for Individual Findings

Every audit finding and supporting recommendation will be rated in line with the criteria shown below. Timescales for necessary actions will be discussed with service managers, but the broad expectations for consideration and implementation are outlined below.

Priority	Explanation		
	Risk	Controls and Testing	Timescale
High	Action is required to mitigate against a risk which is assessed as likely to arise and having a high impact should it do so. A fundamental risk may involve failure to: <ul style="list-style-type: none"> • Meet key business objectives • Meet statutory objectives • Adhere to Cheshire East policies • Prevent fraud or material error 	Controls to mitigate risks identified in the terms of reference are either absent or poorly designed. Testing has shown that controls are significantly failing to work as intended.	This action needs immediate consideration by management. Implementation of necessary actions may take longer, but an action plan to address the issues should be developed immediately.
Medium	Action is required to mitigate against a risk which is assessed as being likely to arise OR having a significant impact if it should arise.	Controls to mitigate risks identified in the terms of reference are in place. Testing has shown that controls are working as intended, with some minor inconsistency.	This action needs to be considered by management within 3 months. Implementation of necessary actions may take longer, but an action plan to address the issues should be developed within 3 months.
Low	Action is required to mitigate against a risk which is assessed as having a low impact or being unlikely to arise. Implementation of these actions will further strengthen internal control and improve potential for achieving best practice.	Controls to mitigate risks identified in the terms of reference are in place. Testing has shown that the controls are being applied consistently and effectively.	This action needs to be considered by management within 6 months. Implementation of necessary actions may take longer, but an action plan to address the issues should be developed within 6 months.