

Council

Date of Meeting:	1 February 2023
Report Title:	Public Interest Report
Report of:	Lorraine O'Donnell, Chief Executive
Ward(s) Affected:	ALL

1. Purpose of Report

- 1.1.** Full Council is required to debate a public interest report provided by Grant Thornton on 17 January 2023 who acted as the external auditors for Cheshire East Council from 2012/13 to 2017/18. This report gives effect to Schedule 7 of The Local Audit and Accountability Act 2014. The public interest report (the report) is attached as Appendix 1.
- 1.2.** The public interest report provides three recommendations and a historical narrative related to procurement events in 2014/15. The public interest report describes some of the issues that arose at that time, and summarises the actions taken by Cheshire East Council over the last seven years to rectify the historical issues and continuing improvements for the future.
- 1.3.** Council should carefully consider the public interest report to ensure all members now understand the events and conditions that led to the issues set out in this report. This consideration could usefully reflect upon: what happened; the governance and cultural arrangements that allowed it to happen; the critical success factors that led to the successful resolution of matters; and the key elements of the Council's current arrangements that can reassure members of the Council's ability to protect itself from such threats to its future governance.

2. Executive Summary

- 2.1.** Grant Thornton have stated that the public interest report is required to impartially record the nature of the events in 2014/15 and the actions taken by the Council over the last seven years.

- 2.2.** In the view of the external auditor, there remains a public interest in the matters described in the report being aired publicly. This is expressed in paragraph 2.3:

“In our view, there remains a public interest in these matters being aired publicly and analysed, both for accountability purposes for the local electorate and more widely to identify the underlying causes for the benefit of the local government sector as a whole.”

- 2.3.** The report goes on to state at paragraph 2.20:

“The public interest in the issuing of this report is to ensure that the electorate of Cheshire East is finally appraised of the events set out here, given that prior to this they have been reliant on partial media reporting. It is also of public interest to report upon the Council’s successful track record in addressing the previous failings. The report looks out beyond to the wider local government sector to illustrate both what can go wrong and how an authority can do its best to turn this round”

- 2.4.** The considerations given by the external auditor to their responsibilities under the Local Audit and Accountability Act 2014, and the issuing of a public interest report are set out in paragraph 4.1 of the report.

- 2.5.** The circumstances related to member and officer behaviours in and around 2014/15 and the historical failure to follow governance processes, non-compliance with the governance control framework and not having sufficient regard to the legal and governance framework. This decision making caused significant adverse publicity, lengthy police enquiries and loss of public confidence in the Council and reputational damage.

- 2.6.** The report provides an independent and transparent narrative of the events based on documentary evidence and the direct evidence from interviews of members and officers who were present in 2014/15. The report then explains how the matters were eventually concluded. Section 12 of the public interest report provides a summary of the member and management actions already taken by Cheshire East Council. These actions reflect the key elements of the council’s current arrangements which explains and may reassure the public, officers and members of the Council’s current functioning in 2023 and the ability to protect itself in the future.

- 2.7.** As a consequence of the Council’s actions already taken, the public interest report does not make any further management recommendations or require any additional direct management action in respect of any aspect of governance or culture.

3. Recommendations

- 3.1.** Council notes the content of the Public Interest Report dated 17 January 2023 provided by Grant Thornton LLP in their capacity as external auditors for Cheshire East Council during the period 2014/15.

- 3.2.** Notes the progress and effectiveness of the cultural and governance controls in by Cheshire East Borough Council.
- 3.3.** Agrees the three recommendations of the public interest report in relation to events in 2014/15 (Appendix 1) as follows:
- i The Council should carefully consider this report to ensure all members now understand the events and conditions that led to the issues set out in this report. This consideration could usefully reflect upon: what happened; the governance and cultural arrangements that allowed it to happen; the critical success factors that led to the successful resolution of matters; and the key elements of the Council's current arrangements that can reassure members of the Council's ability to protect itself from such threats to its future governance
 - ii The Council should, as planned, return to the other specific matters investigated by Internal Audit (see paragraphs 4.2 and 5.6 of the public interest report), following the Core Fit issue, and determine if there are further actions to be taken particularly in light of this report.
 - iii The Council should discuss with its current external auditors whether there are any matters arising from this report that should be addressed by the current auditor's statutory external audit.
- 3.4.** Agrees Audit and Governance Committee will receive a further internal audit report to conclude the recommendation at paragraph 3.3 (ii).

4. Reasons for Recommendations

- 4.1.** Grant Thornton has provided a report in the public interest on historical matters relating to Cheshire East Council. A public interest report must be publicised, promoted, and made available to the public as soon as reasonably practicable and to provide Council an opportunity to consider, debate and respond in a timely way. In this case the report focuses on events that are now eight years in the past.
- 4.2.** The external auditor's report makes three recommendations to Council. It is proposed that all recommendations are accepted.
- 4.3.** The first recommendation is to note the historical events and to give full and proper consideration to them, to understand how the circumstances arose and to seek assurance on how robustly the Council can manage future threats to governance. The Council has fully acknowledged the issues raised and over the last seven years has undertaken significant work to improve the culture and systems within the Council and this work continues. Given the significant passage of time and the extensive work undertaken the public interest report makes no recommendations for any specific remedial or management actions. The report at section 12 identifies some of the many

steps taken by Cheshire East Council to embed improvements in culture and governance.

- 4.4. The second recommendation relates to the ongoing internal audit work in relation to land transactions. The terms of reference for the internal audit assurance work were agreed with Grant Thornton in September 2022, the proposed report date is during 2023. This will assist the council identifying whether any further activity is required.
- 4.5. The third recommendation is to discuss with our current external auditors [Mazars] and identify with them whether there are any areas which may require consideration. Grant Thornton are not the current external auditors and further assurance is a matter for the Council's current external auditors. The Chief Financial Officer, Monitoring Officer and Head of Internal Audit have discussed this issue with Mazars.
- 4.6. Mazars has not, as part of their current and prior year audits, highlighted any risks of, or actual significant weakness in respect of the Council's arrangements in relation to its use of resources or value for money which should be brought to the attention of the Audit and Governance Committee

5. Other Options Considered

- 5.1. The publication of this report and the public consideration of the report by full council is mandatory under the Local Audit and Accountability Act 2014.

6. Background

- 6.1. The external auditor's roles and responsibilities under the Local Audit and Accountability Act 2014 have been helpfully set out by Grant Thornton in a supplementary document, which has been published on the Council's website alongside the public interest report. This document also provides explanations as to the length of time between the concerns around the procurement matter arising in 2015/16, and the completion of the auditor's work, and the role of Grant Thornton as external auditors until 2017/18, and Mazars from 2018/19 onwards.
- 6.2. This public interest report provides a detailed analysis of matters surrounding the procurement of a contract for provision of physical fitness services to schools. This analysis is used to describe the cultural and governance challenges identified by Grant Thornton at a specific period in the Council's history. The report is a snapshot of the functioning of the Council in 2014/15. The report invites the Council to reflect upon and understand the events that created an environment that permitted the reported events to occur.
- 6.3. The report, having described the issues in relation to procurement, insurance and personal behaviours in 2014/15, describes the actions of councillors and officers and the challenges they faced in resolving the situation. The

recommendations invite Council to consider the critical success factors that led to the successful resolution of matters.

6.4. In considering the factors that led to a successful resolution, Council attention is drawn to section 6 and the conclusions of the report at paragraph 13.5. Council may wish to consider the opinion of the external auditor in respect of the current policy and statutory framework *“It appears that unless there are centralised changes, away from a purely localism based approach and in support of both officers and members, there will continue to be these types of tensions and lack of support from external forces.”*

6.5. Council is also asked to consider the key elements of the Council’s current arrangements that can reassure members of the Council’s ability to protect itself from future threats to its governance. The report at Section 12 sets out a summary of the member and management actions between 2015 and 2023. Members may wish to reflect on their own experience of the Council in 2023 and their understanding of the Council’s current cultural and governance position.

6.6. Although the passage of time and the unavoidable delay whilst investigations were completed may appear to limit the public interest in understanding the events in 2015, the report states at paragraph 13.7

“A key learning from this report for the sector is therefore that the inherent weaknesses identified here could create governance difficulties elsewhere in the future. Sector leaders, including Government should, in our opinion, now give this further consideration.”

6.7. The report summarises the functional and cultural changes made by Cheshire East as evidenced in the June 2020 independent LGA Corporate Peer Review Report at paragraph 4.3

“These improvements in workforce culture are also reflected in improved relationships between councillors and officers. The previous nature of these relationships was particularly damaging and detrimental in 2017, and the Peer Team recognise the stark improvements that have been made. As well as the recognition for the contribution made by the Acting Chief Executive and Senior Leadership Team, the Team heard positive feedback for the leadership demonstrated by the current and previous Leader of the Council on this topic. The Team witnessed first-hand the approach and respect that exists between officers and members throughout the week. This progress has been because both officers and councillors have recognised the key role and responsibility that they have in driving and modelling change.”

6.8. Cheshire East Council has placed culture at the heart of its change programme and continues to give prominence to openness and

transparency. The Council's current corporate plan has three main aims being Open, Fair and Green.

- 6.9.** The Corporate Leadership Team continue regular, in person meetings with the wider leadership team including all Directors and Heads of Service. All managers are encouraged to take part in managers 'Share and Support' online sessions where issues can be identified and escalated, and senior officers in the Corporate Leadership Team participate in development days in addition to their normal professional development.
- 6.10.** The Brighter Futures programme has created several initiatives and supports wider staff in having a voice in and being heard by senior management. Brighter Future Champions play a valuable role in the recruitment and selection of senior staff. Brighter Futures Champions remain involved in the recruitment of Tier 1 and Tier 2 senior managers, in the form of a Brighter Future Panel interview, allowing both candidates and champions the opportunity to learn more about the organisation and a candidate's ambition, vision and approach, including the commitment to the Council's values and behaviours.
- 6.11.** Managers Share and Support covers a wide variety of topics from new initiatives such as the Customer Experience programme, Estates and IT workstream, the new core financial and HR systems to wellbeing subjects such as building resilience, supporting staff with their caring responsibilities and promoting the Employee Assistance Programme.
- 6.12.** The Council continually monitors and reports on the cultural environment through staff surveys. Recent surveys have also included set themes. The surveys ask about staff and inform and engage staff in organisation wide issues. The July 2020 survey helped to shape the wellbeing programme for staff during Covid. The April 2021 survey shaped the Agile Working Policy and the Future Ways of Working Handbook. Senior managers overview each area's response to the staff survey feedback which is actioned through service area plans.
- 6.13.** The major functional change to the Council's governance structure has been the adoption of the committee system. The external audit report notes at paragraph 12.7

"Perhaps the most significant cultural reset for the Council in its relationship between officers and members is the move to a committee system".

- 6.14.** The committee system has been adopted, it is functioning and is under constant review by members through the Constitution Working Group which is supported by officers.

- 6.15.** The Council offered additional training to members and officers, including on behaviour, when the Council changed to the committee system and training has been provided to support positive decision making in committees. The Council also supports a member improvement panel where members contribute to change. The member induction programme for 2023 is being completely reviewed.
- 6.16.** The public interest report at paragraphs 3.3, 8.4, and 12.14 acknowledges and compliments the actions of Internal Audit. Internal Audit reviewed procurement controls and reported a satisfactory assurance to the Audit and Governance Committee in July 2018. The contract example used in the public interest report was subject to a review following the Crown Prosecution Service decision not to proceed in June 2020. This report was presented to Audit and Governance Committee in January 2021¹.
- 6.17.** The 2021 internal audit report concluded at paragraph 4.6 and 4.7:
- “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.”*
- “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.”*
- 6.18.** The second external audit recommendation invites the Council to continue the internal audit work. After the decision not to prosecute in relation to other matters in late 2021 the internal audit team identified a programme for reporting on the remaining matters. It was agreed with Grant Thornton that the internal audit work would await the outcome of their investigation to ensure it encompassed all remaining matters. The terms of reference for the remaining internal audit work (as recommended in the external audit report) were agreed with Grant Thornton in September 2022. A precise timetable for the completion of the internal audit work identified in recommendation 2 cannot be given.
- 6.19.** The internal audit report will be reviewed by the council’s statutory officers and reported to our Audit and Governance Committee. The Committee, the external auditor or a statutory officer (Head of Paid Service, Chief Financial Officer or Monitoring Officer) may recommend referring the internal audit report to Council.

¹ Report to Audit and Governance Committee, 28 January 2021 (Item 70)
(<http://moderngov.cheshireeast.gov.uk/ecminutes/ieListDocuments.aspx?CId=486&MIId=8526>)

- 6.20.** Once completed, the outcome of the internal audit work will be available to Mazars enabling their consideration constituent with responsibilities as the Council's current external auditors.
- 6.21.** Council should note a CIPFA (Chartered Institute of Public Finance and Accountancy) review of the Audit and Governance Committee started in January 2023. This will review arrangements for decision making, consideration of risk and operation against CIPFA's recently updated guidance for Audit Committees, and supports elected members and co-opted independent members to remain at the forefront of best practice regarding their functions and responsibilities in respect of the good governance of the authority.
- 6.22.** The final recommendation requires Cheshire East Council to work with our current external audit partners (Mazars) to consider if there are any matters arising from this report that should be addressed in the current auditor's statutory external audit.
- 6.23.** Cheshire East Council works closely with our current external auditors. On 19 December 2022 officers met with the current external auditor Mazars, who indicated that they have not identified any actual or risk of significant weakness in respect of the council's arrangements for the use of resources or value for money which should be brought to the attention of the Audit and Governance Committee.
- 6.24.** Mazars attend each Audit & Governance Committee and importantly have arrangements for private discussion with the Chair and Vice Chair of the Audit and Governance Committee prior to each Audit & Governance Committee meeting. Statutory officers meet regularly with Mazars.
- 6.25.** Lastly, Council should note the external audit report states at paragraph 12.16

“Finally, it should be noted that this report is about culture, standards/ethics and corporate governance. During this turbulent time, the Council managed to keep service delivery to a good standard. Frontline staff continued with their roles and there were no adverse inspection findings.”

7. Consultation and Engagement

- 7.1.** On publication of the Public Interest Report on 18 January 2023 and to comply with the Local Audit and Accountability Act 2014, the Council has:
- Ensured the report was brought to the attention of the elected members by sending a copy of the report to each elected member on the 18 January 2023.
 - Ensured the report was brought to the attention of partner organisations and stakeholders by email

- Ensured the report was brought to the attention of the public by informing local media outlets by way of a press release providing a digital link to the report.
- Published the report on the Cheshire East Council website²
- Provided a frequently asked questions and answers note to aid understanding³
- Provided details on how to obtain physical copies of the report.
- Provided information to all employees of Cheshire East Council through Team Voice, Chief Executive's video blog and through manager cascade.
- Informed the council's wholly owned companies and provided a copy of the report to the managing director.
- Published this report and called an extraordinary meeting of full council which is open to the public.
- The Council will publish a public notice, approved by the external auditor, which summarises the outcome of the extraordinary meeting of the full council meeting. The agreed notice will be published in the local media and on the Council's website.
- Engaged with Mazars, the Council's current external auditors.

8. Implications

8.1. Legal

8.1.1. The public interest report must be publicised and considered by Council in accordance with the provision of Schedule 7 of the Local Audit and Accountability Act 2014.

8.1.2. Under the provisions of the Act, the Council must decide if the report requires the authority to take any action and if the recommendations are accepted. The recommendations and responses are set out in the body of this report and after considering the report and the responses, Council must notify the external auditor of its decisions and publish a notice containing a summary of those decisions which has been approved by Grant Thornton.

8.1.3. The recommendations relate to events in 2014/15. The recommendations do not require any further direct member or management response or action plan in 2023.

8.2. Finance

8.2.1. Public Sector Audit Appointments Ltd (PSAA Ltd) are responsible for the assessment, and issue, of any proposed fee variations associated with the

² <https://www.cheshireeast.gov.uk/pdf/council-and-democracy/council-finance-and-governance/public-interest-jan2023/cheshire-east-council-final-17-january-2023.pdf>

³

https://www.cheshireeast.gov.uk/council_and_democracy/your_council/council_finance_and_governance/public-interest-report-january-2023.aspx

work of Grant Thornton LLP in the production of the public interest report. Such costs are payable by the Council and would be reported as part of the regular reporting of Council expenditure.

8.3. Policy

8.3.1. The public interest report raises historical concerns in respect of culture and behaviour in 2014/15. Significant changes to governance arrangements and culture have been made, there are no management recommendations for change in the report and Cheshire East Council in 2023 continues to progress with cultural and governance improvements.

8.3.2. The report also identifies the importance of standards in public life, the disclosure policy (whistleblowing) route, dignity within the workplace and a culture based on mutual understanding of roles and responsibilities between members and officers.

8.4. Equality

8.4.1. No direct impact, but the positive cultural changes in Cheshire East Council encompass all equality matters not just those mentioned in the external audit report.

8.5. Human Resources

8.5.1. The report outlined a turbulent historical period which resulted in multiple changes of senior staff as outlined in the report.

8.5.2. The current senior management now comprises a fully recruited Council Leadership Team.

8.6. Risk Management

8.6.1. The governance and control mechanisms for the council are key strategic risks and are reported on the council's strategic risk register. The strategic risk register includes governance and reputational matters. The risks are regularly reviewed by members in committee and by officers. The review allows improvements to the control environment to be identified.

8.7. Rural Communities

8.7.1. None

8.8. Children and Young People/Cared for Children

8.8.1. The example used a contractual issue related to schools. Failure to obtain value for money would have impacted both the service and confidence in the sector.

8.9. Public Health

8.9.1. None

8.10. Climate Change

8.10.1. None

Access to Information

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Appendices	Grant Thornton Public Interest Report 17 January 2023
Background Papers	Internal Audit Report 2021 http://moderngov.cheshireeast.gov.uk/ecminutes/ieListDocuments.aspx?CId=486&MId=8526 Grant Thornton – Roles and Responsibilities https://www.cheshireeast.gov.uk/pdf/council-and-democracy/council-finance-and-governance/public-interest-jan2023/auditors-role-and-responsibilities-final.pdf