

Audit and Governance Committee

Agenda

Date:	Thursday, 28th September, 2023
Time:	10.00 am
Venue:	The Capesthorpe Room - Town Hall, Macclesfield SK10 1EA

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 in the report.

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

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

1. **Apologies for Absence**

2. **Declarations of Interest**

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

3. **Minutes of Previous Meeting** (Pages 3 - 12)

To approve as a correct record the minutes of the meeting held on 27 July 2023.

4. **External Auditors - Indicative Audit Strategy Memorandum** (Pages 13 - 50)

To note the update from the External Auditors.

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

In accordance with paragraphs 2.24 of the Council's Committee Procedure Rules and Appendix on Public Speaking a total period of 15 minutes is allocated for members of the public to put questions to the committee on any matter relating to this agenda. Each member of the public will be allowed up to two minutes each to speak, and the Chair will have discretion to vary this where they consider it appropriate.

For requests for further information

Contact: Jennifer Ashley

E-Mail: jennifer.ashley@cheshireeast.gov.uk

Members of the public wishing to speak are required to provide notice of this at least three clear working days' in advance of the meeting and should include the question with that notice.

6. **Action Log** (Pages 51 - 54)

To consider the Action Log.

7. **Monitoring Officer Annual Report 2022/23** (Pages 55 - 94)

To consider the attached report.

8. **Annual Report of the Audit and Governance Committee 2022/23** (Pages 95 - 110)

To consider the attached report.

9. **Proposed Terms of Reference - Audit and Governance Committee**

To note the verbal update on progress.

10. **Recruitment of Co - opted Independent Member**

To note the verbal update on progress.

11. **Work Programme** (Pages 111 - 116)

To consider the committee's work programme.

12. **Section 106 Key Findings - Internal Audit Report** (Pages 117 - 142)

To consider the attached report.

Membership: Councillors Adams, Beanland (Chair), K Edwards (Vice Chair), Heler, Hilliard, Houston, Marshall, Redstone, Snowball and Mr R Jones.

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Audit and Governance Committee**
held on Thursday, 27th July, 2023 in the Committee Suite 1,2 & 3, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor M Beanland (Chair)
Councillor K Edwards (Vice-Chair)

Councillors S Adams, C Hilliard, M Houston, G Marshall, P Redstone,
J Snowball and L Smetham (substitute for Councillor Heler)

Mr R Jones, Independent Co-opted Member

OFFICERS IN ATTENDANCE

David Brown, Director of Governance and Compliance and Monitoring Officer
Alex Thompson, Director of Finance and Customer Services and S151 Officer
Josie Griffiths, Head of Audit and Risk
Michael Todd, Acting Internal Audit Manager
Gareth Pawlett, Corporate Manager ICT
Lianne Halliday, Procurement Manager
Julie Gibbs, Data Protection Officer
Alan Ward, Complaints Support Officer
Jennifer Ashley, Democratic Services Officer

15 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Heler.

16 DECLARATIONS OF INTEREST

There were no declarations of interest received.

17 PUBLIC SPEAKING TIME/OPEN SESSION

Member of the public, Ms Debbie Jamison attended the meeting and spoke in relation to item 4 of the agenda. Ms Jamison confirmed that since the last meeting she had met with the Head of Audit & Risk to discuss her concerns about a land transaction and progress is ongoing.

Ms Jamison asked a further question of the committee, 'how does the committee intend to listen to a consideration of matters raised at that follow up meeting and examine any ongoing actions? In summary, the matter raises concerns about a land transaction options agreement that presents risks both financial and reputational to the Council which may also uncover matters around governance that need addressing.' Ms

Jamison also requested that a an item be added to the committees action log to maintain progress and updates on the matter as appropriate.

In response to the question, the Head of Audit and Risk suggested the request be added to the committees action log for the committee to receive details of outcomes and updates as required. Work on the issue raised had commenced with a terms of reference agreed. The committee will be kept appraised of outcomes as appropriate.

18 MINUTES OF PREVIOUS MEETING

RESOLVED;

That the minutes of the meeting held on 8 June 2023 be approved as a correct record subject to the inclusion on Item 7 – CIPFA Review of the Audit and Governance Committee, that the Committee agree to invite CIPFA to return to review the Committee and progress made at a face to face workshop.

19 ACTION LOG

The committee reviewed the progress of the action log.

1. Statement of Accounts (Cheshire East & Wholly Owned Companies)
Briefing session will be held on 28 July 2023

2. Draft Pre Audited Financial Statements
Written response circulated to committee members 10 July 2023

3. Draft Pre Audited Financial Statements – Wholly Owned Companies
Question amended to 'The committee asked why there had been an increase on the Cost of Sales?

Amended question to be sent to the Board of Directors with a request for a written response to be provided

4. Training / briefing session on financial difficulties
Written response circulated to committee members on 10 July 2023 which included details of how to access a series of webinars on the CIPFA website. Members were also invited to attend a session on 'Financial Management in Cheshire East' on 13 July 2023

5. Terms of Reference Review
Report presented to committee at 27 July 2023 meeting and working group formed. This item will be included on the work programme for review at a future meeting of the committee.

6. Internal Audit Plan 2022/23 Progress Update
Letter sent to Chair of Highways and Transport Committee 5 July 2023. Response received 26 July 2023, which will be circulated to committee members.
7. Work Programme – Disability Monitoring
The Head of Audit and Risk would invite Independent Member, Mr Jones, to be part of discussions during the setting of the next Internal Audit Plan.
8. Work Programme – Customer Services Review
The briefing session for members on the Customer Service Charter had been delayed and will be arranged for later in 2023.
9. Work Programme – S106 Funding
It was confirmed that this report is an item on the work programme and is scheduled to be presented to the Audit and Governance Committee on 28 September 2023

The committee agreed to add the following items to the action log:

- a. Internal Audit Briefing – to provide an opportunity for members to understand the purpose and role of Internal Audit, how the team determine what is covered in the annual plan, the different kinds of work undertaken by Internal Audit and how it is approached and undertaken.
- b. Details of Ombudsman Complaints comparison of Local Authority Complaints
2022/23 Ombudsman Report to be circulated to committee members
- c. Land Transaction – Internal Audit Investigation
For the committee to receive details of outcomes and updates as required

20 EXTERNAL AUDIT - VALUE FOR MONEY REPORT

The Chair informed the committee that this item was to include an update from the External Auditors on progress, not the Value for Money Report, which will be presented to the committee at the meeting planned for September 2023.

The committee received a report from the External Auditors, Mazars, that detailed the following:

- 2022/23 Audit – commencement of this audit has been deferred until September 2023 due to national issues. It was noted that the council's Finance Team had worked hard to ensure the draft statement of accounts for 2022/23 were published on time and Cheshire East were in the minority of council's who had achieved this

- 2021/22 Audit – due to ongoing national issues with reporting of assets and liabilities relating to pension funds, the Council were required to obtain an updated IAS19 valuation report which will require the draft financial statement to be amended. This is in progress and expected to be completed in the summer, with the Audit Opinion due to be reported at the next committee meeting in September
- 2020/21 Audit – work on this audit was now complete with no areas outstanding. Sign off for the 2021/22 statement of accounts is planned for week commencing 31 July 2023.

The committee were also provided with details of National Publications for their information.

RESOLVED:

That the committee noted:

- (1) The Audit Progress Report of Mazars dated July 2023, including the updates on the audit of accounts for the years ending 31 March 2021, and 31 March 2022 and the plan for the audit of the accounts for the year ending 31 March 2023.

21 ANNUAL COMPLAINTS REPORT 2022/23

The committee received a report from the Director of Finance and Customer Service that provided a summary and analysis of complaints and compliments received by the Council during the period 1 April 2023 to 31 March 2023.

The report highlighted areas of concerns and examples of good practice and provided the committee with the assurance that matters raised as complaints by customers were being addressed, actions were being taken to rectify issues and information arising from complaints had helped to inform service improvements.

It was explained to the committee that the council has a Corporate Complaint Policy which covers all complaints about council services other than Children's Social Care complaints, which have a separate statutory complaints process. In addition, where the councils complaints process has been exhausted a complainants next course of action is to the Local Government and Social Care Ombudsman.

An overview of complaints received by each directorate was provided to committee members along with a summary of recommended actions from Ombudsman Decision Notices where fault was found.

RESOLVED:

That the Audit and Governance Committee;

- (1) Noted the annual committee complaints and compliments data, and briefing material relating to the 2022/23 financial year;
- (2) Noted the issues raised and improvements made in respect to the management of complaints across the council;
- (3) Noted the council's compliance with the Corporate Complaints Policy, and recommendations of the Ombudsman.

22 INFORMATION GOVERNANCE UPDATE 22/23

The committee received a report from the Director of Finance and Customer Services that provided an update on the Council's Information Assurance and Data Management (IADM) programme during 2022/23. The report outlined key aspects of the programme to provide assurance to the committee that information continues to be treated and managed as a valued asset, with ongoing measures to protect it in line with compliance and leverage it where possible to support enhanced service delivery and optimise business benefit.

The committee were advised that following a self-assessment using the Gartner's Enterprise Information Management Maturity assessment tool to monitor progress, a tangible increase in maturity level had been achieved.

RESOLVED:

That the Audit and Governance Committee noted the progress made and the onward direction of the Information Assurance and Data Management programme.

23 ANNUAL INTERNAL AUDIT OPINION 2022/23

The committee received a report from the Director of Governance and Compliance that detailed the work undertaken by Internal Audit during 2022/23 and how this contributed to the Annual Internal Audit Opinion on the overall adequacy and effectiveness of the Council's control environment.

It was highlighted to the committee that the council is responsible for establishing and maintaining appropriate risk management processes, control systems, accounting records and governance arrangements with Internal Audit playing a vital part in advising the Council, via Audit and Governance Committee that these arrangements are in place and operating properly.

The committee were informed that for each review undertaken, a report summarising the work assessed, issues identified and actions required was produced for each review. This ensured findings are factually accurate and management actions resulted in improvements to the control environment.

RESOLVED:

That the Audit and Governance Committee;

- (1) Noted the contents of the Internal Audit Annual Opinion 2022/23 as detailed in Appendix A;
- (2) Noted the Internal Audit Opinions on the Council's framework of risk management, control and governance for 2022/23 as 'Adequate'.

24 RIPA POLICY AND INSPECTION PLAN UPDATE

The committee received a report from the Director of Governance and Compliance that provided an update on the action plan following an inspection by the Investigatory Powers Commissioners Office (IPCO). The committee considered details of the inspection and action plan at their meeting of 9 March 2023, with a request for updates of amended policies and procedures to be provided to committee members.

Following the IPCO inspection in November 2022, suggestions were made for improvements to policies and procedures to ensure they aligned with guidance contained within the Covert Surveillance and Property Interference Code of Practice (2018).

Details of the action plan and summary of changes made to policies were provided to the committee, including a review of Authorising Officers following changes in senior management.

RESOLVED:

That the Audit and Governance Committee noted the updates to policies and procedures as detailed in the report.

25 ANNUAL RISK MANAGEMENT REPORT 2022/23

The committee received a report from the Director of Governance and Compliance that provided an update on the Strategic Risk Register for the period Quarter 4 2022/23 and reflected on the full year of 2022/23.

Updates on the Strategic Risk Register were provided on a quarterly basis alongside updates on the organisations financial performance and performance against the Corporate Plan objectives, to provide a comprehensive review and understanding of the Council's position throughout the year.

The committee highlighted risk 'SR01C Increase Demand for Children's Services' as a concern, being a long standing item and that demand will only increase, along with costs. It was reported that this was a national issue with deficits continuing to rise. An accountancy override has been implemented until such a time alternative funding streams can be identified.

RESOLVED:

That the Audit and Governance Committee received and noted the Annual Risk Management Report 2022/23.

26 DRAFT ANNUAL GOVERNANCE STATEMENT 2022/23

The committee received a report from the Chief Executive that provided details of the draft Annual Governance Statement (AGS) for 2022/23. The AGS is produced to explain how the authority makes decisions, manages resources, promotes its values and high standards of conduct and behaviour.

It was highlighted to the committee that the review is carried out against the Council's Code of Corporate Governance and reflects on activity over the 2022/23 financial year. The final draft will be updated to cover activity up to the date of approval of the Council's Statement of Accounts.

RESOLVED:

That the Audit and Governance Committee;

- (1) Received and reviewed the draft Annual Governance Statement 2022/23, and noted the final proposed Annual Governance Statement will be provided at a future meeting of the committee for approval;
- (2) Approved the proposed changes to the significant issues as detailed in section 7 and 8 of the draft statement.

27 REVIEW OF AUDIT AND GOVERNANCE COMMITTEE TERMS OF REFERENCE

The committee received a report from the Director of Governance and Compliance that provided details of proposals to establish a working group to review and update the Audit and Governance Committee Terms of Reference to enable to progress the CIPFA review recommendation.

The proposed composition, frequency of meetings, suggested timescales, and terms of reference for the working group were provided to the committee.

RESOLVED:

That the Audit and Governance Committee;

- (1) Agreed to send nominations to Democratic Services for the establishment of a politically balanced work group to review and update the Audit and Governance Committee Terms of Reference
- (2) Agreed the terms of reference for the working group as detailed in Appendix 2

- (3) Agreed that the working group will report its initial proposals to the Audit and Governance Committee at the 28 September 2023 meeting

28 RECRUITMENT OF CO-OPTED INDEPENDENT MEMBER FOR THE AUDIT AND GOVERNANCE COMMITTEE

The committee received a report from the Director of Governance and Compliance that outlined the suggested approach for the recruitment of a second co-opted independent member for the committee.

The recruitment of a second co-opted independent member was a recommendation following the CIPFA review of the committee.

RESOLVED:

That the Audit and Governance Committee;

- (1) Reviewed and agreed the proposed approach, including the timeline and application pack as detailed at Appendix 1 and 2;
- (2) Agreed that nominations be sent to Democratic Services from members of the committee who will form a panel to carry out the shortlisting and interviewing of candidates and recommended a successful candidate for the committee.

29 WORK PROGRAMME

The committee considered the work programme for 2023/2024.

It was noted that the following items be rescheduled to be presented at the December meeting of the committee

- AG/05/23-24 Final Statement of Accounts 2022/23
- AG/06/23-24 Companies Audited Financial Statements 2022/23
- AG/25/23-24 Final Annual Governance Statement 2022/23

RESOLVED:

That the work programme be noted.

30 ANNUAL PROCUREMENT UPDATE

The committee received a report from the Director of Finance and Customer Service that provided an update on procurement activity during 2022 – 2023 financial year. The report provided an update on the number of tenders completed, number of contracts awarded and the number of cases where, and reasons why, procurement activity required the use of waivers and/or non-adherences (WARNs).

In addition, the report provided an update on the Councils Contract Management System (Atamis), Contract Management Training, Procurement Regulations and the key deliverables for 2023-2024.

The committee discussed the content of a number of WARNs and asked a number of questions, to which it was agreed for a written response to be provided.

RESOLVED:

That the Audit and Governance Committee:

1. Noted the reason for 24 waivers approved between 1st April 2022 and 31st March 2023.
2. Noted the reason for 4 non-adherences between 1st April 2022 and 31st March 2023.
3. Noted the update on the contract management system, contract management training and Procurement Regulations
4. Agreed for a written response to questions asked to be provided to the committee.

31 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 involved the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972 and public interest would not be served in publishing the information.

32 WAIVERS AND NON ADHERENCES

RESOLVED:

That the WARNs be received and noted.

The meeting commenced at 2.05 pm and concluded at 5.45 pm

Councillor M Beanland (Chair)

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OPEN

Audit and Governance Committee

28th September 2023

Indicative Audit Strategy Memorandum

Report of: Alex Thompson, Director of Finance and Customer Services,
S.151 Officer

Ward(s) Affected: All

Purpose of Report

- 1 The Indicative Audit Strategy Memorandum sets out the processes and timelines for the audit of the 2022/23 Statement of Accounts.

Executive Summary

- 2 The report summarises the audit approach of the Council's external auditors Mazars, highlights the significant audit risks and the areas of key judgements and provides the committee with the details of the audit team.

RECOMMENDATIONS

The Audit and Governance Committee is recommended to:

1. Consider the Indicative Audit Strategy Memorandum that sets out the audit approach and timelines for the audit of the 2022/23 Statement of Accounts.

Background

- 3 The auditors are responsible for giving an opinion on:
- Whether the accounts give a true and fair view of the financial position of the the Council and the Group and of the Council's and the Group's expenditure and income for each financial year ending 31st March;
 - Whether they have been prepared properly in accordance with the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom.

Consultation and Engagement

- 4 In accordance with the Accounts and Audit (amendment) Regulations 2022 (SI 2021/263) the accounts were made available for public inspection between 1st June to 12th July 2023.

Reasons for Recommendations

- 5 The appointed auditors are required to report to those charged with governance. The report sets out to Members how the auditor's plan to conduct the audit for the 2022/23 Statement of Accounts.

Implications and Comments

Monitoring Officer/Legal

- 6 There are no legal implications identified.

Section 151 Officer/Finance

As covered in the report.

Policy

- 7 There are no Policy implications identified.

Equality, Diversity and Inclusion

- 8 There are no Equality, Diversity and Inclusion implications identified.

Human Resources

9 There are no Human Resources implications identified.

Risk Management

10 The audit will be conducted in accordance with International Standards of Auditing (UK) and means the auditors focus on audit risks that have been assessed as resulting in a higher risk of material misstatement.

Rural Communities

11 There are no direct implications to rural communities

Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)

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

Public Health

13 There are no direct implications to public health.

Climate Change

14 There are no direct implications to climate change.

Access to Information	
Contact Officer:	Paul Goodwin - Head of Finance & Deputy Chief Finance Officer Paul.goodwin@cheshireeast.gov.uk
Appendices:	Indicative Audit Strategy Memorandum
Background Papers:	Statement of Accounts 2022-23

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Indicative Audit Strategy Memorandum

Cheshire East Council

Year ending 31 March 2023



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- 04 Significant risks and other key judgement areas
- 05 Value for money
- 06 Fees for audit and other services
- 07 Our commitment to independence
- 08 Materiality and misstatements

- A Appendix A – Key communication points
- Appendix B – Revised auditing standard on Identifying and assessing the risks of material misstatement: ISA (UK) 315 (Revised 2019)

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

Audit and Governance Committee
Cheshire East Council
Westfield, Middlewich Road.
Sandbach. CW11 1HZ

12 September 2023

Dear Committee Members

Mazars LLP
30 Old Bailey
London
EC4M 7AU

Indicative Audit Strategy Memorandum – Year ending 31 March 2023

We are pleased to present our Indicative Audit Strategy Memorandum for Cheshire East Council for the year ending 31 March 2023. The purpose of this document is to summarise our audit approach, highlight significant audit risks and areas of key judgements and provide you with the details of our audit team. As we have yet to complete our formal planning procedures we will update the Committee with any change to our risks and approach if required.

As it is a fundamental requirement that an auditor is, and is seen to be, independent of its clients, section 7 of this document also summarises our considerations and conclusions on our independence as auditors. We consider two-way communication with you to be key to a successful audit and important in:

- reaching a mutual understanding of the scope of the audit and the responsibilities of each of us;
- sharing information to assist each of us to fulfil our respective responsibilities;
- providing you with constructive observations arising from the audit process; and
- ensuring that we, as external auditors, gain an understanding of your attitude and views in respect of the internal and external operational, financial, compliance and other risks facing Cheshire East Council which may affect the audit, including the likelihood of those risks materialising and how they are monitored and managed.

With that in mind, we see this document, which has been prepared following our initial planning discussions with management, as being the basis for a discussion around our audit approach, any questions, concerns or input you may have on our approach or role as auditor. This document also contains an appendix that outlines our key communications with you during the course of the audit, and explains the implications of the introduction of the new auditing standard for Identifying and assessing the risks of material misstatement: ISA (UK) 315 (Revised 2019).

Client service is extremely important to us and we strive to provide technical excellence with the highest level of service quality, together with continuous improvement to exceed your expectations so, if you have any concerns or comments about this document or audit approach, please contact me on 07977 261873.

Yours faithfully



Suresh Patel, Partner-Mazars LLP

Mazars LLP – 30 Old Bailey London EC4M 7AU

Section 01:

Engagement and responsibilities summary

1. Engagement and responsibilities summary

Overview of engagement

We are appointed to perform the external audit of Cheshire East Council (the Council) for the year to 31 March 2023. The scope of our engagement is set out in the Statement of Responsibilities of Auditors and Audited Bodies, issued by Public Sector Audit Appointments Ltd (PSAA) available from the PSAA website: <https://www.psaa.co.uk/managing-audit-quality/statement-of-responsibilities-of-auditors-and-audited-bodies/>. Our responsibilities are principally derived from the Local Audit and Accountability Act 2014 (the 2014 Act) and the Code of Audit Practice issued by the National Audit Office (NAO), as outlined below.

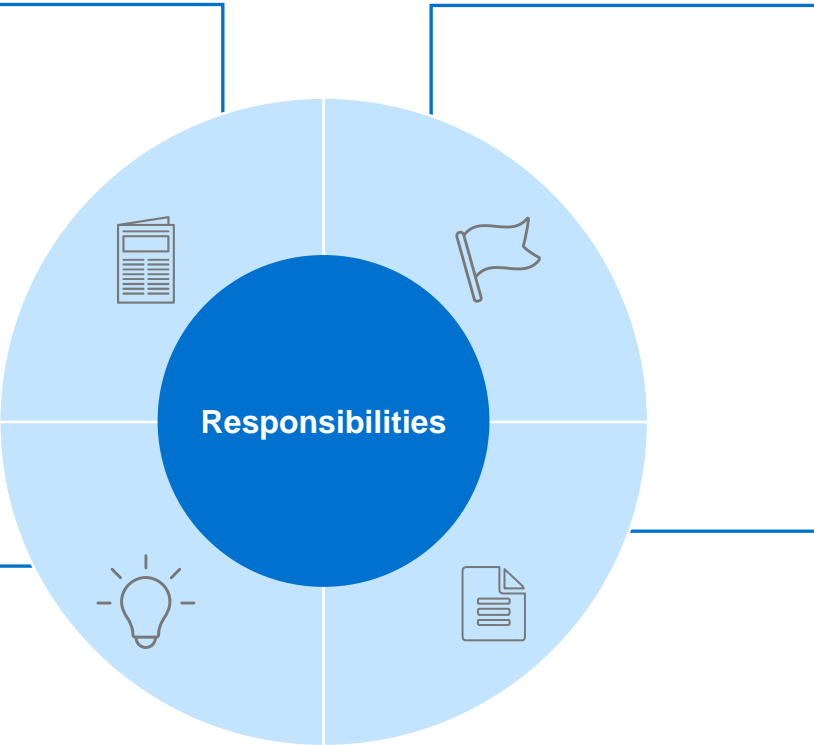
Audit opinion

We are responsible for forming and expressing an opinion on whether the financial statements are prepared, in all material respects, in accordance with the Code of Practice on Local Authority Accounting. Our audit does not relieve management or Audit and Governance Committee, as those charged with governance, of their responsibilities.

The Director of Finance & Customer Services is responsible for the assessment of whether it is appropriate for the Council to prepare its accounts on a going concern basis. As auditors, we are required to obtain sufficient appropriate audit evidence regarding and conclude on: a) whether a material uncertainty related to going concern exists; and b) consider the appropriateness of the Director of Finance & Customer Services' use of the going concern basis of accounting in the preparation of the financial statements.

Value for money

We are also responsible for forming a commentary on the arrangements that the Council has in place to secure economy, efficiency and effectiveness in its use of resources. We discuss our approach to Value for Money work further in section 5 of this report.



Fraud

The responsibility for safeguarding assets and for the prevention and detection of fraud, error and non-compliance with law or regulations rests with both those charged with governance and management. This includes establishing and maintaining internal controls over reliability of financial reporting.

As part of our audit procedures in relation to fraud we are required to enquire of those charged with governance, including key management as to their knowledge of instances of fraud, the risk of fraud and their views on internal controls that mitigate the fraud risks. In accordance with International Standards on Auditing (UK), we plan and perform our audit so as to obtain reasonable assurance that the financial statements taken as a whole are free from material misstatement, whether caused by fraud or error. However our audit should not be relied upon to identify all such misstatements.

Wider reporting and electors' rights

We report to the NAO on the consistency of the Council's financial statements with its Whole of Government Accounts (WGA) submission. The 2014 Act requires us to give an elector, or any representative of the elector, the opportunity to question us about the accounting records of the Council and consider any objection made to the accounts. We also have a broad range of reporting responsibilities and powers that are unique to the audit of local authorities in the United Kingdom.

Section 02:

Your audit engagement team

2. Your audit engagement team

For 2022/23 we have made a change to your Engagement Lead following the retirement of Mark Dalton. Suresh Patel brings with him 30 years' experience of auditing local councils from an initial career with the Audit Commission, then Ernst and Young and has been a Partner with Mazars since August 2021.



Suresh Patel

Partner and Engagement Lead

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Muhammad Uzair Khan

Senior Manager

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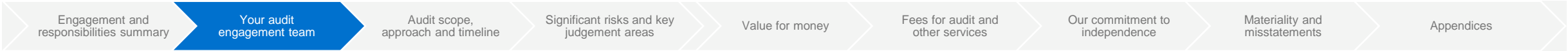
Mark Stansfield

Assistant Manager

mark.stansfield@mazars.co.uk

0161 238 9230

As the Council continues to meet the criteria of a Major Local Audit under the Local Audit and Accountability Act 2014. As a result, as part of the firm's quality management arrangements we appoint an engagement quality reviewer (EQR) who works closely with Suresh and the team but has no direct engagement with the Council. We will ensure that the timing of the EQR input is built into our planned timetable for the delivery of the audit.



03

Section 03:

Audit scope, approach and timeline

3. Audit scope, approach and timeline

Audit scope

Our audit approach is designed to provide an audit that complies with all professional requirements.

Our audit of the financial statements will be conducted in accordance with International Standards on Auditing (UK), relevant ethical and professional standards, our own audit approach and in accordance with the terms of our engagement. Our work is focused on those aspects of your activities which we consider to have a higher risk of material misstatement, such as those impacted by management judgement and estimation, application of new accounting standards, changes of accounting policy, changes to operations or areas which have been found to contain material errors in the past.

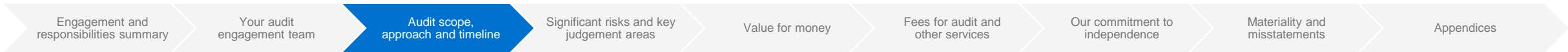
Audit approach

Our audit approach is risk-based and primarily driven by the issues that we consider lead to a higher risk of material misstatement of the accounts. Once we have completed our risk assessment, we develop our audit strategy and design audit procedures in response to the risks identified.

If we conclude that appropriately-designed controls are in place then we may plan to test and rely upon these controls. If we decide controls are not appropriately designed, or we decide it would be more efficient to do so, we may take a wholly substantive approach to our audit testing. Substantive procedures are audit procedures designed to detect material misstatements at the assertion level and comprise: tests of details (of classes of transactions, account balances, and disclosures); and substantive analytical procedures. Irrespective of the assessed risks of material misstatement, which take into account our evaluation of the operating effectiveness of controls, we are required to design and perform substantive procedures for each material class of transactions, account balance, and disclosure.

Our audit will be planned and performed so as to provide reasonable assurance that the financial statements are free from material misstatement and give a true and fair view. The concept of materiality and how we define a misstatement is explained in more detail in section 8.

The diagram on the next page outlines the procedures we perform at the different stages of the audit.



3. Audit scope, approach and timeline

The Council published its draft statements for 2022/23 by the end of May 2023, one of a few councils in the country. Due to the backlog of other audits we have to complete, we informed the Council of our planned timetable as outlined below. Our timetable enables the the Council to service the audit so that we can aim to complete the audit by December 2023.

Planning and Risk Assessment – September/October

- Planning visit and developing our understanding of the Council
- Initial opinion and value for money risk assessments
- Considering proposed accounting treatments and accounting policies
- Developing the audit strategy and planning the audit work to be performed
- Agreeing timetable and deadlines
- Risk assessment analytical procedures
- Determination of materiality

Completion - December

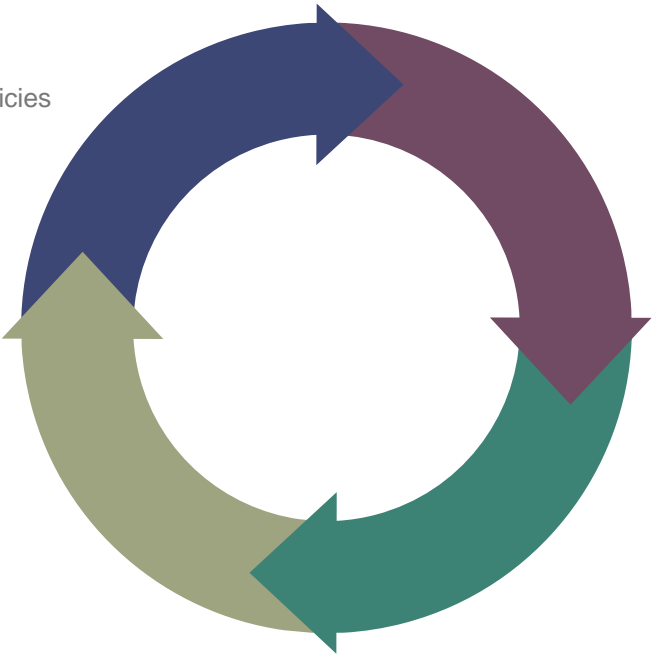
- Final review and disclosure checklist of financial statements
- Final partner and EQR review
- Agreeing content of letter of representation
- Reporting to the Audit and Governance Committee
- Reviewing subsequent events
- Signing the independent auditor’s report

Interim - October

- Documenting systems and controls
- Performing walkthroughs
- Interim controls testing including tests of IT general controls
- Early substantive testing of transactions
- Reassessment of audit plan and revision if necessary

Fieldwork - October/ November

- Receiving and reviewing draft financial statements
- Delivering our audit strategy starting with significant risks and high risk areas including detailed testing of transactions, account balances and disclosures
- Communicating progress and issues
- Clearance meeting



3. Audit scope, approach and timeline

Working with internal audit

Where possible we will seek to utilise the work performed by internal audit to modify the nature, extent and timing of our audit procedures. We will meet with internal audit to discuss the progress and findings of their work prior to the commencement of our controls evaluation procedures.

Management’s and our experts

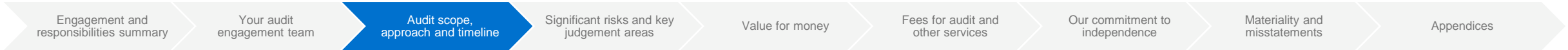
Management makes use of experts in specific areas when preparing the Council’s financial statements. We also use experts to assist us to obtain sufficient appropriate audit evidence on specific items of account.

Item of account	Management’s expert	Our expert
Defined benefit liability	Hyman & Robertson Actuaries	PwC, consulting actuary, on behalf of National Audit Office
Property, plant and equipment and Investment Property valuation	Montagu Evans and Farms Estate Shared Service	We will use available third-party information to challenge the key valuation assumptions.
Financial instrument disclosures	Arlingclose Treasury Advisors	We will review the expert’s methodology in calculating the fair value disclosures to confirm the reasonableness of assumptions used

Service organisations

International Auditing Standards (UK) (ISAs) define service organisations as third party organisations that provide services to the Council that are part of its information systems relevant to financial reporting. We are required to obtain an understanding of the services provided by service organisations as well as evaluating the design and implementation of controls over those services. The table below summarises the service organisations used by the Council and our planned audit approach.

Items of account	Service organisation	Audit approach
Payroll, non-pay expenditure and other transactional items of account	Cheshire transactional services shared services	We plan to obtain assurance by understanding the process and controls that the Council has in place to assure itself that transactions are processed materially correctly. Our testing will include sample testing of transactions based on evidence available from the Council rather than the Shared Service.



3. Audit scope, approach and timeline

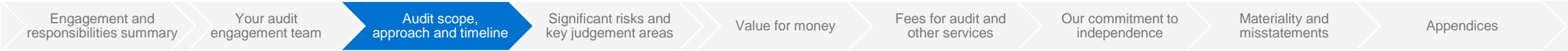
Group audit approach

Cheshire East Council prepares Group accounts and consolidates the following subsidiary companies within its Group accounts:

- Cheshire East Resident First Limited (CERF); 100% owned by Council
- ANSA Environmental Services Limited, Transport Service Solutions Limited and Orbitas Bereavement Services Limited - 80% owned by CERF and 20% by Council.

Our approach will reflect the size and complexity of the transactions and balances within the subsidiary company that are consolidated into the Council's Group financial statements. Based on our planning discussions and review of previous year's accounts, we consider ANSA Environmental Services Limited to be a significant component within the group structure.

Entity	Location	Auditor	Scope
Cheshire East Council	UK	Mazars LLP	Full
Cheshire East Resident First Limited (CERF)	UK	Grant Thornton LLP	CERF is wholly owned by Cheshire East Council and acts as a holding company for the Council owned companies. Analytical procedures supported by a review of the Council's consolidation processes (plus the specific audit procedures detailed below for ANSA Environmental Services Limited).
ANSA Environmental Services Limited	UK	Grant Thornton LLP	Performing specific audit procedures over those balances which are material to the group accounts and undertaking analytical procedures supported by a review of the Council's consolidation.
Transport Service Solutions Limited	UK	Grant Thornton LLP	Ceased trading on 31 March 2022- the transactions reflected in the 2022/23 Group Accounts are from the winding up of the company during 2022/23 which included the payment of an interim dividend to CEC with a proposed final dividend due in early 2023/24 when all final entries have been concluded Analytical procedures supported by a review of the Council's consolidation processes.
Orbitas Bereavement Services Limited	UK	Grant Thornton LLP	Analytical procedures supported by a review of the Council's consolidation processes.



Section 04:

Significant risks and other key judgement areas

4. Significant risks and other key judgement areas

Following the risk assessment approach discussed in section 3 of this document, we have identified risks relevant to the audit of financial statements. The risks that we identify are categorised as significant, enhanced or standard. The definitions of the level of risk rating are given below:

Significant risk

Significant risks are those risks assessed as being close to the upper end of the spectrum of inherent risk, based on the combination of the likelihood of a misstatement occurring and the magnitude of any potential misstatement. Fraud risks are always assessed as significant risks as required by auditing standards, including management override of controls and revenue recognition.

Enhanced risk

An enhanced risk is an area of higher assessed risk of material misstatement at audit assertion level other than a significant risk. Enhanced risks require additional consideration but does not rise to the level of a significant risk, these include but may not be limited to:

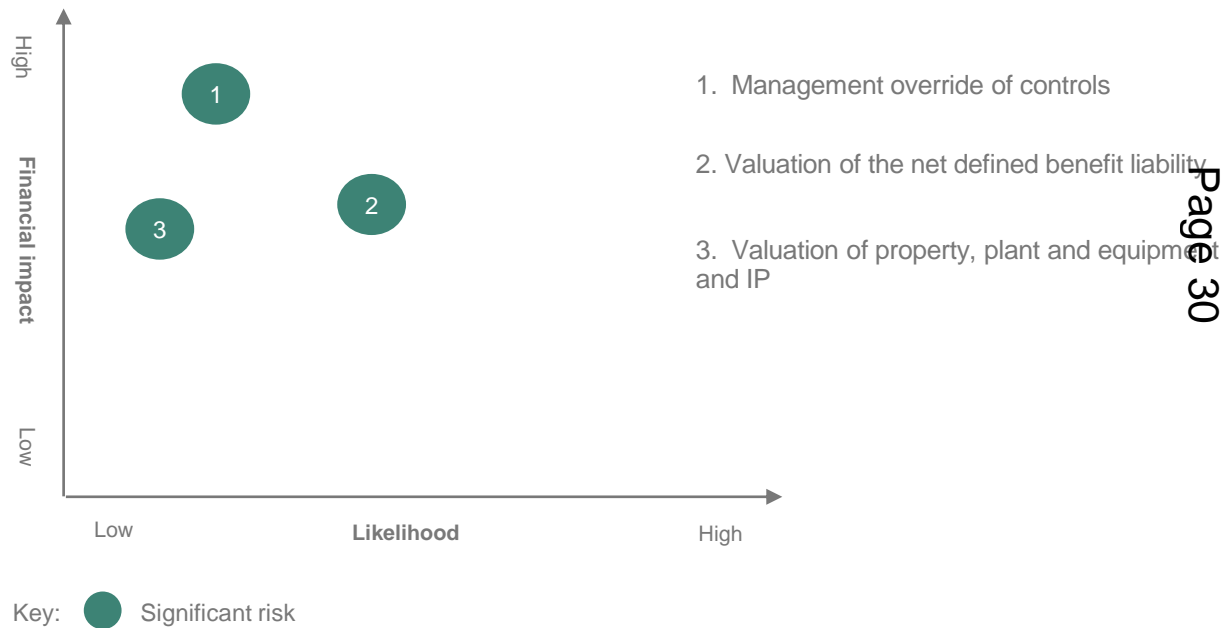
- key areas of management judgement, including accounting estimates which are material but are not considered to give rise to a significant risk of material misstatement; and
- other audit assertion risks arising from significant events or transactions that occurred during the period.

Standard risk

This is related to relatively routine, non-complex transactions that tend to be subject to systematic processing and require little management judgement. Although it is considered that there is a risk of material misstatement (RMM), there are no elevated or special factors related to the nature, the likely magnitude of the potential misstatements or the likelihood of the risk occurring.

Summary risk assessment

The summary risk assessment, illustrated in the table below, highlights those risks which we deem to be significant and other enhanced risks in respect of the Council. We have summarised our audit response to these risks on the next page.



4. Significant risks and other key judgement areas

Specific identified audit risks and planned testing strategy




We have presented below in more detail the reasons for the risk assessment highlighted above, and also our testing approach with respect to significant risks. An audit is a dynamic process, should we change our view of risk or approach to address the identified risks during the course of our audit, we will report this to Audit and Governance Committee.

Significant risks

	Description	Fraud	Error	Judgement	Planned response
1	<p>Management override of controls</p> <p>This is a mandatory significant risk on all audits due to the unpredictable way in which such override could occur.</p> <p>Management at various levels within an organisation are in a unique position to perpetrate fraud because of their ability to manipulate accounting records and prepare fraudulent financial statements by overriding controls that otherwise appear to be operating effectively. Due to the unpredictable way in which such override could occur there is a risk of material misstatement due to fraud on all audits.</p>	●	○	○	<p>We plan to address the management override of controls risk through performing audit work over accounting estimates, journal entries and significant transactions outside the normal course of business or otherwise unusual.</p> <p>We will address the risk by carrying out audit procedures in a range of areas including (but not limited to):</p> <ul style="list-style-type: none">• accounting estimates included in the financial statements for evidence of management bias;• any significant transactions outside the normal course of business; and• reviewing a sample of journals that meet our risk factors and other adjustments recorded in the general ledger in preparing the financial statements.

4. Significant risks and other key judgement areas

Significant risks

	Description	Fraud	Error	Judgement	Planned response
2	<p>Valuation of defined benefit (liability)/ asset £206m [(£403m) 2021/22]</p> <p>The Council is an admitted body of the Cheshire Pension Fund (CPF) which had its last triennial valuation completed as at 31 March 2022. For the 2022/23 the Council is reporting a net asset position of £206m compared to a deficit position of £403m in the prior year. This type of swing is similar to many other local authorities.</p> <p>The valuation of the Local Government Pension Scheme relies on a number of assumptions, most notably around the actuarial assumptions, and actuarial methodology which results in the Council's overall valuation.</p> <p>There are financial assumptions and demographic assumptions used in the calculation, such as the discount rate, inflation rates and mortality rates. The assumptions should also reflect the profile of the Council's employees and should be based on appropriate data. The basis of the assumptions is derived on a consistent basis year to year or updated to reflect any changes.</p> <p>There is a risk that the assumptions and methodology used in valuing the Council's pension obligation are not reasonable or appropriate to the Council's circumstances. This could have a material impact to the net pensions position as at 31 March 2023.</p>				<p>In relation to the valuation of the Council's defined benefit pension liability we will:</p> <ul style="list-style-type: none">critically assess the competency, objectivity and independence of the Cheshire Pension Fund's Actuary, Hyman Robertson;liaise with the auditors of the Cheshire Pension Fund to gain assurance that the controls in place at the Pension Fund are operating effectively. This will include the processes and controls in place to ensure data provided to the Actuary by the Pension Fund for the purposes of the IAS19 valuation is complete and accurate;review the appropriateness of the Pension Asset and Liability valuation methodologies applied by the Pension Fund Actuary, and the key assumptions included within the valuation. This will include comparing them to expected ranges, utilising information provided by PWC, consulting actuary engaged by the NAO;agree the data in the IAS 19 valuation report provided by the Fund Actuary for accounting purposes to the pension accounting entries and disclosures in the Council's financial statements; andreview of asset ceiling adjustment (given the increase in market yields) to ensure that it follows the Code and relevant accounting standards (IFRIC 14). <p>We will also request the auditor of the pension funds to carry out testing of the membership data that the Council has provided to the actuary as part of the 31 March 2022 triennial valuation.</p>

4. Significant risks and other key judgement areas

Significant risks

	Description	Fraud	Error	Judgement	Planned response
3	<p>Valuation of property, plant and equipment (Land & buildings and investment properties)</p> <ul style="list-style-type: none">▪ Property, Plant and Equipment - £475m (£467m 2021/22)▪ Investment Properties - £26m (£30m 2021/22) <p>The CIPFA Code requires that where assets are subject to revaluation, their year end carrying value should reflect the fair value at that date. The Council has adopted a rolling revaluation model which sees all land and buildings revalued in a five year cycle.</p> <p>The valuation of Property, Plant & Equipment involves the use of a management expert (the valuer), and incorporates assumptions and estimates which impact materially on the reported value. There are risks relating to the valuation process which reflect the significant impact of the valuation judgements and assumptions and the degree of estimation uncertainty.</p> <p>As a result of the rolling programme of revaluations, there is a risk that individual assets which have not been revalued for up to four years are not valued at their materially correct fair value. In addition, as the valuations are undertaken through the year there is a risk that the fair value of the assets is materially different at the year end.</p>	○	●	●	<p>We will address this risk by reviewing the approach adopted by the Council to assess the risk that assets not subject to valuation at year end are not materially misstated, and consider the robustness of that approach.</p> <p>We will also assess the risk of the valuation changing materially in year, considering the movement in market indices between revaluation dates and the year end, to determine whether these indicate that current values have moved materially.</p> <p>In addition, for those assets which have been revalued during the year we will:</p> <ul style="list-style-type: none">• assess the valuer's qualifications;• assess the valuer's objectivity and independence;• review the methodology used;• for a sample, perform testing of the associated underlying data and assumptions; and• If required, use our internal expert to provide a review on the valuation process and analysed data.

05

Section 05: **Value for money**

5. Value for money

The framework for Value for Money work

We are required to form a view as to whether the Council has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources. The NAO issues guidance to auditors that underpins the work we are required to carry out in order to form our view, and sets out the overall criterion and sub-criteria that we are required to consider.

2022/23 will be the third audit year where we are undertaking our value for money (VFM) work under the 2020 Code of Audit Practice (the Code). Our responsibility remains to be satisfied that the Council has proper arrangements in place and to report in the audit report and/or the audit completion certificate where we identify significant weaknesses in arrangements. Separately we provide a commentary on the Council's arrangements in the Auditor's Annual Report.

Specified reporting criteria

The Code requires us to structure our commentary to report under three specified criteria:

- 1. **Financial sustainability** – how the Council plans and manages its resources to ensure it can continue to deliver its services
- 2. **Governance** – how the Council ensures that it makes informed decisions and properly manages its risks
- 3. **Improving economy, efficiency and effectiveness** – how the Council uses information about its costs and performance to improve the way it manages and delivers its services

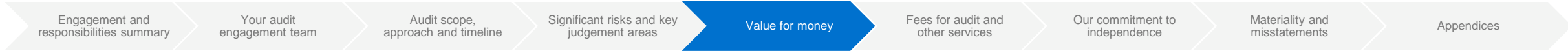
Our approach

Our work falls into three primary phases as outlined opposite. We need to gather sufficient evidence to support our commentary on the Council's arrangements and to identify and report on any significant weaknesses in arrangements. Where significant weaknesses are identified we are required to report these to the Council and make recommendations for improvement. Such recommendations can be made at any point during the audit cycle and we are not expected to wait until issuing our overall commentary to do so.

Planning and risk assessment	Obtaining an understanding of the Council's arrangements for each specified reporting criteria. Relevant information sources will include: <ul style="list-style-type: none">• NAO guidance and supporting information• Information from internal and external sources including regulators• Knowledge from previous audits and other audit work undertaken in the year• Interviews and discussions with staff and members
Additional risk based procedures and evaluation	Where our planning work identifies risks of significant weaknesses, we will undertake additional procedures to determine whether there is a significant weakness.
Reporting	We will provide a summary of the work we have undertaken and our judgements against each of the specified reporting criteria as part of our commentary on arrangements. This will form part of the Auditor's Annual Report. Our commentary will also highlight: <ul style="list-style-type: none">• Significant weaknesses identified and our recommendations for improvement• Emerging issues or other matters that do not represent significant weaknesses but still require attention from the Council.

Status of the VFM work

At the time of drafting this document we have yet to complete our planning and risk assessment work. We will report the results of our planning and risk assessment work to the next Committee meeting.



06

Section 06:

Fees for audit and other services

6. Fees for audit and other services

Fees for work as the Council’s appointed auditor

Details of the proposed 2021/22and 2022/23 fees are set out below. Our work in respect of 2021/22’s Value for Money arrangements and the Whole of Government Accounts return remains in progress. We will update the Committee on the final agreed 2021/22 fee in our Auditor’s Annual Report. PSAA have increased the scale fee for 2022/23 and will provide the Council with a contribution of £6,707.

Area of work	2022/23 Proposed Fees	2021/22 Proposed Fee
Scale audit fee	£135,681	£119,034
Fee variations*:		
Additional Testing on Property, Plant & Equipment and Defined Benefit Pensions Schemes as a result of changes in regulatory expectations	£9,000-£15,000 ¹	£9,940
Additional testing as a result of the implementation of new auditing standards: ISA 220 (Revised): Quality control of an audit of financial statements; ISA 540 (Revised): Auditing accounting estimates and related disclosures; ISA570 (Revised) Going Concern; and ISA 600 (Revised): Specific considerations – audit of group financial statements	£2,500-£5,000 ²	£2,500
Additional work as a result of the new Code of Audit Practice and VFM reporting including additional work in relation to Public Interest Report (PIR).	£15,000-£25,000 ³	£23,750
Additional work relating to Infrastructure assets	-	£15,000
Total	TBC	£170,224 ⁴

¹ As previously reported to you, the scale fee requires adjusting to take into account the additional work required as a result of increased regulatory expectations in these areas.

² As previously reported to you, new auditing standards were introduced in 2020/21 which led to additional audit work not reflected in the scale fee.

³As previously reported to you, the scale fee requires adjustment to take into account the additional work to support our reporting on the Council's value for money arrangements following the change to the NAO Code of Practice in 2020/21. This fee is based on there being no risks of significant weakness in the Authority’s arrangements. The final fee, taking into account the extent, and complexity of, any significant weaknesses in arrangements, will be discussed with management.

⁴ This is a proposed fee for 2021/22 at the point of the issue of our ASM. This figure is subject to change and any additional costs will be discussed with management.

* Fee variations are subject to approval and confirmation by the Public Sector Audit Appointments Ltd (PSAA).



Section 07:

Our commitment to independence

7. Our commitment to independence

We are committed to independence and are required by the Financial Reporting Council to confirm to you at least annually in writing that we comply with the FRC’s Ethical Standard. In addition, we communicate any matters or relationship which we believe may have a bearing on our independence or the objectivity of the audit team.

Based on the information provided by you and our own internal procedures to safeguard our independence as auditors, we confirm that in our professional judgement there are no relationships between us and any of our related or subsidiary entities, and you and your related entities creating any unacceptable threats to our independence within the regulatory or professional requirements governing us as your auditors.

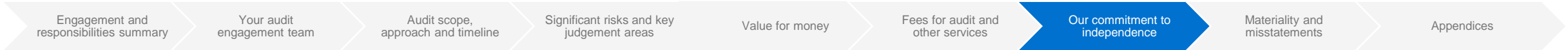
We have policies and procedures in place which are designed to ensure that we carry out our work with integrity, objectivity and independence. These policies include:

- all partners and staff are required to complete an annual independence declaration;
- all new partners and staff are required to complete an independence confirmation and also complete computer based ethical training;
- rotation policies covering audit engagement partners and other key members of the audit team; and
- use by managers and partners of our client and engagement acceptance system which requires all non-audit services to be approved in advance by the audit engagement partner.

We confirm, as at the date of this document, that the engagement team and others in the firm as appropriate, Mazars LLP are independent and comply with relevant ethical requirements. However, if at any time you have concerns or questions about our integrity, objectivity or independence please discuss these with Suresh Patel in the first instance.

Prior to the provision of any non-audit services Suresh Patel will undertake appropriate procedures to consider and fully assess the impact that providing the service may have on our auditor independence.

Any emerging independence threats and associated identified safeguards will be communicated in our Audit Completion Report.



08

Section 08:

Materiality and misstatements

8. Materiality and misstatements

Summary of initial materiality thresholds

Threshold	Group Initial threshold £'000s	Council Initial threshold £'000s
Overall materiality	18,000	17,700
Performance materiality	14,400	14,100
<i>Specific materiality:</i>		
Specifically in relation Senior Officers remuneration (exit packages) and Members allowance	5	5
Related party	_*	_*
Trivial threshold for errors to be reported to Audit and Governance Committee	540	531

*The materiality threshold in relation to related party will be determined based on the nature of relationship with the third party.

Materiality

Materiality is an expression of the relative significance or importance of a particular matter in the context of financial statements as a whole.

Information is considered to be material if omitting, misstating or obscuring it could reasonably be expected to influence the decisions that the primary users of general purpose financial statements make on the basis of those financial statements, which provide financial information about a specific reporting entity.

Judgements on materiality are made in light of surrounding circumstances and are affected by the size and nature of a misstatement, or a combination of both. Judgements about materiality are based on consideration of the common financial information needs of users as a group and not on specific individual users.

The assessment of what is material is a matter of professional judgement and is affected by our perception of the financial information needs of the users of the financial statements. In making our assessment we assume that users:

- have a reasonable knowledge of business, economic activities and accounts;
- have a willingness to study the information in the financial statements with reasonable diligence;
- understand that financial statements are prepared, presented and audited to levels of materiality;
- recognise the uncertainties inherent in the measurement of amounts based on the use of estimates, judgement and the consideration of future events; and
- will make reasonable economic decisions on the basis of the information in the financial statements.

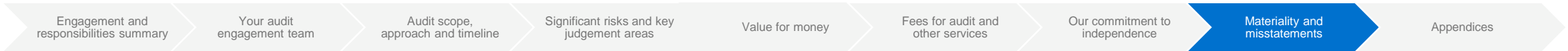
We consider materiality whilst planning and performing our audit based on quantitative and qualitative factors.

Whilst planning, we make judgements about the size of misstatements which we consider to be material and which provides a basis for determining the nature, timing and extent of risk assessment procedures, identifying and assessing the risk of material misstatement and determining the nature, timing and extent of further audit procedures.

The materiality determined at the planning stage does not necessarily establish an amount below which uncorrected misstatements, either individually or in aggregate, will be considered as immaterial.

We revise materiality for the financial statements as our audit progresses should we become aware of information that would have caused us to determine a different amount had we been aware of that information at the planning stage.

Our provisional materiality is set based on a benchmark of gross expenditure at the surplus/deficit on provision of services level. We will identify a figure for materiality but identify separate levels for procedures designed to detect individual errors, and also a level above which all identified errors will be reported to Audit and Governance Committee.



8. Materiality and misstatements

Materiality (continued)

We consider that the gross expenditure remains the key focus of users of the financial statements and, as such, we base our materiality levels around this benchmark.

We expect to set a materiality threshold at 2% of gross expenditure at the surplus/deficit on provision of services. Based on 2022/23 draft Statements of Accounts we anticipate the overall materiality for the year ending 31 March 2023 to be in the region of £ £17.7m (£15m the prior year) for the single entity and £18m (£15.5m in the prior year) for the group accounts.

After setting initial materiality, we continue to monitor materiality throughout the audit to ensure that it is set at an appropriate level.

Performance Materiality

Performance materiality is the amount or amounts set by the auditor at less than materiality for the financial statements as a whole to reduce, to an appropriately low level, the probability that the aggregate of uncorrected and undetected misstatements exceeds materiality for the financial statements as a whole.

Our initial assessment of performance materiality is based on the value of inherent risk, which we have assessed as being higher in response to the increase in material accounting estimates and the potential for errors, meaning that we have applied 80% of overall materiality (75% in the prior year) as performance materiality.

Specific Materiality

Auditing standards enable us to set specific materiality (lower than performance materiality) for items of account or disclosures that we consider to be politically sensitive and/or of more interest to the

user of the accounts. In common with most other local councils to have identified the following disclosures in the accounts where we will apply a specific materiality threshold for our audit procedures:

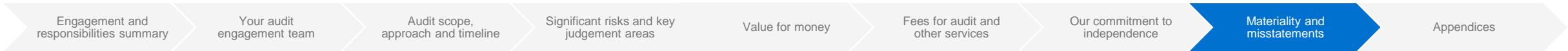
- Officers’ remuneration.
- Related parties.

Misstatements

We accumulate misstatements identified during the audit that are other than clearly trivial. We set a level of triviality for individual errors identified (a reporting threshold) for reporting to Audit and Governance Committee that is consistent with the level of triviality that we consider would not need to be accumulated because we expect that the accumulation of such amounts would not have a material effect on the financial statements. Based on our preliminary assessment of overall materiality, our proposed triviality threshold is £531k for the single entity accounts and £540k for the group accounts based on 3% of overall materiality. If you have any queries about this, please do not hesitate to raise these with Suresh Patel.

Reporting to the Audit and Governance Committee

- The following three types of audit differences above the trivial threshold will be presented to Audit and Governance Committee:
- summary of adjusted audit differences;
 - summary of unadjusted audit differences; and
 - summary of disclosure differences (adjusted and unadjusted).





Appendices

A: Key communication points

B: Revised auditing standard on Identifying and assessing the risks of material misstatement: ISA (UK) 315 (Revised 2019)

Appendix A: Key communication points

We value communication with Those Charged With Governance as a two way feedback process at the heart of our client service commitment. ISA 260 (UK) ‘Communication with Those Charged with Governance’ and ISA 265 (UK) ‘Communicating Deficiencies In Internal Control To Those Charged With Governance And Management’ specifically require us to communicate a number of points with you.

Relevant points that need to be communicated with you at each stage of the audit are outlined below.

Form, timing and content of our communications

We will present the following reports:

- Audit Strategy Memorandum;
- Audit Completion Report; and
- Auditor’s Annual Report

These documents will be discussed with management prior to being presented to yourselves and their comments will be incorporated as appropriate.

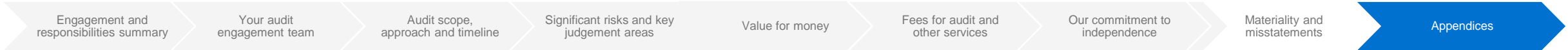
Key communication points at the planning stage as included in this Audit Strategy Memorandum

- Our responsibilities in relation to the audit of the financial statements;
- The planned scope and timing of the audit;
- Significant audit risks and areas of management judgement;
- Our commitment to independence;

- Responsibilities for preventing and detecting errors;
- Materiality and misstatements; and
- Fees for audit and other services.

Key communication points at the completion stage to be included in our Audit Completion Report

- Significant deficiencies in internal control;
- Significant findings from the audit;
- Significant matters discussed with management;
- Significant difficulties, if any, encountered during the audit;
- Qualitative aspects of the entity’s accounting practices, including accounting policies, accounting estimates and financial statement disclosures;
- Our conclusions on the significant audit risks and areas of management judgement;
- Summary of misstatements;
- Management representation letter;
- Our proposed draft audit report; and
- Independence.



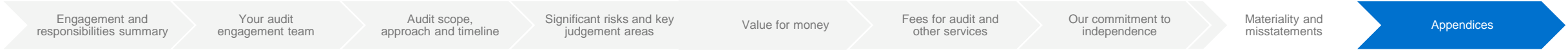
Appendix A: Key communication points

ISA (UK) 260 ‘Communication with Those Charged with Governance’, ISA (UK) 265 ‘Communicating Deficiencies In Internal Control To Those Charged With Governance And Management’ and other ISAs (UK) specifically require us to communicate the following:

Required communication	Where addressed
Our responsibilities in relation to the financial statement audit and those of management and those charged with governance.	Audit Strategy Memorandum
The planned scope and timing of the audit including any limitations, specifically including with respect to significant risks.	Audit Strategy Memorandum
With respect to misstatements: <ul style="list-style-type: none">• uncorrected misstatements and their effect on our audit opinion;• the effect of uncorrected misstatements related to prior periods;• a request that any uncorrected misstatement is corrected; and• in writing, corrected misstatements that are significant.	Audit Completion Report
With respect to fraud communications: <ul style="list-style-type: none">• enquiries of Audit and Governance to determine whether they have a knowledge of any actual, suspected or alleged fraud affecting the entity;• any fraud that we have identified or information we have obtained that indicates that fraud may exist; and• a discussion of any other matters related to fraud.	Audit Completion Report and discussion at Audit and Governance, Audit planning and clearance meetings

Appendix A: Key communication points

Required communication	Where addressed
Significant matters arising during the audit in connection with the entity’s related parties including, when applicable: <ul style="list-style-type: none">• non-disclosure by management;• inappropriate authorisation and approval of transactions;• disagreement over disclosures;• non-compliance with laws and regulations; and• difficulty in identifying the party that ultimately controls the entity.	Audit Completion Report
Significant findings from the audit including: <ul style="list-style-type: none">• our view about the significant qualitative aspects of accounting practices including accounting policies, accounting estimates and financial statement disclosures;• significant difficulties, if any, encountered during the audit;• significant matters, if any, arising from the audit that were discussed with management or were the subject of correspondence with management;• written representations that we are seeking;• expected modifications to the audit report; and• other matters, if any, significant to the oversight of the financial reporting process or otherwise identified in the course of the audit that we believe will be relevant to Audit and Governance in the context of fulfilling their responsibilities.	Audit Completion Report
Significant deficiencies in internal controls identified during the audit.	Audit Completion Report
Where relevant, any issues identified with respect to authority to obtain external confirmations or inability to obtain relevant and reliable audit evidence from other procedures.	Audit Completion Report



Appendix A: Key communication points

Required communication	Where addressed
Audit findings regarding non-compliance with laws and regulations where the non-compliance is material and believed to be intentional (subject to compliance with legislation on tipping off) and enquiry of Audit and Governance into possible instances of non-compliance with laws and regulations that may have a material effect on the financial statements and that Audit and Governance may be aware of.	Audit Completion Report and Audit and Governance meetings
With respect to going concern, events or conditions identified that may cast significant doubt on the entity's ability to continue as a going concern, including: <ul style="list-style-type: none"> whether the events or conditions constitute a material uncertainty; whether the use of the going concern assumption is appropriate in the preparation and presentation of the financial statements; and the adequacy of related disclosures in the financial statements. 	Audit Completion Report
Reporting on the valuation methods applied to the various items in the consolidated financial statements including any impact of changes of such methods	Audit Completion Report
Explanation of the scope of consolidation and the exclusion criteria applied by the entity to the non-consolidated entities, if any, and whether those criteria applied are in accordance with the relevant financial reporting framework.	Audit Strategy Memorandum and/or Audit Completion Report as appropriate
[Where applicable, identification of any audit work performed by component auditors in relation to the audit of the consolidated financial statements other than by Mazars' member firms	Audit Strategy Memorandum and/or Audit Completion Report as appropriate
Indication of whether all requested explanations and documents were provided by the entity	Audit Completion Report

Appendix B: Revised auditing standard on Identifying and assessing the risks of material misstatement: ISA (UK) 315 (Revised 2019)

Background

ISA (UK) 315 (Revised 2019) introduces major changes to the auditor's risk identification and assessment approach, which are intended to drive a more focused response from auditors undertaking work to obtain sufficient appropriate audit evidence to address the risks of material misstatement. The new standard is effective for periods commencing on or after 15 December 2021 and therefore applies in full for the Council's 2022/23 audit.

The most significant changes relevant to the Council's audit are outlined below.

Enhanced risk identification and assessment

The standard has enhanced the requirements for the auditor to understand the audited entity, its environment and the applicable financial reporting framework in order to identify and assess risk based on new inherent risk factors which include:

- Subjectivity
- Complexity
- Uncertainty and change
- Susceptibility to misstatement due to management bias or fraud.

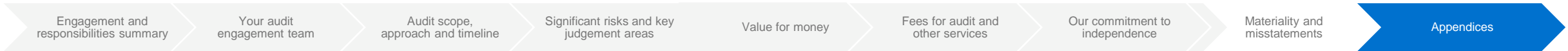
Using these inherent risk factors, we assess inherent risk on a spectrum, at which the higher end of which lies significant risks, to drive an audit that is more focused on identified risks. Auditors are now also required to obtain sufficient, appropriate evidence from these risk identification and assessment procedures which means documentation and evidence requirements are also enhanced.

Greater emphasis on understanding IT

In response to constantly evolving business environments, the standard places an increased emphasis on the requirements for the auditor to gain an understanding of the entity's IT environment to better understand the possible risks within an entity's information systems. As a result, we are required to gain a greater understanding of the IT environment, including IT general controls (ITGCs).

Increased focus on controls

Building on the need for auditors to gain a greater understanding of the IT environment, the standard also widens the scope of controls that are deemed relevant to the audit. We are now required to broaden our understanding of controls implemented by management, including ITGCs, as well as assess the design and implementation of those controls.



Suresh Patel, Partner

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Audit and Governance Committee - Action Log

Committee Date	Item No	Report Title	Action	Who
27 July 2023	7	Annual Complaints Report 2022/23	Circulate LGO comparison of Local Authority Complaints	Democratic Services Information circulated to committee members 16.08.23
27 July 2023	9	Internal Audit Opinion 2022/23	Briefing for committee members	Head of Audit & Risk Arranged for Monday 30 October, 2.00 pm, Teams
27 July 2023	4	Land Transactions – Internal Audit Investigation	Following question raised by member of the public, committee to receive details of Internal Audit investigation outcomes and updates as appropriate	Head of Audit & Risk
8 June 2023 / updated 27 July 2023	5	Draft Pre Audited Financial Statements – Wholly Owned Companies	The committee asked why there had been an increase on the Cost of Sales? Amended question to be forwarded to Board of Directors, and written response to be provided	Head of Finance

29 September 2022	11	Work Programme	Mr Ron Jones noted there was nothing in respect of disability or minority concerns on the Audit & Governance Work Programme. The Head of Audit and Risk agreed to speak to Ron Jones outside of the meeting.	The Head of Audit and Risk to invite Ron Jones to meetings in relation to setting of next year's Internal Audit Plan
29 September 2022	11	Work Programme	The Committee requested a briefing on the Customer Services Review be added to the Committee Work Programme.	<p>All Members of CE to be invited to a briefing session on the new Customer Service Strategy. Sessions delayed from July and will be held later in 2023.</p> <p>Following this, if any gaps are identified that would fall under the remit of the Audit and Governance Committee terms of reference, further discussions may be undertaken with committee members.</p>
29 September 2022	11	Work Programme	The Chair agreed to share an email received by a few Members on Section 106 funding with officers to advise if it was suitable for sharing with the wider Audit & Governance Committee to draw in wider governance.	Working Group from the Environment and Communities Committee to undertake relevant work, key findings to be appraised by the Finance Sub Committee. Details will also be shared with Audit and

				<p>Governance Committee when available.</p> <p>Report to be presented to Audit & Governance Committee 28 September 2023</p>
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OPEN

Audit and Governance Committee

28 September 2023

Monitoring Officer Annual Report 2022/23

**Report of: David Brown Director of Governance and Compliance
and Monitoring Officer**

Report Reference No: AG/14/23-24

Ward(s) Affected: All

Purpose of Report

- 1 This report seeks to provide information and assurance to the Audit and Governance Committee on key aspects of the Monitoring Officer's responsibilities over the previous financial year.

Executive Summary

- 2 The Committee is invited to review the Monitoring Officer's Annual Report for the financial year 2022 to 2023 attached at Appendix A.
- 3 The structure and content of this report is based upon the Committee's preferences as expressed previously, although future reports can be further developed as the current Committee see fit.

RECOMMENDATIONS

The Audit and Governance Committee is recommended to:

1. Acknowledge and consider the Monitoring Officer Annual Report 2022/23

Background

- 4 A number of local authorities provide an Annual Monitoring Officer Report to their Audit and Governance Committee or equivalent. This report intends to provide assurances to the Committee on a number of the Monitoring Officer's statutory responsibilities over the previous financial year.
- 5 The report (Appendix A) provides information on the role of the Monitoring Officer, and an overview of the following areas:
 - Members' Code of Conduct
 - Register of Members' Interests
 - Register of Gifts and Hospitality
 - Member Training and Development
 - Dispensations
 - Information and Data Protection
 - Complaints including Local Government and Social Care Ombudsmen Referrals
 - Regulation of Investigatory Powers (RIPA) Act
 - Whistleblowing
 - Constitution/Decision Making Process

Consultation and Engagement

- 6 Not applicable.

Reasons for Recommendations

- 7 The Audit and Governance Committee has a key role in overseeing the Council's risk management, control and corporate governance arrangements. It advises the Council on the adequacy and effectiveness of these arrangements. The assurances within the Annual

Monitoring Officer report are intended to inform the Committee's judgement on the arrangements that are in place to ensure the Council is a responsive, effective and efficient organisation.

Other Options Considered

Option	Impact	Risk
Do nothing	There is no legal obligation to produce an Annual MO Report	It is good practice to report annually, and the information contained therein offers the Committee insight and assurance on a variety of important matters.

Implications and Comments

Monitoring Officer/Legal

- 8 The Monitoring Officer has a range of specific responsibilities which are described in detail in the annual report. The annual report provides assurance to the Audit and Governance Committee that these responsibilities have been carried out effectively over the last financial year.

Section 151 Officer/Finance

- 9 There are no direct financial implications arising from this report.

Policy

- 10 There are no direct policy implications arising from this report.

Equality, Diversity and Inclusion

- 11 There are no direct equality implications arising from this report.

Human Resources

12 There are no direct equality implications arising from this report.

Risk Management

13 There are no direct Human Resources Implications arising from this report.

Rural Communities

14 There are no direct implications for rural communities.

Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)

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

Public Health

16 There are no direct implications for public health.

Climate Change

17 There are no direct implications for Climate Change

Access to Information	
Contact Officer:	Janet Witkowski Head of Legal Services and Deputy Monitoring Officer Janet.witkowski@cheshireeast.gov.uk
Appendices:	Appendix A: Monitoring Officer Annual Report 2022/23
Background Papers:	N/a

Approvals trail: to be removed before Committee

Name	Title	Comments	Date
Contributors:			
Approvers:			

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Monitoring Officer Report 2022/23

Audit and Governance Committee
28 September 2023

1. Role of the Monitoring Officer

- 1.1 Under the Local Government and Housing Act 1989 ('the 1989 Act') it is the duty of every relevant local authority to designate one of its officers as Monitoring Officer.
- 1.2 The Monitoring Officer has the specific duty of ensuring that the Council, its officers, and its elected members maintain the highest standards of conduct in all that they do.
- 1.3 The legal basis for the Monitoring Officer's role is found in Section 5 of the 1989 Act.
- 1.4 There are three main aspects to the role:
 - To report on matters that he/she believes are or are likely to be illegal or amount to maladministration.
 - To be responsible for matters relating to the conduct of Councillors and officers; and
 - To be responsible for the operation of the Constitution
- 1.5 The Monitoring Officer is required to prepare a report to the Authority if it appears that any proposal, decision or omission by the Authority has given rise to or is likely to or would give rise to:-
 - a) A contravention of any enactment or rule of law
 - b) Maladministration or failure as described in Part 3 of the Local Government Act 1974 ('the 1974 Act')
- 1.6 Maladministration or failure under the 1974 Act is a reference to a finding of such made by the Local Government Ombudsman following an investigation undertaken by him/her.
- 1.7 The Localism Act 2011 makes the Monitoring Officer responsible for maintaining a Register of Member Interests. The Monitoring Officer at Cheshire East maintains such a register for both Cheshire East Council and Town and Parish Council's in its area. The Monitoring Officer also operates the procedures for dealing with Code of Conduct complaints against both Cheshire East Borough Council Members, and Members of Town and Parish Councils.
- 1.8 Under the requirements set out above, the Monitoring Officer ultimately assumes responsibility for the lawfulness of decision-making processes and several other governance controls, some of which are the subject of bespoke delegations in the constitution. These key additional functions are covered in this report. By a combination of these measures and responsibilities, the Monitoring Officer has a key role to play in ensuring

sound corporate governance and in informing the production of each Annual Governance Statement.

- 1.9 The Monitoring Officer must be designated by Full Council and cannot be the Chief Executive (Head of Paid Service) or the Director of Finance /Section 151 officer. The duties of the Monitoring Officer must be performed by him/her personally unless he or she is unable to act by reason of illness or absence, in which case a deputy/deputies, appointed by the Monitoring Officer, may act on his or her behalf.
- 1.10 Irrespective of illness or absence, where the Monitoring Officer is of the view that he or she ought not to perform functions relating to a Code of Conduct matter personally, s/he may delegate those functions to a person nominated by her/him as Deputy Monitoring Officer for that purpose.

2. Member's Code of Conduct

- 2.1 Cheshire East Council's current Code of Conduct came into force on 16 October 2022 (hereinafter referred to as 'the new code'), the previous Code came into force on 1 January 2018 (hereinafter referred to as 'the old code'). It is the responsibility of the Audit and Governance Committee to monitor the operation of this Code as part of the Committee's responsibility for promoting high standards of ethical behaviour.
- 2.2 Town and Parish Council's operate under the old code or have their own version, based upon the Seven Principles of Public Life. also known as the 'Nolan Principles.' All Town and Parishes have received a briefing/training session upon the new code and have been encouraged to adopt it from this year, 2023.
- 2.3 Upon receipt of a completed complaint form, the Monitoring Officer undertakes a preliminary assessment of each complaint received, consulting one of the Independent Persons where appropriate, before making and notifying the Complainant of his/her decision on whether and how the complaint should proceed. This 'triage' process enables complaints which do not engage the Code or are trivial, vexatious or 'Tit for Tat' to be rejected, without the need to convene an assessment meeting.
- 2.4 Details of the 39 complaints received in 2022/23 is shown in the table below. It should be noted that this covers the period when both the old and new codes were in place for Cheshire East Council. In addition, the complaints received against Town and Parish Councils are under the old code. The obligations and/or standards have been summarised/collated for ease of reference. The details also take into account the fact some

complaints related to more than one councillor and that most included more than one alleged breach.

Table 1 - Code Breaches

Obligations/Standard & No. Received		
	CEC	Town or Parish
Selflessness	0	24
Integrity	3	37
Objectivity	0	26
Accountability	0	14
Openness	0	25
Honesty	0	0
Leadership	0	0
Disrepute	0	1
Respect/ Treat others with courtesy	2	37
Make choices on merit	0	23
Promote high standards of conduct	7	33
Uphold law and public trust	0	17
Exercise independent judgement/ remain objective/impartiality	2	58
Bullying/Breach of equality laws	2	22
Declaring/registering interests	1	22
Use of resources	0	6
Impartiality of officers	0	0
Use of position	0	3
Disclose confidential information/access to information	12	3
Comply with the Code	0	1
Gifts and Hospitality	0	0

2.5 The decision of the Monitoring Officer in respect of the 39 complaints received was as follows:

Table 2 – Code Breaches Outcomes

Outcome	2022/23		2021/22		2020/21	
	CEC	Town or Parish Council	CEC	Town or Parish Council	CEC	Town or Parish Council
Rejected at preliminary assessment stage; failed to meet the assessment criteria	5	27	16	31	6	37
Concluded at Initial Assessment Meeting (IAM) (breach or no breach)	0	5	3	8	3	22
Referred for formal external investigation	0	2	2	9 Includes 3 internal investigations	0	11
Referred to Standards Hearing Sub Committee	0	0	0	6	0	11
Complaint ongoing	0	0	0	1	0	11

- 2.6 The overall number of complaints has reduced during 2022/23, there being 69 in 2021/22. They remain highest in relation to Town and Parish councillors but most complaints are dealt with at initial assessment and are determined as not in the public interest to pursue or otherwise trivial. During 2022/23 a more timely and robust approach has been taken during the initial assessment stage. However, there still remains a number of repeat complainants, but it should be noted that there are no ongoing matters.
- 2.7 Of those complaints that were referred to and concluded at IAM, 1 was found to be a likely breach, the other 4 were found not likely to be in breach. Advice regarding the conduct together with a request to undertake training was provided.
- 2.8 In relation to the 2 matters referred for external investigation, 1 was determined to be in breach and other not to be. Advice regarding the conduct together with a request to undertake training was provided.
- 2.9 The costs of the external investigations was £19,684.20.

3. Register of Member's Interests

- 3.1 Cheshire East Borough Council Members, and Members of Town and Parish Councils in its area, are required to declare and register certain classes of interests with the Monitoring Officer. They must then conduct themselves accordingly in relation to any interest that arises when transacting business on behalf of their Authority.
- 3.2 Registerable interests are explained in their respective Code of Conduct and include for all Members, Disclosable Pecuniary Interests. Additionally, there is a requirement to declare other interests as set out in the individual Council's Code of Conduct.
- 3.3 A failure to declare an interest, and act accordingly in relation to the same, is capable of amounting to a breach of the Code of Conduct. In relation to Disclosable Pecuniary Interests, it can also amount to a criminal offence.
- 3.4 The relevant registers for Cheshire East Council and Town and Parish Council's in its area, are available on, or through, Cheshire East Council's website. There is a requirement to register upon taking office, and it is each Member's responsibility to ensure their register remains up to date as and when interests change.
- 3.5 Other than the Code of Conduct complaints (referred to above) which have involved an allegation of a failure to properly register an interest, there have been no issues arising through the year in respect of the registration of interests.
- 3.6 Training in respect of Member interests is covered below.

4. Register of Gifts and Hospitality

- 4.1 Cheshire East Borough Council Members are required to register with the Monitoring Officer details of any gifts or hospitality received where the value is considered to be in excess of £100. Town and Parish councillors are asked to do the same.
- 4.2 The register of gifts and hospitality is maintained by the Monitoring Officer and is available for inspection by appointment at the Council's Office in Westfields.
- 4.3 The gifts and hospitality received by Members that were declared to the

Monitoring Officer in 2022/2023;

Table 3 – Declared Gifts and Hospitality

2022/2023	Number Declared
CEC	4
Town and Parish	0

- 4.4 Training in respect of gifts and hospitality is covered in the train sessions on the Code of Conduct, which is referenced below.

5. Member Training and Development

- 5.1 The Member's Code of Conduct is recognised in Cheshire East Council's Member Training and Development Programme as being mandatory along with others such as planning.
- 5.2 The programme for the start of the municipal year 2023 to 2024, is attached at Appendix 1 for information. Following Council elections Code of Conduct training is delivered as part of the Induction programme for newly elected Members. The programme will be repeated in October and for any member who is elected as a result of a by election a one-to-one briefing session will be provided.
- 5.3 Briefing and training for individual committees on the subject matter relevant to the Committee is also provided as required.
- 5.4 In respect of Town and Parish Councils, a training session on the new code was delivered in July 2023 and was devised in association with the Cheshire Association of Local Councils (CHaLC). All local council's have been encouraged to adopt the new code. Further sessions will be undertaken as required as well as the provision on one-to-one advice as requested.

6. Dispensations

- 6.1 The Monitoring Officer is empowered to grant dispensations enabling Cheshire East Council Members to take part in council business in which they would otherwise have an interest which would prevent their dispensation.
- 6.2 There are a number of "standing" or general dispensations which apply to all Cheshire East Council Members, until 28 September 2024. These are;
- a) Any allowance, payment or indemnity given to Members;
 - b) Any Ceremonial Honours given to Members;
 - c) Statutory sick pay under Part X1 of the Social Security Contributions and Benefits Act 1992 where they were in

- receipt of or entitled to receive such pay;
- d) Setting the Council Tax or a precept under the Local Government and Finance Act 1992 (or any subsequent legislation);
- e) Setting a Local Council Tax Reduction Scheme or Local scheme for the payment of business rates (Including eligibility for rebates and reductions) for the purposes of the Local Government Finance Act 2012 (or any subsequent legislation);
- f) School Meals or School Transport or Travelling expenses where the Member is a parent/guardian of a child in full time education or a parent governor (unless the matter relates specifically to the school the child attends).
- g) To the extent that it may amount to a prejudicial or disclosable pecuniary interest, any allowance or other remuneration received from the Council in respect of Council duties or directorships of Council owned ASDVs.
- h) To allow Members to take part and vote on Community Governance Review matters in which they have a disclosable pecuniary and prejudicial interests.

6.3 There is a separate report on the committee agenda with update proposals regarding dispensations.

7. Information Requests

Data Protection

- 7.1 Data protection requests consist of individuals exercising their rights under the General Data Protection Regulation (GDPR), including subject access requests (SAR), or one of the individual rights such as right of erasure or rectification, or requests for personal data from third-party agencies referred to as Disclosure Requests.
- 7.2 Individual rights requests into the Council typically originate from individuals, including care leavers requesting access to their social care records and sometimes from parents or representatives acting on behalf of the data subject. Disclosure requests come from a range of third-party agencies including the Police, DWP, Home Office, solicitors, other local authorities, and regulatory bodies as well as commercial organisations such as insurance companies requesting CCTV footage.
- 7.3 Disclosures are made using one or more of the GDPR discretionary exemptions detailed in the Data Protection Act 2018. The Council aims to respond to such requests in line with the statutory timescale of one month to assist with managing timely responses.

- 7.4 The Council Tax Team receives disclosure requests directly from agencies to check liability and verify address details. Although these requests are responded to directly by the service, the numbers are included in the figures below.
- 7.5 Table 4 below outlines the number of requests received under data protection legislation during the financial year 2022/23 compared with the three previous years. This shows a marked increase in the number of requests received year on year.
- 7.6 Table 5 shows the percentage of requests which were responded to within the statutory timescale (one calendar month). However, it should be noted that Disclosure Requests are not a statutory obligation and there is no legislative timescale for responding, so these have not been included in the compliance rate.

Table 4 - Data Protection Requests Received

Cases received	2022/23	2021/22	2020/21	2019/20
Disclosure request	436	405	323	503
Individual rights request	26	36	15	13
Objection to processing	0	0	1	3
Subject access request	293	246	202	250
Total	755	687	541	769
Requests responded to directly by Council Tax	514	412	553	693
Overall Total	1269	1099	1094	1462

Table 5 – Percentage of requests responded to within one month (excluding Disclosure Requests)

	2022/23	2021/22	2020/21	2019/20
Response late	65	106	62	98
Response sent on time	180	108	137	108
Ongoing Request	9	2	1	9
Total cases received	254	216	200	215
Total requests processed in full at time of report	245	214	199	206
% of cases processed in full responded on time	73%	50%	69%	52%

- 7.7 There has been a steady increase in numbers of requests over the last few years and the number of requests received in 2022/23 is no exception. Despite the increase in requests, the compliance rate has improved. This is due to a change in roles and responsibilities within the Information Rights Team following a restructure in 2022.
- 7.8 However, it should be noted that information gathered in response to subject access requests and disclosure requests is often complex and voluminous. Every page in every document must be carefully reviewed

and redacted before it is released to the requester, which requires concentration and dedicated resource.

Data Protection Complaints

- 7.9 Table 6 shows the number of complaints received regarding alleged infringements of data protection legislation, some of which result in complaints to the Information Commissioner's Office (ICO). Some complaints come directly from the data subject, and some come from the ICO where the data subject has made a complaint to them without going through the Council's complaints process. These figures are included in the total number of complaints received by the Council which is presented to Committee separately under the relevant service area but not explicitly about data protection.

Table 6 – Data Protection Complaints received.

Source	2022/23	2021/22	2020/21	2019/20
Data Subject	29	31	20	8
ICO	2	5	1	2
Total	31	36	21	10

- 7.10 The number of data protection complaints received is very low when compared to the total number of complaints received. This year, data protection complaints represent 1.17% of the total number of complaints received by the Council. Of these, 48.3% were not upheld.

Table 7 – Reasons for complaints from data subjects

Reason for complaint	2022/23	2021/22	2020/21
Alleged data breach	94%	90%	100%
Statutory deadline exceeded	3%	3%	0%
Incomplete disclosure	0%	3%	0%
Other	3%	3%	0%

Table 8 – Information Commissioner's Office (ICO)

Reason for complaint	2022/23	2021/22	2020/21	2019/20
Alleged data breach	0%	20%	0%	100%
Handling of Subject Access Request	100%	80%	100%	0%

Freedom of Information/Environmental Information

- 7.11 The public has the right of access to information held by the Council under The Freedom of Information Act (FOIA) and the Environmental Information

Regulations (EIR).

- 7.12 Tables 9 and 10 below outline the number of requests received and compliance with statutory timescales.
- 7.13 There has been a marked increase in the number of FOIA and EIR requests received during 2022/23, compared with the previous two years.
- 7.14 The percentage of requests which were responded to within the statutory timescale (20 working days) has decreased to 89%, a reduction from 96% in the previous year. This drop in compliance was primarily due to resource constraints in the Information Rights Team. A restructure took place in 2022 and, it is anticipated that compliance will increase during 2023/24.

Table 9 – Volume of FOIA/EIR requests by year

Type of Request	2022/23	2021/22	2020/21	2019/20
FOIA and /EIR Requests	1,639	1,539	1,474	1,648
Property Search EIR Requests ¹	3,586	2,624	2,735	2,809
Total Requests	5,225	4,163	4,209	4,457

Table 10 – Requests responded to within 20 working days

It should be noted that the Council's Directorates were partially restructured at the end of 2019/20 and the People Directorate divided into Adults, Health and Integration and Childrens Services. However, to provide comparative data, the People Directorate has been included in table 10 for the following years and is represented by an average percentage.

Directorate	2022/23	2021/22	2020/21	2019/20
Corporate Directorate	92%	95%	97%	97%
Place Directorate	86%	96%	95%	96%
People Directorate	94%	98%	98%	97%
Adult's	90%	97%	98%	Not available
Children's	97%	99%	98%	Not available
Cheshire East overall	89%	96%	97%	96%

The source of FOI and EIR requests are shown in table 11. The largest identifiable group of requesters were individuals, making up 42% of requests received.

¹ It should be noted that 'Property Search' search requests are also recorded and responded to under the EIR. These are enquiries made to local authorities by Personal Search companies, to make prospective buyers of properties aware of relevant issues before they complete their purchase. These requests are processed separately to a 'typical' EIR request and responded to directly by the Land Charges Team. All requests are completed within the statutory timescale and are not included in the information in this report, unless explicitly stated.

Table 11 – Source of FOI/EIR Requests

Source	2022/23	2021/22	2020/21	2019/20
Individual	42%	39%	40%	45%
Commercial	23%	32%	32%	27%
whatdotheyknow.com ²	11%	11%	9%	8%
Press or media	9%	9%	9%	11%
Charity	3%	<1%	Not recorded	Not recorded
Researchers	3%	2%	2%	2%
Pressure Groups	2%	3%	4%	4%
Town or Parish Councillor	2%	Not recorded	Not recorded	Not recorded
Councillor	1%	<1%	1%	1%
Other	1%	1%	<1%	<1%
Public Sector	1%	1%	1%	1%
MP	<1%	<1%	1%	<1%
Solicitor	<1%	Not recorded	Not recorded	Not recorded
Student	<1%	Not recorded	Not recorded	Not recorded

7.15 Table 12 shows the outcome of FOI and EIR requests. The requested information was released in full in 62% of cases, and partially released in a further 11%. Only 14% of requests were refused in full.

7.16 In 5% of cases at least some of the requested information was already publicly accessible without the need to make a request via the FOIA or EIR. In these cases, requesters are directed to the location of the published information. The majority of FOIA and EIR Responses are also routinely published in the Council's FOI Disclosure Log, in an effort to reduce the burden of repeat requests and responses.

Table 12 – FOI/EIR Outcomes – 2021/22

Outcomes	2022/23	2021/22	2020/21	2019/20
All information sent	1027	829	856	888
No information sent - all held but exempt	197	226	219	200
Information not held	115	136	107	192
Some information sent, but not all held	79	138	105	137
Some information sent, but part exempt	79	76	86	106
Ongoing Request at year end	52	47	26	29
Request lapsed (clarification not provided by requester)	35	27	36	46
Exceeds time limit (18 hours) ³	25	26	9	20
Some information sent/part exceeds time limit	16	26	23	23

² 'whatdotheyknow.com' is a website used to make FOI and EIR requests.

³ The 'appropriate limit' is 18 hours. If answering the request would exceed this limit, the request can be refused. Advice and assistance is provided to the requester as to how they could submit a revised, reduced request.

Neither confirm nor deny information held	7	3	6	2
Vexatious request	4	2	0	1
Repeated request	1	0	0	1
Part exempt, and part exceeds time limit	1	3	1	1
Some information sent, some exempt and some exceeds time limit	1	0	0	2
Total	1639	1539	1,474	1,648

7.17 A breakdown of the FOI exemptions and EIR exceptions cited in refusal notices are shown in Table 13. Please note that the totals for exemptions in this table may sum to more than the number of requests refused (table 12), as multiple exemptions may be applied to an individual request.

Table 13 – FOI and EIR Exemptions

FOIA Exemption	2022/23	2021/22	2020/21	2019/20
Section 12: Exceeds time limit	43	55	9	20
Section 21: Info accessible by other means	75	90	79	82
Section 22: Intended for future publication	7	7	6	31
Section 23: Security bodies	0	0	0	0
Section 24: Safeguarding national security	3	1	0	0
Section 30: Investigations and proceedings	0	1	15	1
Section 31: Law enforcement	26	40	68	15
Section 32: Court or inquiry records	0	0	0	0
Section 33: Public audit functions	0	0	0	0
Section 36: Conduct of public affairs	2	0	1	0
Section 38: Health and safety	0	0	0	0
Section 40: Personal information	25	44	43	33
Section 41: Info. provided in confidence	37	19	10	5
Section 42: Legal professional privilege	0	2	1	1
Section 43: Commercial interest	13	12	7	20
Section 44: Prohibitions on disclosure	2	0	0	0
EIR exception	2022/23	2021/22	2020/21	2019/20
Regulation 12(3) Personal Information	18	8	2	34
Regulation 12(4)(a) Information Not Held	3	11	4	6
Regulation 12(4)(b) Manifestly unreasonable requests	21	21	1	15
Regulation 12(4)(c) Too general	1	1	0	1
Regulation 12(4)(d) Draft Information	5	4	0	2

Regulation 12(4)(e) Internal Communications	2	1	0	2
Regulation 12(5)(b) Course of Justice	13	5	0	9
Regulation 12(5)(c) Intellectual Property Rights	0	0	0	0
Regulation 12(5)(d) Confidentiality of Proceedings	6	1	0	2
Regulation 12(5)(e) Commercial Interests	3	2	0	1
Regulation 12(5)(f) Information in Confidence	0	2	0	3
Regulation 12(5)(g) Protection of Environment	1	2	0	1
Regulation 6(1)(b) Publicly Accessible	52	57	52	71
Total exemptions/exceptions	358	331	298	355

7.18 Requesters can ask for an Internal Review if they are not satisfied with the Council's initial response. Internal Reviews are conducted by someone independent of the initial response, and usually by a senior officer within the Information Rights Team.

7.19 An Internal Review was requested in 5.7% of cases in 2022/23, which is consistent with previous years. The Council's initial decision was overturned (either in full or part) in 36% of cases.

Table 14 - Internal Reviews and Outcomes (excluding Property Search Requests)

Outcome	2022/23	2021/22	2020/21	2019/20
Initial decision upheld	58	56	40	46
Unknown (ongoing at end of year)	0	0	0	3
Initial decision overturned in full	18	17	13	11
Initial decision overturned in part	15	14	19	10
Withdrawn	3	6	1	0
Total received	94	93	73	70
Total as a % of requests received	5.7%	6%	5%	4.24%

7.20 Requesters who remain dissatisfied with the outcome of an Internal Review can apply to the Information Commissioner's Office (ICO) for a decision. There were 9 complaints to the ICO in 2022/23, representing 0.5% of requests. Of these, only 2 complaints were upheld. These levels remain consistent with previous years.

Table 15 – Outcomes of complaints to the Information Commissioner's Office (ICO)

Complaints to the ICO	2022/23	2021/22	2020/21	2019/20
Complaint Upheld	2	3	0	1
Complaint Not Upheld	5	2	1	7

Informal resolution	0	1	0	0
Complaint withdrawn	2	3	0	0
Decision not known at monitoring date	0	0	6	1
Total complaints received	9	9	7	9
Total as % of requests received	0.5%	0.6%	0.5%	0.5%

8. Regulation of Investigatory Powers Act 2000 (RIPA)

- 8.1 The Council occasionally needs to use directed surveillance and obtain communications data to carry out its enforcement functions effectively, e.g. trading standards, planning enforcement, licensing enforcement, environmental protection and community enforcement. RIPA provides a regulatory framework to enable public authorities to obtain information using certain covert investigatory techniques.
- 8.2 It is imperative that, when investigating alleged wrongdoing, certain conditions are met in each case in order that successful prosecutions can be made. It is essential that covert surveillance is only used when it is necessary and proportionate to do so. Therefore, this must be properly authorised and recorded, the tests of necessity and proportionality must be satisfied, and the potential for collateral intrusion must be considered and minimised.
- 8.3 The Council's updated policy and associated documents and information was presented to the last Audit and Governance Committee on 27 July 2023. Members are referred to that agenda and minutes for further information, including details of authorised officers.
- 8.4 Once any application is authorised, the approval of a Justice of the Peace/Magistrate, is required by the Protection of Freedoms Act 2012. The Act also restricts the use of RIPA authorised surveillance to the investigation of offences which attract a custodial sentence of six months or more. The Director of Governance and Compliance Services assumes responsibility for the integrity of the process to ensure that the Council complies with the legislation.

Use of Covert Human Intelligence Source (CHIS)

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

Applications Authorised

- 8.6 Surveillance activity, including test purchases, has reduced significantly in the last three years due to COVID restrictions; however, activity is expected to commence again later this year. The table below shows that one application was authorised during 2022/2023. The last application prior to this was in 2019.

Table 16 - RIPA Applications Authorised

	2022/23	2021/22	2020/21	2019/20
Directed Surveillance	1	0	0	2
Communications Data	0	0	0	0
CHIS	0	0	0	0

- 8.7 The Council is regularly inspected by the Investigatory Powers Commissioner's Office. The Committee received a report on the outcome of the last inspection in March 2023 and as stated above, an update on the actions following the inspection in July 2023.

9. Local Government and Social Care Ombudsman (LGSCO) referrals

- 9.1 All customers are offered the opportunity to appeal to the LGSCO if they are unhappy with the way in which the Council has handled their complaint.
- 9.2 Appendix 2 shows the number of Decision Notices issued to the Council during 2022/23 (91). For comparison, during 2021/22 and 2020/21 the Council received 64 Decision Notices each year. In 2019/20 it was 73, in 2018/19 it was 78 and in 2017/18 it was 91.
- 9.3 Of the 91 Decision Notices issued by the LGSCO in 2022/23, 72 cases were closed after the LGSCO conducted their initial enquiry with no further action for the Council. They carried out detailed investigations on 20 cases. In 4 of these cases they found No Fault, while in 5 cases they found there had been Fault with No Injustice and in 11 cases there was Fault with Injustice to the complainant. The services where the most Fault was found were Adult Social Care and the Special Educational Needs and Disabilities (SEND) Service – 4 each.

Table 17 – LGSCO Referrals

Service	No of LGO Decision Notices	Fault with No Injustice	Fault with Injustice
Adult Social Care	18	1	4
Highways & Transport	19	0	0
School Admissions	2	1	0
SEND	9	0	4
Children's Social Care	7	0	1
Corporate	6	0	0
Planning	19	2	2
Housing	3	1	0
Other Place	8	0	0
Totals	91	5	11

- 9.4 Of the 91 Decision Notices there were 11 cases which the Ombudsman received which were rejected on receipt and referred back for local resolution. There may be others as the Council is not always notified of these cases and these figures are published in the LGSCO's annual report, which is usually issued by the end of July following the end of the financial year.
- 9.5 An update report on LGSCO referrals will be submitted to a future Audit & Governance Committee meeting, following the publication of the Ombudsman's Annual Report.
- 9.6 Information regarding general complaints under the Council's Corporate Compliments, Suggestions and Complaints Policy, as well as the Council's Adults and Children's Social Care Complaints Policies, is contained in the Annual Complaints Report 2022/23, presented to the Audit and Governance Committee on 27 July 2023.

10. Whistleblowing

- 10.1 Cheshire East has an established whistleblowing policy and detailed supporting guidance available on both the Centranet and the Council's website. The current policy was introduced in March 2018 following a review of the Council's arrangements by Public Concern at Work (now known as Protect), the leading advocate for whistleblowing in the UK.
- 10.2 The policy is based on the model policy recommended by Protect but has been adapted to meet Cheshire East's specific requirements such as members of Audit and Governance Committee being designated contacts under the policy. The policy is kept under review and any changes required

to ensure that it remains in line with best practice will be brought back to the Committee for approval and adoption.

- 10.3 It can be difficult to determine whether an organisation’s whistleblowing arrangements are effective as it is important to take into consideration more than simply the volume of reports received. This is because a single, well-founded concern received over a number of years more than justifies maintaining the whistleblowing arrangements.
- 10.4 It is therefore important to ensure that employees, members and external parties working for the Council are aware of the arrangements and provided with assurance that any concerns raised will be taken seriously and that anyone raising concerns will be protected from suffering any detriment as a result of “blowing the whistle”.
- 10.5 To achieve this, the following work has been undertaken since the policy was adopted:
- Publicity and signposting of the policy and supporting information in Team Voice and on Centranet.
 - Development and launch of detailed guidance for officers and members in the event that they are approached with a concern.
 - Training delivered to Audit and Governance Committee
 - Training delivered to Wider Leadership Team, Finance and HR staff.
 - Promotion of the Whistleblowing arrangements under the Brighter Futures Culture Workstream communications and events.
- 10.6 The Council’s Whistleblowing Policy is subject to periodic review to ensure it maintains current good practice and relevance to the Council’s circumstances. The next such review is likely to occur during 2023/24, following which appropriate training and support will be put in place. Training is likely to reflect the growing prevalence of online resources, for example, e-learning modules.

Referrals Received

- 10.7 The table below shows the number of referrals received during 2022/23 along with a breakdown of the outcome and comparative figures for 2019/20. The figures include all referrals via the online reporting tool and to the dedicated whistleblowing email account.

Table 18 – Whistleblowing Referrals Received

	2022/23	2021/22	2020/21	2019/20
No of Referrals Received	10	6	8	7
Met criteria and action taken:				
Unfounded after testing concerns	0	1	0	0
Referred for investigation after testing concerns	1	0	1	1
Did not meet criteria and action taken:				
Referred to other Council service for resolution	9	3	7	2
Referred for disciplinary investigation	0	0	0	1
Rejected after testing concerns	0	2	0	3

- 10.8 It is pleasing to note that all of the concerns raised were as a result of what appears to be genuine unease on the part of our staff, and that sufficient information was provided to allow for the concerns raised to be tested in each case.
- 10.9 Although only a small number of concerns were raised through the whistleblowing policy in both 2021/22 and 2022/23, there is no evidence that staff failed to report concerns because of fear that it would be detrimental to them.

11. Constitution/Decision Making Process in Operation

- 11.1 The Constitution is monitored and reviewed at officer level by the Monitoring Officer and at member level by the Constitution Working Group and the Corporate Policy Committee. Significant changes are submitted to Council for approval. Minor changes can be made by the Monitoring Officer.
- 11.2 During 2020/21, a completely rewritten Constitution was produced to support the Council's transition to a committee system form of governance. The new Constitution was the product of extensive work undertaken by the Monitoring Officer and members of the Constitution Committee. The new Constitution was in place in time for the commencement of the new arrangements. Reviews have been carried out to identify any further updates or enhancements that have been considered necessary now that the new Constitution has been in operation for a period of time.
- 11.3 In terms of formal meetings during 2022/2023, of the total number of meetings held, there were approximately 46 closed Committee sessions

held under Schedule 12A of the Local Government Act 1972. These included Full Council, Corporate Policy Committee, Children and Families Committee, Adults and Health Committee, Economy and Growth Committee Finance Sub Committee, Audit & Governance Committee, General Appeals Sub-Committee, Staffing Appeals Sub-Committees, General Licensing Sub- Committee, and LA School Governor Panel.

**Cheshire East Council
Elections 2023**

**Member Induction
Programme
May 2023**

Information for Councillors:

Location and parking: Westfields is on Middlewich Road, Sandbach, Cheshire, the sat nav postcode is CW11 1HZ. There are three car parks; disabled parking is available on the left-hand side as you enter the site, general parking can be found by following the road around to the right. The barrier car park is for staff and Councillors, new Members will be able to park here once their ID security badge has been issued to them.

On arrival: New Councillors should report to reception where you will be met by Democratic Services staff. Until you receive your ID badge, it will be necessary for you to be escorted around the building.

Refreshments: Tea/coffee will be provided at events, but the Council does not provide lunch, so you may wish to bring your own.

IMPORTANT: Attendance arrangements for Tuesday 9 May and Wednesday 17 May 2023:

Members elected to the following wards should attend the **morning sessions on 9 and 17 May**

Alsager, Audlem, Brereton Rural, Bunbury, Congleton East, Congleton West, Crewe Central, Crewe East, Crewe North, Crewe St Barnabas, Crewe West, Dane Valley, Haslington, Leighton, Middlewich, Nantwich North and West, Nantwich North and Stapeley, Odd Rode, Sandbach Elworth, Sandbach Ettiley Heath and Wheelock, Sandbach Town, Shavington, Willaston and Rope, Wistaston, Wrenbury, Wybunbury.

Members elected to the following wards should attend the **afternoon sessions on 9 and 17 May**

Alderley Edge, Bollington, Broken Cross and Upton, Chelford, Disley, Gawsworth, Handforth, High Leigh, Knutsford, Macclesfield Central, Macclesfield East, Macclesfield Hurdsfield, Macclesfield South, Macclesfield Tytherington, Macclesfield West and Ivy, Mobberley, Poynton East and Pott Shrigley, Poynton West and Adlington, Prestbury, Sutton, Wilmslow Dean Row, Wilmslow East, Wilmslow Lacey Green, Wilmslow West and Chorley.

IT Workshops/Code of Conduct sessions: Please attend one workshop and one code of conduct session, from the dates listed in the programme. If you did not nominate your preferred workshop/session at the count, please contact Diane Moulson diane.moulson@cheshireeast.gov.uk or telephone 01270 686 476 to book your place.

Programme Schedule May 2023

DAY/DATE: TUESDAY 9 MAY 2023				
Time	Venue	Main Presenter(s)/Facilitator	Event Details	Audience
9.15am to 10.15am	Executive Suite	Dr Lorraine O'Donnell Chief Executive Cheshire East Council	Signing of Declaration of Acceptance of Office Drop-in session, no appointment needed	All Councillors
10.30am to 12.30pm	Committee Suite, Westfields	Dr Lorraine O'Donnell, Chief Executive Cheshire East Council	Welcome event: Introduction to the Council, highlighting the opportunities and challenges facing Cheshire East in next four year	Members elected at Lifestyle Centre, Crewe (See page 2)
12.45pm to 1.45pm	S10 Westfields	Corporate Leadership Team	Meet and Greet: To introduce Members to the Council's Leadership Team	All Councillors are welcome to attend
2.00pm to 4.00pm	Committee Suite, Westfields	Dr Lorraine O'Donnell, Chief Executive Cheshire East Council	Welcome event: Introduction to the Council, highlighting the opportunities and challenges facing Cheshire East in next four year	Members elected at Macclesfield Leisure Centre (See page 2)
10.00am to 4.00pm	ES1, Second Floor, Westfields	Pantling Photographers	Photographs: Official photograph to be taken. Please remember to dress appropriately i.e., smart business attire which is apolitical (no party emblems) Drop in session – no need to book	All Councillors
4.15pm to 5.15pm	Executive Suite	Dr Lorraine O'Donnell Chief Executive Cheshire East Council	Signing Declaration of Acceptance of Office Drop-in session, no appointment needed	All Councillors

DAY/DATE: WEDNESDAY 10 MAY 2023				
Time	Venue	Main Presenter(s)/Facilitator	Event Details	Audience
Workshop 1 10.00am to 12.00pm	Members' Room Westfields	ICT Shared Services	Getting Started with IT Workshop: Handout of ICT kit; including a basic overview of the device	New Councillors (6 places available)
Workshop 2 2.00pm to 4.00pm	Members' Room Westfields	ICT Shared Services	Getting Started with IT Workshop: Handout of ICT kit; including a basic overview of the device	New Councillors (6 places available)
Session 1 2.00pm to 4.00pm	Committee Suite, Westfields	David Brown, Director of Governance and Compliance	Councillors' Code of Conduct: The general principles of conduct expected of all Councillors and the specific obligations in relation to standards of conduct by Cheshire East Councillors.	New Councillors_
4.15pm to 5.30pm	Executive Suite Westfields	Dr Lorraine O'Donnell Chief Executive Cheshire East Council	Signing Declaration of Acceptance of Office. Drop-in session, no appointment needed	All Councillors

DAY/DATE: THURSDAY 11 MAY 2023

Time	Venue	Main Presenter(s)/Facilitator	Event Details	Audience
Session 2 10.00am to 12.00pm	Committee Suite Westfields	David Brown, Director of Governance and Compliance	Councillors' Code of Conduct: The general principles of conduct expected of all Councillors and the specific obligations in relation to standards of conduct by Cheshire East Councillors.	New Councillors
Workshop 3 10.00am to 12.00pm	R1/R2 Westfields	ICT Shared Services	Getting Started with IT Workshop: Handout of ICT kit; including a basic overview of the device	New Councillors (6 places available)
Workshop 4 2.00pm to 4.00pm	R1/R2 Westfields	ICT Shared Services	Getting Started with IT Workshop: Handout of ICT kit; including a basic overview of the device	New Councillors (6 places available)
Session 3 2.00pm to 4.00pm	Committee Suite Westfields	David Brown, Director of Governance and Compliance	Councillors' Code of Conduct: The general principles of conduct expected of all Councillors and the specific obligations in relation to standards of conduct by Cheshire East Councillors.	All Councillors

DAY/DATE: FRIDAY 12 MAY 2023				
Time	Venue	Main Presenter(s)/Facilitator	Event Details	Audience
Workshop 5 10.00am to 12.00pm	Committee Suite, Westfields	ICT Shared Services	Getting Started with IT Workshop: Handout of ICT kit; including a basic overview of the device	New Councillors (8 places available)
Workshop 6 2.00pm to 4.00pm	Committee Suite Westfields	ICT Shared Services	Getting Started with IT Workshop: Handout of ICT kit; including a basic overview of the device	All Councillors (8 places available)

DAY/DATE: MONDAY 15 MAY 2023				
Time	Venue	Main Presenter(s)/Facilitator	Event Details	Audience
Workshop 7 10.00am to 12.00pm	R1/R2 Westfields	ICT Shared Services	Getting Started Workshop: Handout of ICT kit; including a basic overview of the device	All Councillors (6 places available)
Workshop 8 2.00pm to 4.00pm	R1/R2 Westfields	ICT Shared Services	Getting Started Workshop: Handout of ICT kit; including a basic overview of the device	All Councillors (6 places available)
1.30pm to 3.30pm	Committee Suite Westfields	David Brown, Director of Governance and Compliance	Committee Procedures: This session will take new Members through both the ceremonial and business elements of the Annual General Meeting of Council on 24 May 2023, committee procedural rules and provide practical information on how the decision-making process works at Cheshire East.	New Councillors

DAY/DATE: TUESDAY 16 MAY 2023

Time	Venue	Main Presenter(s)/Facilitator	Event Details	Audience
Workshop 9 10.00am to 12.00pm	Committee Suite Westfields	ICT Shared Services	Getting Started with IT Workshop: Handout/replacement of ICT kit; including a basic overview of the device	All Councillors (8 places available)
Workshop 10 2.00pm to 4.00pm	Committee Suite Westfields	ICT Shared Services	Getting Started with IT Workshop: Handout/replacement of ICT kit; including a basic overview of the device	All Councillors (8 places available)

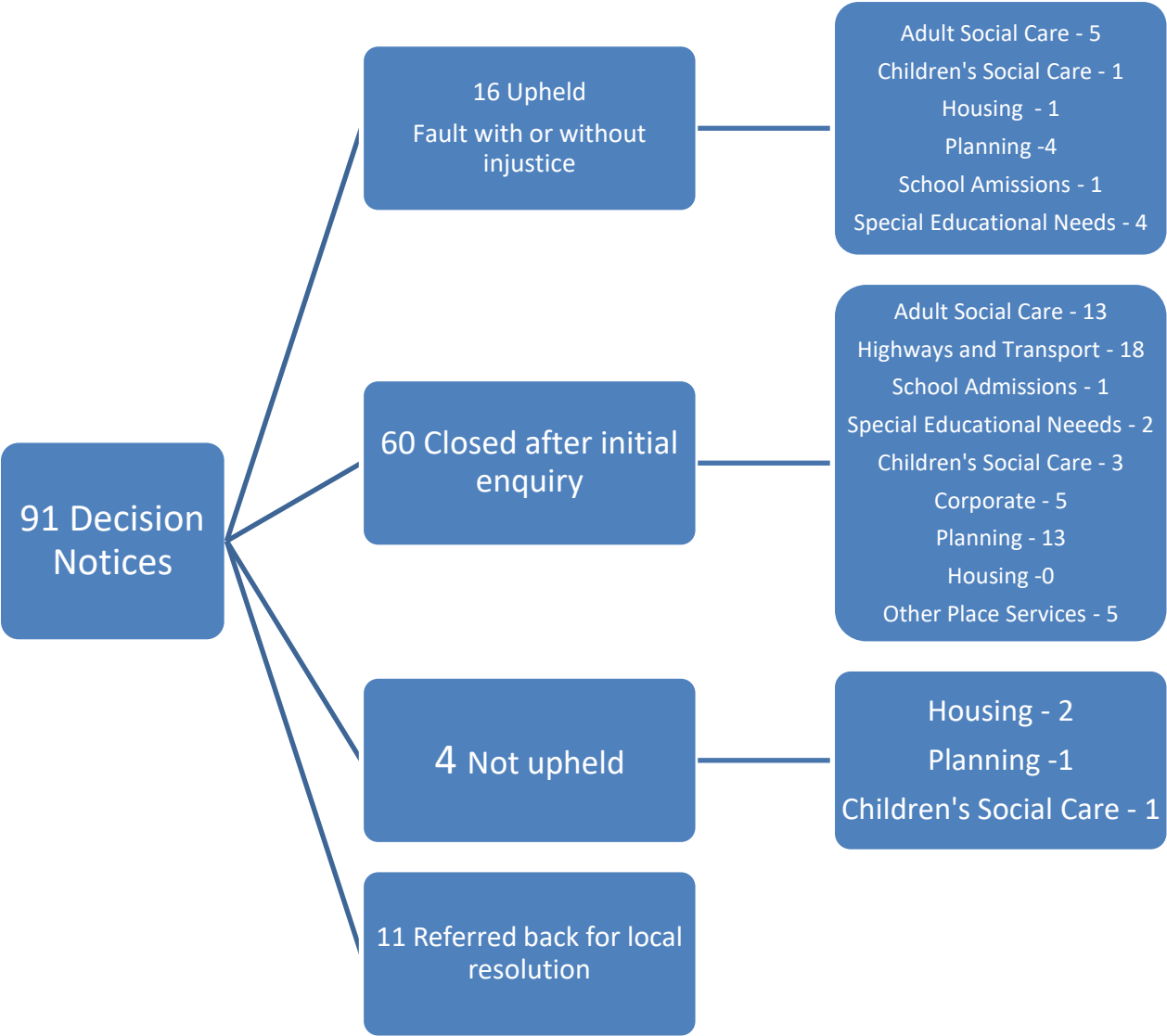
DAY/DATE: WEDNESDAY 17 MAY 2023				
Time	Venue	Main Presenter(s)/Facilitator	Event Details	Audience
9.15am to 10.15am	Executive Suite Westfields	Dr Lorraine O'Donnell Chief Executive Cheshire East Council	Signing of Declaration of Acceptance of Office Drop-in session, no appointment needed	All Councillors
10.30am to 12.30pm	Committee Suite Westfields	David Brown Director of Governance and Compliance	Working effectively as a CE Councillor: This session will cover how Members and Officers are expected to interact with each other at Cheshire East, in respect of the wider policy framework, making decisions at Committee, the Councillors' code of conduct and the values and behaviours which apply to both Members and officers.	Members elected at Lifestyle Centre, Crewe (See page 2)
12.45pm to 1.45pm	S10 Westfields	Corporate Leadership Team	Meet and Greet: To introduce Members to the Council's Leadership Team	All Councillors are welcome to attend
2.00pm to 4.00pm	Committee Suite Westfields	David Brown Director of Governance and Compliance	Working effectively as a CE Councillor: This session will cover how Members and Officers are expected to interact with each other at Cheshire East, in respect of the wider policy framework, making decisions at Committee, the Councillors' code of conduct and the values and behaviours which apply to both Members and officers.	Members elected at Macclesfield Leisure Centre (See page 2)
4.15pm to 5.15pm	Executive Suite Westfields	Dr Lorraine O'Donnell Chief Executive Cheshire East Council	Signing Declaration of Acceptance of Office Drop-in session, no appointment needed	All Councillors

DAY/DATE: THURSDAY 18 MAY 2023				
Time	Venue	Main Presenter(s)/Facilitator	Event Details	Audience
10.30am to 12.30pm	Committee Suite, Westfields	David Malcolm Head of Planning	Planning Training Part 1: Members will be introduced to the planning process i.e., what it is, what we do, what we don't/can't do e.g., development management, enforcement, local plan etc. It will also cover the basics of legislation/ policy guidance and its importance in decision making, finishing with enforcement; the general approach and guidance	Open to all Councillors. Note: Members who are expected to sit on a planning Committee should make every effort to attend both sessions
1.30pm to 3.30pm	Committee Suite, Westfields	David Malcolm Head of Planning	Planning Training Part 2: The afternoon session will take Members through how decisions are made i.e., roles and responsibilities of officers, consultees, the committees (as individuals and as a committee) and developers. A review of planning matters (material considerations) that can be taken into account in decision making and the role of conditions and legal agreements. It will look at probity and the code of conduct for planning committee member and the life of a planning application. Members will also be introduced to key officers (who we are and how to contact us).	Open to all Councillors. Note: Members who are expected to sit on a planning Committee should make every effort to attend both sessions
Workshop 11 1.00pm to 3.00pm	S10, Second Floor, Westfields	ICT Shared Services	Getting Started with IT Workshop: Handout/replacement of ICT kit; including a basic overview of the device	All Councillors (8 places available)
Workshop 12 4.00pm to 6.00pm	S10, Second Floor, Westfields	ICT Shared Services	Getting Started with IT Workshop: Handout/replacement of ICT kit; including a basic overview of the device	All Councillors (8 places available)

DAY/DATE: FRIDAY 19 MAY 2023				
Time	Venue	Main Presenter(s)/Facilitator	Event Details	Audience
Workshop 13 10.00am to 12.00pm	Committee Suite Westfields	ICT Shared Services	Getting Started with IT Workshop: Handout/replacement of ICT kit; including a basic overview of the device	All Councillors (8 places available)
Workshop 14 2.00pm to 4.00pm	Committee Suite Westfields	ICT Shared Services	Getting Started with IT Workshop: Handout/replacement of ICT kit; including a basic overview of the device	All Councillors (8 places available)

DAY/DATE: WEDNESDAY 24 MAY 2023				
Mayor Making and Annual Council will take place at Tatton Park, Knutsford				
DAY/DATE: FRIDAY 26 MAY 2023				
Time	Venue	Main Presenter(s)/Facilitator	Event Details	Audience
10.00am to 12.30pm	Capesthorne Room, Macclesfield Town Hall	David Malcolm Head of Planning	Planning Training part 3: This session will help members to prepare for a planning meeting, within a practical committee setting. It will reinforce some of the earlier sessions learning. It will touch on the role of officers and members in committee, committee site visits, preparing for committee, how to review applications on-line and contact case officers, public speaking at committee, making a decision.	Members appointed to Planning Committees
DAY/DATE: WEDNESDAY 31 MAY 2023				
Time	Venue	Main Presenter(s)/Facilitator	Event Details	Audience
Session 4 4.30pm – 6.30pm	Committee Suite Westfields	David Brown, Director of Governance and Compliance	Councillors' Code of Conduct: The general principles of conduct expected of all Councillors and the specific obligations in relation to standards of conduct by Cheshire East Councillors.	All Councillors

LGSCO Decision Notices 2022/23



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OPEN

Audit and Governance Committee

Thursday, 28 September 2023

Annual Report of the Audit and Governance Committee 2022/23

Report of: David Brown, Director of Governance and Compliance (Monitoring Officer)

Report Reference No: AG/24/23-24

Ward(s) Affected: (All Wards);

Purpose of Report

- 1 The purpose of this report is for the Committee to consider the draft version of the Audit and Governance Committee's Annual Report 2022/23 and agree the final version of the report that will go to the next meeting of Council on 18 October 2023.

Executive Summary

- 2 Producing an annual report on the work of the Committee ensures compliance with best practice requirements and the Council's Constitution. The report also provides assurances to wider stakeholders on the continuing improvements of the Council's governance arrangements.

RECOMMENDATIONS

The Audit and Governance Committee is recommended to:

1. Review the draft Annual Report of the Audit and Governance Committee 2022/23 and agree the final version which will be presented at the next meeting of Council.

Background

- 3 The Chartered Institute of Public Finance & Accountancy (CIPFA) Position Statement: Audit Committees in Local Authorities and Police 2022 states the Committee should report annually on how it has complied with the position statement, discharged its responsibilities, and include an assessment of its performance.

Consultation and Engagement

- 4 The Annual Report of the Audit and Governance Committee 2022/23 has been drafted in conjunction with the Chair of the Audit and Governance Committee and considered by the Corporate Leadership Team)

Reasons for Recommendations

- 5 To report in line with the requirements of the Council's Constitution and the Audit and Governance Committee's Terms of Reference, which require a report to full Council on a regular basis.
- 6 The report should cover the performance of the Committee in relation to its Terms of Reference, and the effectiveness of the Committee in meeting its purpose in accordance with the CIPFA Position Statement.

Other Options Considered

- 7 Not applicable.

Option	Impact	Risk
Do nothing	Audit and Governance Committee do not share their work and report on their performance to Full Council	Failure to meet the Committee terms of reference and non-compliance with the CIPFA Position Statement

Implications and Comments

Monitoring Officer/Legal

- 8 The Council's Constitution gives responsibility to the Audit and Governance Committee for overseeing the Council's roles and responsibilities in respect of corporate governance and audit and specifically for submitting an annual report to Council. Production of the report ensures compliance with this requirement.

Section 151 Officer/Finance

- 9 The annual report of the Audit and Governance Committee outlines the assurances received by the Committee on the adequacy of the Council's governance arrangements, including the integrity of financial reporting processes.
- 10 There is no direct impact on the Medium Term Financial Strategy.

Policy

- 11 The production of the annual report and its presentation to Council ensures compliance with CIPFA best practice guidance.
- 12 Reporting on the effective working of the Audit and Governance Committee supports the Council's "Open" aim in the Corporate Plan 2021-2025; ensuring there is transparency in all aspects of council decision making.

An open and enabling organisation.

Ensuring there is transparency in all aspects of council decision making

Equality, Diversity and Inclusion

- 13 There are no direct equality, diversity, and inclusion implications.

Human Resources

- 14 There are no direct human resource implications.

Risk Management

- 15 The annual report of the Audit and Governance Committee outlines the assurances received by the Committee on various aspects of the Council's governance arrangements, including the adequacy of the risk management framework.

Rural Communities

- 16 There are no direct rural communities implications.

Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)

17 There are no direct implications.

Public Health

18 There are no direct public health implications.

Climate Change

19 There are no direct climate change implications.

Access to Information	
Contact Officer:	Josie Griffiths, Michael Todd, josie.griffiths@cheshireeast.gov.uk, michael.todd@cheshireeast.gov.uk
Appendices:	Appendix 1: Audit and Governance Committee Annual Report 2022/23
Background Papers:	N/A

Audit and Governance Committee Annual Report 2022/23

DRAFT

Working for a **brighter future**  together



Introduction

As the current Chair of the Audit and Governance Committee, I am pleased to present this detailed report on the work of the Committee during 2022/23.

The report informs full Council of the broad range of work which has been considered over the year to support the Committee in fulfilling its Terms of Reference and provides assurance on the effectiveness of the Committee in meeting its purpose.

I hope that this report helps to demonstrate the key role which is undertaken by the Audit and Governance Committee and the positive contribution it makes to the Council's overall governance.

The Committee's Terms of Reference were developed in accordance with the CIPFA guidance, and the detailed Committee Work Programme, designed to ensure that they are fulfilled, is subject to review at each meeting of the Committee.

During the year, the Committee engaged CIPFA to complete a review of the Committee, and the arising report and action plan are being taken forward to ensure the work of the Committee is effective and supports the wider organisation.

I would like to thank all those who have contributed to the Committee meetings over the last year, supporting the Committee's work with varied reports and presentations, which are the culmination of much more preparation and work undertaken 'behind the scenes'.

I look forward to future meetings of the Committee, and to working with the Committee members and the officers who support the Committee to ensure that we continue to provide independent assurance on the Council's control environment and the governance framework.

Councillor Michael Beanland
Chair of the Audit and Governance Committee

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Role of the Audit and Governance Committee

The Audit and Governance Committee is a key component of the Council's corporate governance arrangements. The Committee provides independent assurance to the Council through:

- An independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards
- Independent review of the Council's governance, risk management and control frameworks and oversees the financial reporting and annual governance processes
- Promotion of high standards of ethical behaviour by developing, maintaining and monitoring Codes of Conduct for Councillors and co-opted Members (including other persons acting in a similar capacity), and
- Oversight of internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place

The role and responsibilities of the Council's Audit and Governance Committee are set out in written terms of reference which are regularly reviewed by the Committee to ensure compliance with relevant legislation and recommended good practice. The terms of reference are set out in the Council's Constitution which is published on the website along with all the agendas, minutes and supporting papers.

Constitution:

<https://www.cheshireeast.gov.uk/pdf/council-and-democracy/constitution/cheshire-east-council-constitution-chapter-2-december-2022.pdf>

Audit and Governance Committee Meetings:

<http://moderngov.cheshireeast.gov.uk/ecminutes/ieListMeetings.aspx?CId=486&Year=0>

The Committee's responsibilities include, but are not limited to, the following matters with a view to bringing any relevant issues to the attention of the Council:

- Oversight of governance, risk management and internal control frameworks
- Oversight of the integrity of the Council's financial statements
- Oversight of the external auditor's performance, objectivity and independence
- Oversight of the performance of the internal audit function

In order to help the Committee meet its responsibilities, each year, management provide training sessions for the Committee on subject areas within their remit. During 2022/23, this included induction training for substitute/new members in July and September 2022 and risk management training in September 2022.

Meetings and Membership

During the 2022/23 municipal year, the Audit and Governance Committee met on 5 occasions and was comprised of 10 members:

- Councillor Margaret Simon (Chair)
- Councillor James Nicholas (Vice-Chair)
- Councillor Rachel Bailey
- Councillor Carol Bulman
- Councillor Mark Goldsmith
- Councillor Alift Harewood
- Councillor Marilyn Houston
- Councillor Patrick Redstone
- Councillor Mike Sewart
- Mr Ron Jones (Independent Co-opted Member)

The Audit and Governance Committee meetings were well attended with substitutes occasionally used when a member could not be present. All substitutes were provided with training prior to attending meetings, and during 2022/23, substitute members were used on 5 occasions.

Committee Attendance statistics:

<http://moderngov.cheshireeast.gov.uk/ecminutes/mgAttendanceSummary.aspx?RPID=486>

The Committee was also routinely attended by the following officers and external parties:

- Executive Director, Corporate Services
- Director of Governance and Compliance and Monitoring Officer
- Director of Finance and Customers Services and S151 Officer
- Head of Audit and Risk
- Acting Internal Audit Manager
- Senior Procurement Manager
- Democratic Services Officers, and the
- External Auditors

How the Committee discharged its responsibilities during 2022/23

Key Committee Activities	May 2022	July 2022	Sept 2022	Nov 2022	Mar 2023
Governance, Risk and Control					
Received updates on the production and review of the Annual Governance Statement		•		•	
Received an update on Information Governance		•			
Received and approved the draft Annual Governance Statement 2021/22			•		
Received and approved the final Annual Governance Statement 2021/22					•
Received the 2021/22 Monitoring Officer Report			•		
Reviewed and agreed the Audit and Governance Committee Annual Report 2021/22			•		
Considered the Annual Risk Management Report 2021/22	•				
Received a Risk Management Update				•	•
Received an update on the agreed recommendations in relation to the Public Interest Report					•
Received a report detailing the findings of the CIPFA Review of the Audit and Governance Committee					•
Internal Audit					
Reviewed internal audit plan progress reports and Internal Audit Charter	•			•	•
Received the Internal Audit Annual Report 2021/22		•			
Received and approved the Internal Audit Plan 2023/24					•

Key Committee Activities	May 2022	July 2022	Sept 2022	Nov 2022	Mar 2023
External Audit					
Reviewed external audit progress reports	•	•	•	•	
Received the external audit Findings and Action Plan 2021/22					•
Considered the Certification of Housing Benefit Subsidy Claim and Teachers Pensions Return 2021/22					•
Annual Statement of Accounts					
Received the 2021/22 Draft Statement of Accounts ¹		•			
Related Functions					
Considered a report on upheld complaints to the Local Government Ombudsman	•	•	•		
Consideration of Contract Procedure Rule Non-Adherences and Waivers	•	•	•	•	•
Considered the outcome of the Investigatory Powers Commissioner's Office Inspection					•
Received the Six-Monthly Complaints Report					•
Standards Arrangements					
Reviewed the proposed revised Code of Conduct for Members and recommended to Council for adoption	•	•			
Other Matters					
Received the Ward Member Budget Report				•	

¹ At the March 2023 meeting, the Committee delegated authority to the S151 Officer to sign off the Statement of Accounts once the audit has concluded.

Governance, Risk and Control

The Audit and Governance Committee oversaw the production of the Council's Annual Governance Statement (AGS) and received updates regarding progress on the AGS significant issues. As part of the production of the AGS, the Committee reviewed and approved the proposed changes to the significant issues detailed in the Statement at the September 2022 meeting. The Committee reviewed the final AGS in March 2023 where it requested the following additional references be included:

- The role of the Scrutiny Committee and how it links with Service Committees and the Audit and Governance Committee
- That the Audit and Governance Committee had sought assurance around the governance of an urgent decision taken to the Children and Families Committee in relation to the All-Age Carers Hub in September 2022

At the March 2023 meeting, the Committee also delegated authority to the Chief Executive and Leader of the Council to sign off the AGS once the external audit had concluded.

The Committee considered the effectiveness of the Council's risk management arrangements, the control environment, and associated anti-fraud and anti-corruption arrangements through the regular review of risk management update reports along with receiving the Annual Risk Management Report.

The Committee was regularly briefed on counter fraud arrangements and investigations via the internal audit updates and the annual internal audit report.

In February 2023, Council considered a Report in the Public Interest published by Grant Thornton on 17 January 2023. Subsequently, the Audit and Governance Committee received an update on the three Public Interest Report recommendations and agreed the terms of reference for the internal audit assurance review to conclude the recommendation delegated to Audit and Governance Committee. The Committee also requested that progress updates on the internal audit review would be provided ahead of the final report being provided at a future meeting.

In July 2022, the Committee endorsed a review to be undertaken by the Chartered Institute of Public Finance and Accountancy (CIPFA) against the updated guidance 'Audit Committees: Practical Guidance for Local Authorities and Police'.

In March 2023, the Committee received an update on the progress of the review and the proposed next steps. At the meeting it was agreed that all members of the Committee be invited to attend a workshop in April 2023. At this workshop, members received the CIPFA report findings and formulated proposed actions to be taken forward by the Committee.

Internal Audit

The Audit and Governance Committee reviewed and approved the annual internal audit plan at its March 2023 meeting. The plan closely aligns with the Council's

strategic risk register and corporate plan and identified priority work to be completed in the first half of the year along with additional areas for consideration in quarters 3 and 4.

The Committee received regular update reports from the Head of Audit & Risk. Such reports enable the Committee to monitor the progress of the internal audit plan, discuss key findings and the plans to address them.

The Committee also considered the Head of Audit & Risk's opinion on the adequacy and effectiveness of the control environment and reviewed the effectiveness of internal audit.

External Audit

The Audit and Governance Committee received regular progress reports from the external auditor throughout the year. The Committee was also informed that Mazars had been appointed as the Council's external auditor for a further 5 years, following the completion of the procurement undertaken by Public Sector Audit Appointments Ltd (PSAA).

The Committee received the external audit findings and action plan for 2021/22 in March 2023 and was informed that the Value for Money work was still ongoing.

Annual Statement of Accounts

The Audit and Governance Committee received and reviewed the Draft Statement of Accounts 2021/22 along with a presentation on the accounts by the S151 Officer. The Committee sought clarity on items in the accounts and the dates for the approval process of the Statement of Accounts. At the March 2023 meeting, the Committee delegated authority to the S151 Officer to sign off the Statement of Accounts once the audit has concluded.

Related Functions

The Audit and Governance Committee received updates on complaints and decision notices issued by the Local Government and Social Care Ombudsman. In addition to receiving the reports, the Committee gained assurance from senior officers that steps had been taken to improve processes and help mitigate any further complaints to the Ombudsman.

During 2022/23, the Committee agreed that the frequency of such updates be amended from quarterly to 6 monthly to allow more time for analysis and the provision of context for the complaints.

The Committee has a key role in overseeing the operation of the Contract Procedure Rules by receiving regular reports setting out the number, type and reasons for waivers and non-adherences. The Committee is presented with unredacted copies of all non-adherences for the period as a Part 2 item, the intention being to ensure good procurement and commissioning practices and clear public accountability.

In March 2023, the Committee also considered the outcome and agreed the action plan to address the suggested improvements arising from the inspection by the Investigatory Powers Commissioner's Office.

Standards Arrangements

The Committee received assurance on key aspects of the Monitoring Officer's responsibilities in the annual Monitoring Officer report which was received in September 2022. The 2021/22 annual report covered areas including but not limited to the Members' Code of Conduct, register of gifts and hospitality and training and development.

During 2022/23, the Committee formed a working group to review the Local Government Association (LGA) model Code of Conduct to assess its suitability for adoption by the Council. The draft Member Code of Conduct was subsequently put to, reviewed, and debated by the Committee in both May and July 2022. At the July Committee it was agreed that the draft Code, incorporating all amendments by the Group Leaders be recommended for adoption by full Council. The Committee also approved the Member Code of Conduct Complaints Procedure. Council adopted the Member Code of Conduct and Member Code of Conduct Complaints Procedure in October 2022.

Hearing Sub-Committee

No meetings of the Hearing Sub Committee were held during 2022/23.

Audit and Governance Committee Priorities for 2023/24

There are several key areas that the Committee will need to consider and progress during 2023/23 in addition to its core business.

Following receipt of a Report in the Public Interest in January 2023, Full Council delegated authority to Audit and Governance Committee to oversee completion of one of the recommended actions. This was in relation to an internal audit review of land transactions and the Committee agreed the terms of reference for the review at its meeting in February 2023.

The Internal Audit Report will be received by the Committee following completion of review and agreement of management actions in early 2023/24.

As previously referenced, CIPFA undertook a review of the Committee during 2022/23 and the report was received, and a workshop was held to formulate an action plan in response to the findings report.

Moving into 2023/24, the focus for the Committee will be on ensure that identified areas of improvement are progressed and implemented during the year. This will be supported by the formation of a subgroup to oversee this work.

Another recommendation from the CIPFA review was the recruitment to the second of the co-opted independent member roles on the Committee. This will also be progressed in year.

It was anticipated that there would be changes to the membership of the Committee following the local elections in May 2023 and this will require training to be delivered to any new members in line with the requirements of the Constitution. During the year work will continue to ensure that the skills and knowledge of all Committee members is supplemented by appropriate training and development.

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Audit and Governance Committee Work Programme 2023 – 2024

Report Reference	Audit & Governance Committee	Title	Purpose of Report	Lead Officer	Consultation & Engagement Process & Timeline	Equality Impact Assessment	Corporate Plan Priority	Part of Budget & Policy Framework	Exempt Item and Paragraph Number
AG/14/23-24	28/09/2023	Annual Monitoring Officer Report 2022/23	To accept the assurance outlined within the Annual Monitoring Officer Report, on key aspects of the Monitoring Officer's responsibilities over the previous financial year; this includes Information Governance, Code of Conduct, Member Training & Development, Declarations of Interest & Gifts & Hospitality.	Director of Governance and Compliance	No	No	Open	No	No
AG/24/23-24	28/09/2023	Annual Report of Audit and Governance Committee 2022-23	To report in line with the requirements of the Council's Constitution and the Audit and	Head of Audit & Risk	No	No	Open	No	No

			Governance Committee's Terms of Reference, which require a report to full Council on a regular basis.						
AG/17/23-24	28/09/2023	Section 106 Key Findings - Internal Audit Report	To provide the Committee with the key findings from Internal Audit's review of arrangements for the management and monitoring of Section 106 funds.	Head of Audit & Risk	No	No	Open, Fair, Green	No	TBC
AG/27/23-24	28/09/2023	Update - Recruitment of a Co-opted Independent Member for the Audit and Governance Committee	This will provide an update to the Audit and Governance Committee on the recruitment of a co-opted independent member for the Audit and Governance Committee.	Head of Audit & Risk	No	No	Open	Yes	Yes
AG/26/23-24	28/09/2023	Proposed Terms of Reference - Audit and Governance Committee	This report will share the initial proposals from the Audit and Governance Working Group's review of it's Terms of Reference.	Director of Governance and Compliance	N/A	No	Open	Yes	No

AG/05/23-24	07/12/2023	Final Statement of Accounts 2022/23	The purpose of this report is to present to committee the final version of the Statement of Accounts for 2022/23, the statements will incorporate the agreed changes reported in the Mazars Audit Findings report 2022/23. There will be a recommendation to committee approve the Statement of Accounts for 2022/23.	Director of Finance & Customer Service	No	No	Open	Yes	No
AG/06/23-24	07/12/2023	Companies Audited Financial Statements 2022/23	The purpose of this report is to present the audited financial statements of Ansa Environmental Services Ltd and Orbitas Bereavement Services Ltd for the year 2022/23	Director of Finance & Customer Service	No	No	Open	Yes	no

AG/03/23-24	07/12/2023	Six Monthly Complaints Report	To provide an update on Complaints and customer contact for the period 1st April to 30th September 2023 and to provide assurance that actions arising from complaints and improvements identified are being actioned	Head of Customer Services	No	No	Open	No	No
AG/16/21-22	07/12/2023	External Audit - Value for Money Report	To receive the Value for Money report from the External Auditors in relation to the Statement of Accounts.	Head of Finance	No	No	Open	TBC	No
AG/25/23-24	07/12/2023	Final Annual Governance Statement 2022/23	To present to Committee the final version of the Annual Governance Statement for 2022/23	Head of Audit & Risk	No	No	Open	No	No
AG/19/23-24	07/12/2023	Internal Audit Update - Progress against Internal Audit Plan 2023-24	To provide Committee with an update on work undertaken by Internal Audit in line with the	Head of Audit & Risk	No	No	Open	No	No

			Internal Audit Plan for 2023/24						
AG/15/23-24	07/12/2023	Whistleblowing Policy	To present proposals for an updated whistleblowing policy to the Audit and Governance Committee	Director of Governance and Compliance	Yes	No	Open, Fair	No	No
AG/20/23-24	07/12/2023	Risk Management Update	To provide the Committee with an update on the effectiveness of risk management arrangements in the Council	Head of Audit & Risk	No	No	Open	No	No
AG/21/23-24	07/12/2023	Audit and Governance Committee - Progress Against CIPFA Review Actions	To provide a Committee with progress on the implementation of actions agreed after the CIPFA review of the Audit and Governance Committee	Head of Audit & Risk	No	No	Open	No	No
AG/22/23-24	07/03/2024	Internal Audit Update - Progress against Internal Audit Plan 2023-24	To provide the Committee with an update on progress against the Internal Audit Plan 2023/24	Head of Audit & Risk	No	No	Open	No	No

AG/23/23-24	07/03/2024	Draft Internal Audit Plan 2024/25	To present the Committee with the proposed Internal Audit Plan for 2024/25 for approval	Head of Audit & Risk	No	No	Open	No	No
AG/28/23-24	25/07/2024	Annual complaints report 2023/24	To provide an update on Complaints and customer contact for the period 1st April to 31st March 2024 and to provide assurance that actions arising from complaints and improvements identified are being actioned	Head of Customer Services	No	No	Open	No	No

OPEN

Audit and Governance Committee

28 September 2023

Section 106 Key Findings – Internal Audit Report

**Report of: David Brown, Director of Governance and Compliance
(Monitoring Officer)**

Report Reference No: AG

Ward(s) Affected: All

Purpose of Report

- 1 To provide the Committee with the key findings from Internal Audit's review of arrangements for the management and monitoring of Section 106 (S106) agreements. (Appendix 1).
- 2 Officers with responsibility for the implementation of the recommended actions will be in attendance at the meeting to assist the committee with any questions Members may wish to raise; whilst this report and appendix are not restricted, if members wish to discuss particular schemes or proposals the committee may need to sit in private as this may impact on the business and commercial interests of the Council.

Executive Summary

- 3 The planning service has undertaken a wide-ranging review and has previously reported to Environment and Communities Committee on the work being undertaken. This report supports that wider review.
- 4 Internal Audit have completed an extensive review of the council's arrangements for the management and monitoring of Section 106 agreements. The key findings of the review are shared in Appendix 1.
- 5 The overall assurance opinion for this review is "No Assurance". This reflects that there are currently significant areas of risk which are not being managed effectively in relation to the effective and efficient use of

S106 agreements and contributions. This audit report findings relate to operational processes, governance, and a lack of strategic oversight in place for senior officers and service committees. “No Assurance” opinion reports are considered for inclusion in the council’s Annual Governance Statement.

- 6 The outcome of this review will also be subject to consideration by the council’s Finance Sub Committee and the Environment and Communities Committee.

RECOMMENDATIONS

The Audit and Governance Committee is recommended to:

1. Receive the findings of the internal audit review on the arrangements for the management and monitoring of Section 106 funds and note the “No Assurance” opinion with an initial progress report being provided to the Committee in March 2024, and a further update on the implementation of actions to be reported to this Committee in 12 months time.
2. Consider the item for inclusion in the final Annual Governance Statement which will be brought to the Committee in due course.
3. Determine whether, based on the identified improvement actions, and the arrangements for the oversight of their implementation described, there are further actions to be taken.

Background

- 7 Planning obligations under Section 106 of the Town and Country Planning Act 1990 (as amended), commonly known as S106 agreements, are a mechanism which make a development proposal acceptable in planning terms, that would not otherwise be acceptable. Each 106 agreement is a specific deed attached to an individual planning permission. They are usually place and purpose specific.
- 8 Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are necessary. They must be:
- necessary to make the development acceptable in planning terms,
 - directly related to the development; and

- fairly and reasonably related in scale and kind to the development.
- 9 These tests are set out as statutory tests in regulation 122 (as amended by the 2011 and 2019 Regulations) and as policy tests in the National Planning Policy Framework. These tests apply whether or not there is a Community Infrastructure Levy charging schedule for the area. They are focused on site specific mitigation of the impact of development. S106 agreements are often referred to as 'developer contributions' along with the Community Infrastructure Levy.
 - 10 It is the role of the Planning Officer to use their knowledge and experience to review individual applications and apply the above tests in practice. This involves taking into account the relevant legislation and council policies, specifically the adopted Local Plan and other planning policies in order to identify and engage with the relevant consultees and ensure that all consultation responses are appropriately considered.
 - 11 The council (as Local Planning Authority) undertakes consultation with services on planning developments; statutory consultees include various internal Services, including but not limited to, Housing, Highways, Education and Green Spaces, as well as external organisations such as the NHS via the Integrated Care Board (ICB).
 - 12 S106 was first reviewed by Internal Audit during 2011. A review of S106 management was then undertaken in 2017 and identified several key findings to be addressed. These findings were followed up in detail by Internal Audit in 2019 with all actions found to still be in progress. The follow up work identified that the completion of outstanding actions was reliant on the successful implementation of the S106 database system (Exacom) and subsequent migration of data to ensure that it was operational.
 - 13 The system went live during 2019 and further follow up work to monitor progress against actions was planned for 2020/21. Unfortunately, the reallocation of internal audit resources in response to the Covid-19 pandemic from March 2020 prevented this work from being undertaken at that point, but the area of S106 and the Community Infrastructure Levy were both included in the 2021/22 Audit Plan; the internal audit of S106 was deferred to 2022/23 to allow the project to complete the migration of data into the S106 database.
 - 14 Work began on the review of the Community Infrastructure Levy (CIL) in 2021/22, and the report draft was finished earlier in 2022/23; as this review was showing similar findings to those emerging in the S106 review, we agreed with management to “hold” that report whilst the S106 review progressed further. Whilst there are similar findings arising from the CIL review, a “Limited” assurance opinion was given; the

actions to be undertaken to respond to findings on CIL are aligned to those in the s106 management actions, and that report has been issued as Final. A number of the CIL management actions have been implemented.

- 15 Internal Audit carried out a review of the policies, systems and procedures in place to provide assurance that the following key risks were managed effectively:
- Risk 1: Arrangements to ensure that appropriate S106 agreements are secured, in place and monitored to activate trigger points in a timely manner are ineffective, resulting in failure to identify and collect amounts due, limiting improvements to the local community and failure to meet obligations imposed during the planning process.
 - Risk 2: Limited strategic oversight and senior decision making in the process leads to reduced benefits/outcomes due to low levels of innovation and options appraisal against achievement of the council's corporate aims.
 - Risk 3: Ineffective monitoring and accountability arrangements may result in a failure to implement schemes within agreed timescales, resulting in potential repayments to developers, unspent monies being unallocated and remaining on the council's balance sheet, and planning obligations remaining unmet or becoming the responsibility of the council.
 - Risk 4: Ineffective governance and monitoring arrangements leading to a lack of transparency around the level and status of S106 monies held by the council, resulting in difficulties in managing the financial position of the service, a lack of strategic oversight by senior officers and Members, and reputational damage to the council.
 - Risk 5: Recommendations made previously have not been implemented, resulting in continuation of poor practice.
- 16 The review concluded that there is a lack of strategic oversight of the management of S106 internally within planning and across other relevant service areas, as well as by the Environment and Communities Committee.
- 17 Consultees and service users of the S106 contributions require greater understanding of their roles and responsibilities, and more structure in terms of ensuring the timely response and implementation of spend, in turn achieving greater outcomes for residents through more effective use of the S106 contribution.

- 18 The review of the processes, administration and monitoring of S106 concluded that this is currently not effective, with a significant level of inconsistency in the recording and monitoring of S106 Agreements and financial contributions across various systems. As such, the Council is currently unable to efficiently identify key financial information with respect to these obligations, for example commitments, actual expenditure and any balances or refunds that may be required to developers.
- 19 The internal audit review has provided a “No Assurance” opinion, based on the testing completed. Internal Audit use a standard set of opinions, and a “No Assurance” means that.
- (a) 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.
 - (b) 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.
- 20 Each of the recommended actions has been agreed and accepted by the relevant service area. The internal audit process has been supported positively by planning and finance services, and recognition and support for the changes needed have been endorsed by the Corporate Leadership Team. There are actions in place to respond to each of the findings, with responsibilities and expected timescales for their implementation set out.
- 21 The implementation of these actions will be closely followed up by Internal Audit and these will be reported back to the Audit and Governance Committee as set out in the recommendations of this report. In addition, further member oversight of the issues raised by the report, and the implementation of the required actions will be provided by reports to the Finance Sub Committee and the Environment and Communities Committee.
- 22 The Finance Sub Committee will receive the key findings on the 2nd November, with a view to understanding the financial implications of the review, and how the planned changes should drive more effective recording, use, and timely spend of the contributions, whilst having regard to the legal restrictions that apply to these contributions.

- 23 The Local Planning Authority Review, which is monitored by the Environment and Communities Committee, had identified the area of S106 for inclusion in the Modernisation Plan, pending completion of the internal audit report, and resolved that a Member/Officer working group would be established on completion of the internal audit work to explore the process of Section 106 planning obligations as part of the wider Modernisation Plan.
- 24 Members have already been nominated for this group and it will now be established to oversee the implementation of the findings of the review and help to inform how information can be more pro-actively shared with members regarding section 106 contributions. This will be discussed at the 6th November meeting of this committee.

Consultation and Engagement

- 25 The terms of reference for the assurance work were drafted with input from the relevant senior officers, including the Council's Section 151 officer, and the Executive Director, Place.

Reasons for Recommendations

- 26 One of the key roles of the Audit and Governance Committee is to receive reports and assurances from across the organisation, and in doing so, consider the effectiveness of the arrangements described, identifying further information needed, and or making recommendations for improvements and additional action required.
- 27 The Committee are asked to consider the assurances provided by the key findings, the assurances provided by way of management responses, follow up by Internal Audit and the further oversight which will be provided by the Finance Sub Committee and Environment and Communities Committee and determine if anything further is required at this point.

Other Options Considered

- 28 No other options considered.

Implications and Comments

Monitoring Officer/Legal

- 29 This report is provided to ensure transparency and compliance with good audit practice. Although there are no direct legal implications arising from the recommendations of this report ongoing support will be provided.

Section 151 Officer/Finance

- 30 There are no direct financial implications arising from the recommendations of this report; Internal Audit resource had already been allocated within the 2022/23 and 2023/24 plans for this work. Any further resource to implement the actions arising from the report would be subject to the relevant decision making and approval processes.

Policy

- 31 The Audit and Governance Committee receiving reports and assurances supports the corporate objective of being an open and enabling organisation.

Equality, Diversity and Inclusion

- 32 There are no direct implications for equality, diversity and inclusion arising from the recommendations of this report.

Human Resources

- 33 There are no direct implications for human resources arising from the recommendations of this report.

Risk Management

- 34 Considering the recommendations of arising from this report and maintaining oversight of the effective implementation of the actions required will contribute to the improvement of the organisations use of S106 contributions, managing the risks set out in the internal audit review.

Rural Communities

- 35 There are no direct implications for rural communities arising from the recommendations of this report.

Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)

- 36 There are no direct implications for children and young people arising from the recommendations of this report.

Public Health

- 37 There are no direct implications for public health arising from the recommendations of this report.

Climate Change

- 38 There are no direct implications for climate change arising from the recommendations of this report.

Access to Information	
Contact Officer:	Josie Griffiths josie.griffiths@cheshireeast.gov.uk
Appendices:	Appendix 1 – S106 Key Findings
Background Papers:	n/a

Section 106 Internal Audit Report – Key Findings

Audit and Governance Committee
28th September 2023



Contents

- Section 106 Agreements and Community Infrastructure Levy – Background
- Scope of the Internal Audit review
- Audit opinions
- Headline findings
- Findings, implications, recommended actions and management responses – summarised by the key risks examined
- Next steps

Section 106 Agreements and Community Infrastructure Levy (CIL) Fund

Planning obligations under Section 106 of the Town and Country Planning Act 1990 (as amended), commonly known as **S106 agreements**, are a mechanism which make a specific development proposal acceptable in planning terms, that would not otherwise be acceptable. Each 106 agreement is a specific deed attached to an individual planning permission.

Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are necessary. They must be:

- necessary to make the development acceptable in planning terms,
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

The **Community Infrastructure Levy (CIL)** is a planning charge introduced across England and Wales by the 'Community Infrastructure Levy Regulations 2010 (as amended)' and is used by Local Authorities to help fund a wide range of infrastructure required as a result of increased development (not an individual development like S106) in an area. It is based on the size and type of development and once a CIL Charging Schedule is set in an area, it is mandatory to pay and non-negotiable.



Internal Audit Scope - 5 risks examined

- *Risk 1: Arrangements to ensure that appropriate S106 agreements are secured, in place and monitored to activate trigger points in a timely manner are ineffective, resulting in failure to identify and collect amounts due, limiting improvements to the local community and failure to meet obligations imposed during the planning process*
- *Risk 2: Limited strategic oversight and senior decision making in the process leads to reduced benefits/outcomes due to low levels of innovation and options appraisal against achievement of the Council's corporate aims*
- *Risk 3: Ineffective monitoring and accountability arrangements may result in a failure to implement schemes within agreed timescales, resulting in potential repayments to developers, unspent monies being unallocated and remaining on the Council's balance sheet, and planning obligations remaining unmet or becoming the responsibility of the Council*
- *Risk 4: Ineffective governance and monitoring arrangements leading to a lack of transparency around the level and status of S106 monies held by the Council, resulting in difficulties in managing the financial position of the service, a lack of strategic oversight by senior officers and Members, and reputational damage to the Council*
- *Risk 5: Recommendations made previously (2018 audit) have not been implemented, resulting in continuation of poor practice.*



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	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. 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.
Satisfactory Assurance	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. Recommendations will normally be no higher than medium level.
Limited Assurance	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. Attention is needed to improve the quality and effectiveness of the control environment in order to ensure key risks can be managed well.
No Assurance	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. 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.

Headlines

- “No Assurance” opinion; consideration should be given to inclusion in the Annual Governance Statement and will be discussed with External Audit.
- Internal Audit had previously reviewed this area in 2017/18 and a significant number of findings from that Audit are repeated, in full or in part in the current review.
- Internal Audit are moving to a 2 phase approach on follow up work; 1) Agree completion of agreed actions 2) Confirming that actions have had the desired effect
- Detailed audit testing covered 15 agreements entered into during the period 2017 to 2022, plus 1 additional agreement entered into prior to that where concerns had been raised by the relevant Member (dated 2013).
- 93 legacy agreements were inherited from predecessor authorities. Of these, 8 were time limited with only 1 recorded as being fully committed. The 7 remaining agreements had not been committed within the required deadlines and the developers may request repayment of any uncommitted balance. Should any monies be committed after the deadline, there is a risk that these amounts may need to be repaid at some point in the future.

Headlines

- Work is ongoing to identify the value of CEC specific agreements that have expired and the associated uncommitted balances. *In the last reporting year £9m of s106 contributions were spent.*
- Organisational understanding of the legal purpose, role, and functions of S106 agreements needs to be improved. *Training and awareness raising sessions will be progressed.*
- Need to ensure CEC achieves the most effective benefits from S106 developer contributions.
- Planning Service Review identified S106 as a key area of work as part of the modernisation workplan. *Environment and Communities working group ready to be stood up.*
- Insufficient resource in planning service to undertake role and discharge legal duties; no resilience in service delivery as only 1 post, resulting in unacceptable risks– *will be addressed via recruitment to 1 post immediately, in advance full service restructure.*

Headlines

- Lack of clarity about roles and responsibilities across the 106 process – e.g. planning officer role; consultees/other services who are responsible for spending the contributions that have been secured; s106 monitoring officer role. *This will be addressed through training and awareness raising sessions including a full workshop.*
- New processes – including process maps – to be developed. *A more pro active process will be used moving forward. Short term actions will need support from other services who are responsible for scheme delivery – e.g. committing spend and implementing schemes.*
- Insufficient oversight by senior management and Members of S106 activity and delivery. Requirement for services to report back on spend and implementation of projects to planning services. *Regular reporting and updates to CLT and E and C committee to be implemented moving forward.*
- S106 is supported by an IT system “Exacom”; currently, this isn’t being used to best effect and doesn’t reflect all S106 agreements in place. *Ensuring full use of Exacom will provide up to date information and support more responsive and efficient monitoring and reporting.*

Key Findings – Risk 1 (1/4)

Arrangements to ensure that appropriate S106 agreements are secured, in place and monitored to activate trigger points in a timely manner are ineffective...

Finding	Implication and Action	Management Response
<p>Policies and Procedures</p> <p>Although the Site Allocations and Development Policies Document has recently reviewed and ratified, several policy documents inherited from legacy councils have not been updated to reflect the requirements of Cheshire East. The key document is the Draft Developer Contributions Supplementary Planning Document (SPD) which went out to consultation in November 2022 and is expected to be adopted in late 2023/23.</p>	<p><u>Implication</u> Ineffective or out of date policies and procedures leading to inconsistent approach to the identification and recording of s106 agreements resulting in potential loss of income and reputational damage to the Council.</p> <p><u>Action</u> To complete the consultation process for the Draft Developer Contributions SPD, ensuring that all relevant services are included prior to presentation to the Environment and Communities Committee.</p> <p>Following approval the document should be shared with all relevant officers and published on the Council's website.</p>	<p>Management Response – Agreed</p> <p>Due to be presented to Environment and Communities Committee in Q3</p> <p>Timescale – November 2023</p>
<p>Roles and Responsibilities</p> <p>A significant risk to delivery and continuity arises from a lack of resilience in procedural documentation and staffing resource. The current arrangements do not provide appropriate contingency or cover in the event of absence.</p>	<p><u>Implication</u> Financial and reputational damage due to significant delays at various stages of the process or inappropriate application of the rules.</p> <p><u>Action</u> Establish the level of resource required to:</p> <ul style="list-style-type: none">• Bring monitoring of S106 agreements to an effective level• Maintain it at this level going forward.• Provide an appropriate level of contingency within the service	<p>Management Response – Agreed</p> <p>Management arrangements to be considered as part of wider Planning Review</p> <p>Timescale – Ongoing. Recruitment process underway</p>

Key Findings – Risk 1 (2/4)

Arrangements to ensure that appropriate S106 agreements are secured, in place and monitored to activate trigger points in a timely manner are ineffective...

Finding	Implication and Action	Management Response
<p>Identification and Approval of S106 Agreements</p> <p>A local Scheme of Delegation documenting the delegation of powers from the Head of Planning is in place, dated April 2020. However this was not readily available. It is appreciated that this is currently being reviewed and is awaiting formal approval</p>	<p><u>Implication</u></p> <p>The Local Scheme of Delegation may be out of date and not reflect the delegated powers, as detailed in the current Constitution which may result in decisions not being made by appropriate Officers, or Officers taking decisions without the authority to do so.</p> <p><u>Action</u></p> <p>Once approved, the updated Local Scheme of Delegation should be communicated to appropriate officers and uploaded to Centranet for reference.</p>	<p>Management Response – Agreed</p> <p>Timescale – updated SOD completed and undergoing approval process</p>
<p>Content of S106 Agreements</p> <p>There is a lack of consistency in providing for, and articulating, ongoing costs such as utilities and maintenance within s106 agreements</p>	<p><u>Implication</u></p> <p>Where ongoing costs are not provided for there may be unbudgeted financial strain being placed on services in future years.</p> <p><u>Action</u></p> <p>Commuted sums for future maintenance costs should be built into all S106 consultation responses by Services. This should be reflected in agreements where appropriate or, at the very least, built into future budgets to ensure that any additional costs as a result of a development are accounted for.</p>	<p>Management Response – Agreed</p> <p>Agreed processes/formulae as set out in the SPD will include maintenance where this is appropriate.</p> <p>Timescale – December 2023</p>

Key Findings – Risk 1 (3/4)

Arrangements to ensure that appropriate S106 agreements are secured, in place and monitored to activate trigger points in a timely manner are ineffective

Finding	Implication and Action	Management Response
Recording S106 Agreements The Exacom system is not being used to its full potential by recording both financial and non financial elements of s106 agreements. During 2022 all agreements up to October 2020 were migrated to the system, however, it has not been updated since and is currently over 2 years out of date.	<u>Implication</u> Processes for identifying potential S106 records are weak, resulting in failure to identify and collect amounts due, limiting improvements to the local community and failure to meet obligations imposed during the planning process. <u>Action</u> The Exacom should be brought up to date as a priority and utilised to its full potential.	Management Response – Agreed Work is underway to update Exacom records as a priority and recruitment to vacant post will assist in this. Timescale – Ongoing, recruitment process underway
Supporting Documentation Key documentation not consistently retained on the document management system.	<u>Implication</u> Failure to clearly evidence the S106 process and decision making, resulting in potential reputational damage if this is challenged. <u>Action</u> All information supporting the S106 process should be uploaded to the document management system to support and evidence decisions.	Management Response – Agreed Planning application system is the appropriate location. Timescale – November 2023
Trigger Points Although trigger points are clearly documented in s106 agreements, testing identified that this was not always the case on the Finance Master Spreadsheet	<u>Implication</u> Failure to identify that triggers have been achieved leading to limited oversight of monies due, a reliance on developers to make payment and potential financial loss to the Council <u>Action</u> A data cleanse of the Finance Master Spreadsheet should be completed to ensure that all relevant information is clearly documented. Moving forward, Exacom should be the primary record for all s106 related matters.	Management Response – Agreed To be undertaken in consultation with relevant services Timescale – November 2023

Key Findings – Risk 1 (4/4)

Arrangements to ensure that appropriate S106 agreements are secured, in place and monitored to activate trigger points in a timely manner are ineffective

Finding	Implication and Action	Management Response
Monitoring Capacity issues have resulted in overall limitation of proactive monitoring	<u>Implication</u> Lack of oversight of s106 agreements resulting in a failure to collect, commit and expend contributions within deadlines resulting in financial loss and/or challenge to the Council. <u>Action</u> The level of resource required to ensure that s106 agreements are subject to regular and effective monitoring should be determined and any shortfalls addressed.	Management Response – agreed as per previous actions in relation to resource, capacity and wider planning review
Recording Receipts, Commitments and Expenditure 8 contributions received between 2018/19 and 2021/22 totalling £5.8m were identified as unallocated.	<u>Implication</u> Contributions which are not committed and spent within agreed deadlines may be liable to be returned to the developer resulting in financial pressures on the Council as they remain responsible for fulfilling the planning conditions. <u>Action</u> This should be investigated and the monies allocated to the correct S106 obligation in order to ensure that the contributions are spent in line with the relevant deadlines.	Management Response – Agreed To be undertaken with input from Legal and Finance Timescale – October 2023

Key Findings – Risk 2

Limited strategic oversight and senior decision making in the process leads to reduced benefits/outcomes

Finding	Implication and Action	Management Response
Lack of strategic oversight for S106 at Committee and senior officer level, including awareness of contributions against triggers and deadlines, and key issues emerging.	<p><u>Implication</u> Lack of strategic oversight may lead to reduced benefits/outcomes and the potential for reputational damage following claims of bias or favouritism</p> <p><u>Action</u> Regular reports or briefings should be provided to senior managers and the Environment and Communities Committee with respect to S106 agreements. This should include information in respect of key/emerging issues and oversight of contributions due, received and spent.</p>	<p>Management Response – Agreed</p> <p>To be linked to Annual IFS report</p> <p>Timescale – December 2023</p>
Issues were identified in relation to consultation with services regarding potential s106 obligations and contributions. These related to potential missed opportunities for services to access developer contributions and a concerning lack of appreciation and understanding of S106 use, processes, and timescales by consultees.	<p><u>Implication</u> Inconsistent processes and lack of understanding of the decision-making process and timeframes by Services may result in delayed planning decisions, non-compliance with agreed targets and missed opportunities to identify potential contributions.</p> <p><u>Action</u> Consultation timescales and potential use and limitations of s106 contributions should be reiterated to consultee services. Consideration should also be given to introducing a standard consultation pro forma document detailing the proposed obligation, rationale and justification, along with any supporting documentation</p>	<p>Management Response – Agreed</p> <p>Work is already underway as part of the planning service review to improve performance of a number of internal statutory consultees within a number of services, which are adding delays to planning decisions on applications. Cross team working and action plans have been developed and are being progressed in this regard.</p> <p>Timescale – as per Planning Modernisation Plan.</p>
There are no formal procedures documenting the process to be followed in undertaking viability assessments which are required where developers challenge proposed s106 obligations as financially unviable.	<p><u>Implication</u> Informal policies and procedures may result in an inconsistent approach and ineffective record keeping to support viability assessments for both financial and non-financial benefits.</p> <p><u>Action</u> The process for undertaking viability assessments should be agreed and documented, including recording of decisions and retention of supporting evidence</p>	<p>Management Response – Agreed</p> <p>A workshop led by planning and involving key consultees will be held in October 2023 as an opportunity to deliver training, clarify roles and responsibilities and develop detailed process notes and process mapping as required. In addition, and building in this detail, working Policy & Procedures document will be produced in consultation with the relevant Services.</p> <p>Timescale – December 2023</p>

Key Findings – Risk 3 (1/2)

Ineffective monitoring and accountability arrangements may result in a failure to implement schemes within agreed timescales

Finding	Implication and Action	Management Response
There are no formal procedures documenting the agreed approach to enforcement of s106 obligations.	<p><u>Implication</u> Lack of documented procedures may lead to an inconsistent approach to enforcement activity and allegations of bias against the Council.</p> <p><u>Action</u> The approach to enforcement of s106 obligations should be agreed and documented to ensure a consistent approach.</p>	<p>Management Response – Agreed</p> <p>As per above response re workshop and development of policy and procedure document.</p> <p>Timescale – December 2023</p>
No records are retained to demonstrate that post development reviews are undertaken to ensure that the requirements of the S106 obligations have been discharged as anticipated.	<p><u>Implication</u> Obligations may not be fulfilled and/or contributions may be used for purposes other than in accordance with the s106 agreement leading to potential challenge to the Council and additional financial pressure to fulfil outstanding planning obligations.</p> <p><u>Action</u> Records of post development reviews should be maintained to demonstrate that all s106 obligations have been discharged in accordance with the agreement.</p>	<p>Management Response – Agreed</p> <p>Requirements to be detailed in policy and procedure document that is being developed.</p> <p>Timescale – December 2023</p>

Key Findings – Risk 3 (2/2)

Ineffective monitoring and accountability arrangements may result in a failure to implement schemes within agreed timescales

Finding	Implication and Action	Management Response
<p>There is no pro active monitoring or reporting to services and/or other external organisations receiving funds (e.g., NHS or Police) of obligations that are approaching their commitment spend deadline.</p> <p>In addition, there is no formal reporting of unspent balances and/or repayments to developers.</p>	<p><u>Implication</u> Spend may be committed after a deadline has expired which may result in a requirement to repay monies to developers should they make such a request.</p> <p><u>Action</u> Regular reports should be provided to Services and/or other external organisations receiving funds (e.g., NHS or Police) which highlight any obligations nearing their commitment/spend deadline date.</p> <p>A process should be introduced to ensure that services monitor, challenge, and report unspent and repaid balances, taking into account the risk that monies spent or committed after the agreed deadline may need to be repaid in future.</p>	<p>Management Response – Agreed</p> <p>It is proposed that a 6 monthly report will be produced and distributed as appropriate. In addition a s106 Officers Group will also be established.</p> <p>Timescale – First report to be produced December 2023</p>
<p>Inaccurate and inconsistent recording of time limited contributions v non time limited contributions make it difficult to draw meaningful conclusions as to whether contributions received have been committed and spent in accordance with agreed deadlines.</p>	<p><u>Implication</u> The position in relation to balances held is unclear and requires additional resources to “unpick” this situation, ensure funds are used in line with obligations of original S106 agreement and minimise the risk of repayments to developers.</p> <p><u>Action</u> A data cleansing exercise should be undertaken to ensure the accuracy of recording time limited and non time limited obligations.</p> <p>Moving forward, Exacom should be the primary record for all s106 related matters.</p>	<p>Management Response – Agreed</p> <p>To be addressed by the production of the 6 monthly s106 report as detailed above</p> <p>Timescale – December 2023</p>

Key Findings – Risk 4

Ineffective governance and monitoring arrangements leading to a lack of transparency around the level and status of S106 monies held by the Council

Finding	Implication and Action	Management Response
<p>Whilst the required Infrastructure Funding Statement (IFS) is produced and published annually, it is not formally reported to and approved by a relevant forum due to its nature as a factual monitoring report.</p> <p>In addition, the formatting and content, whilst detailed, do not directly reflect the guidance and could therefore be improved to assist the reader.</p>	<p><u>Implication</u> Ineffective monitoring and oversight arrangements may lead to a failure to provide the required administration of scheme monies in line with best practice.</p> <p><u>Action</u> Regular reports on S106 activity, including the review and approval of the IFS, should be reported to Place DMT to ensure that senior managers are aware of the latest position. A briefing should also be provided to Environment and Communities Committee for information purposes.</p> <p>Any issues requiring escalation should be provided on a regular basis to the Environment and Communities Committee.</p>	<p>Management Response – Agreed</p> <p>As detailed in previous actions, 6 monthly s106 report to be produced and more detailed reporting to Members as part of Annual IFS Report</p> <p>Timescale – December 2023</p>
<p>Whilst ad-hoc requests for information from Members are responded to, there is no regular reporting of monies due, received, committed, and spent to Members for their Ward areas.</p>	<p><u>Implication</u> Ineffective reporting of S106 information to Members may result in excessive queries which are time consuming to respond to.</p> <p><u>Action</u> Regular reporting of S106 monies to Member and other relevant Officers should be introduced to provide greater transparency and minimise ad-hoc queries. Roll out of the full Exacom system would greatly assist in this through the creation of reports.</p>	<p>Management Response – Agreed</p> <p>As above plus engagement with s106 Members Working Group</p> <p>Timescale – December 2023</p>

Key Findings – Risk 5

Recommendations made previously (2018 audit) have not been implemented...

Finding	Implication and Action	Management Response
<p>A significant number of findings from the 2018 audit are repeated, in full or part, in the 2023 report. This is partly as a result of the delays in implementing and utilising Exacom but the management responses cover the issues faced by the service in more detail.</p> <p>Full details of the previous actions and implementation status have been provided to CLT but this will be replaced by a summary in the final report.</p>	<p><u>Implication</u></p> <p>Risks identified in previous audit reviews have not been addressed resulting in no further improvements being achieved.</p> <p>Action – as per management response</p>	<p>Outstanding actions have been superseded by the current action plan which has been agreed with management along with timescales for implementation.</p>

What's next?

- Journey of the key findings through Audit and Governance Committee, Finance Sub Committee and Environment and Communities Committee.
- Audit and Governance Committee will receive assurance through Internal Audit follow up, and the oversight from other committees that actions are being implemented and achieving the desired change and impact, which fall broadly into two areas;
 - Arrangements to deal with the improvements to the administration and monitoring of S106 agreements
 - Improving the use and more timely spend of S106 funding
- An initial progress update will be provided to the Audit and Governance Committee in March 2024, with a further report detailing progress against implementation of actions will be presented to Audit and Governance Committee in 12 months.