

Audit and Governance Committee

Agenda

Date: Thursday, 29th September, 2022
Time: 2.00 pm
Venue: Committee Suite 1,2 & 3, Westfields, Middlewich Road,
Sandbach CW11 1HZ

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

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

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

1. **Apologies for Absence**

To receive apologies for absence.

2. **Declarations of Interest**

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

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

In accordance with 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.

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.

For requests for further information

Contact: Helen Davies

Tel: 01270 685705

E-Mail: helen.davies@cheshireeast.gov.uk

4. **Minutes of Previous Meeting**

To approve as a correct record the minutes of the meeting held on 28 July 2022.

5. **Action Log** (Pages 5 - 8)

To consider the Audit and Governance Action Log.

6. **Monitoring Officer Report** (Pages 9 - 34)

To consider the assurances outlined within the Annual Monitoring Officer Report, on key aspects of the Monitoring Officer's responsibilities over the previous financial year.

7. **External Audit Progress and Update Report** (Pages 35 - 46)

To receive an update report on the external audit progress.

8. **Draft Annual Governance Statement 2021/22** (Pages 47 - 90)

To receive the draft Annual Governance Statement (AGS) for 2021/22.

9. **Audit & Governance Committee Annual Report** (Pages 91 - 114)

To consider the draft version of the Audit and Governance Committee's Annual Report 2021/22 and agree the final version of the report that will go to the next meeting of Council.

10. **Standing Item: Upheld Complaints to the Local Government Ombudsman**

To consider upheld complaints to the Local Government Ombudsman (LGO).

11. **Standing Item: Work Programme 2022/23** (Pages 115 - 120)

To consider the Committee's Work Programme.

12. **Standing Item: Compliance with Contract Procedure Rules**

To consider an update to the Audit and Governance Committee on the number of cases where, and reasons why, procurement activity has required the use of waivers and/or non-adherences (WARNs).

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

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

The Committee may decide that the press and public be excluded from the meeting during consideration of the following items pursuant to Section 100(A)4 of the Local Government Act 1972 on the grounds that they involve the likely disclosure of exempt information as defined in Paragraphs 3 and 5 of Part 1 of Schedule 12A to the Local Government Act 1972 and public interest would not be served in publishing the information.

14. **Standing Item: Compliance with Contract Procedure Rules: PART TWO** (Pages 121 - 154)

To note the approved WARNs.

Membership: Councillors R Bailey, C Bulman, M Goldsmith, A Harewood, M Houston, P Redstone, M Sewart, M Simon (Chair) and J Nicholas (Vice-Chair)

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Audit and Governance Committee - Action Log

Date of Meeting: 28 July 2022

Meeting Date	Item No	Report Title	Action	Officer	Deadline for Action
10 March 2022 & 26 May 2022	13	Standing Item: Work Programme 2021/22 and 2022/23	The Chair and Vice Chair to meet John David, Interim Director of Infrastructure and Highways via Microsoft Teams to discuss potential items for this Committees Work Programme and shared with the Committee.	Helen Davies	Update: Tom Moody is now the permanent Director of Infrastructure and Highways. Helen has sought a date for the Chair and Vice Chair. To note: A Highways all-member briefing took place on 4 July 2022.
28 July 2022	4	Minutes of the Previous Meeting	Councillor Carol Bulman noted at the bottom of Page 11, there was a paragraph that related to closures between Pym's Lane and Flowers Lane Hospital Campus. Councillor Bulman had been made aware that an open letter had been sent on this matter and she felt this should be shared with the Committee. The Chair was aware of this matter and noted that she had no opportunity to speak to Councillor Rachel Bailey, who was unable to attend the meeting, but this was	Helen Davies	Helen to speak to Chair

			an item that could be taken away and shared with the Committee in due course.		
28 July 2022	14	Standing Item: Upheld Complaints to the Local Government Ombudsman	Cllr Houston noted that the 4 th paragraph of 5.3 of the report, that related to the training programme for staff. This was put forward as an improvement, that would ensure that staff have the most up to date knowledge and training etc. Cllr Houston asked asked what measures were in place to ensure that staff attend and participate in this training.	Brian Reed	<p>Update: Brian contacted Laura Rogerson and Catherine Callaghan.</p> <p>Response from Laura Rogerson, Head of Inclusion reported that:</p> <p>There is a comprehensive training plan that is reviewed on an annual basis, this includes access to internal and external training, coordinated through the workforce development team to ensure all staff are able to booked on this centrally. This information is then recorded within the local authority systems - Learning Lounge. Staff also have access within Learning Lounge to a range of e-training and resources, as part of staff supervision and PDR conversations managers hold conversations in regards to training. Learning lounge has been developed further this year to include a team/manager section to</p>

					enable reports to be collated from individual staff and teams to ensure managers and senior leaders are able to further support oversight across all teams.
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Working for a brighter future together

Audit and Governance Committee

Date of Meeting: 29 September 2022

Report Title: Monitoring Officer Annual Report 2021/22

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

Report Reference No: AG/41/21- 22

Ward(s) Affected: ALL

1. Purpose of Report

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

2. Executive Summary

- 2.1. The Committee is invited to review the Monitoring Officer's Annual Report attached at Appendix A.
- 2.2. 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.

3. Recommendations

- 3.1. That the Committee -
- a) Note the Annual Monitoring Officer's Report 2021/22.

4. Reasons for Recommendations

- 4.1. 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.

5. Background

- 5.1. 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.
- 5.2. 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

6. 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.

7. Consultation and Engagement

- 7.1. Not applicable

8. Implications

8.1. Legal

8.1.1. 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.

8.2. Finance

8.2.1. There are no direct financial implications arising from this report.

8.3. Policy

8.3.1. There are no direct policy implications arising from this report.

8.4. Equality

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

8.5. Human Resources

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

8.6. Risk Management

8.6.1. The Monitoring Officer report provides assurance that the Council has arrangements in place to ensure effective service delivery and manage the risks of non-compliance.

8.7. Rural Communities

8.7.1. There are no direct implications for rural communities.

8.8. Children & Young People/Cared for Children

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

8.9. Public Health

8.9.1. There are no direct implications for public health.

8.10. Climate Change

8.10.1 There are no direct implications for Climate Change

Access to Information	
Contact Officer:	Jamie Hollis, Head of Legal Services jamie.hollis@cheshireeast.gov.uk
Appendices:	Appendix A: Monitoring Officer Annual Report 2021/22
Background Papers:	

Monitoring Officer Report 2021/22

**Audit and Governance Committee
29 September 2022**

1. Role of the Monitoring Officer

- 1.1 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.
- 1.2 The legal basis for the Monitoring Officer's role is found in Section 5 of the Local Government and Housing Act 1989.
- 1.3 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
- 1.4 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
- 1.5 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.
- 1.6 Additionally, Part III of the Local Government Act 2000 makes the Monitoring Officer responsible for maintaining a Register of Member Interests. The Monitoring Officer also operates the procedures for dealing with Code of Conduct complaints against Cheshire East Borough Council Members, and Members of Town and Parish Councils in its area.
- 1.7 Under the requirements set out above, the Monitoring Officer ultimately assumes responsibility for the lawfulness of decision-making processes and a number of 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.
- 1.8 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.

- 1.9 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 1 January 2018. 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. The Local Government Association ('LGA') has produced a model code of conduct for councillors, which provides a robust base upon which a revised Code can be developed. This model code has been developed nationally on the basis of a significant level of legal expertise and national stakeholder consultation, and represents the predominant view across all local authorities in England as put forward by the LGA. The Audit and Governance Committee established a working group to review the LGA model code to establish its suitability for Cheshire East Council. A final draft Code was agreed at the Committee meeting in July for submission to full Council.
- 2.3. In terms of dealing with complaints under the adopted Code, 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. Detail of the complaints received in 2021/22 is shown in the table below.

Part A: General Obligations		
No. received		
	Borough	Town Parish
Selflessness	3	10
Integrity	7	25
Objectivity	9	21

Accountability	3	12
Openness, sub paragraph (a) transparency	2	7
Openness, sub paragraph (b) disclosure	3	11
Honesty, sub paragraph (a) declaring interests	0	5
Honesty, sub paragraph (b) use of resources	2	1
Respect for others, sub paragraph (a) courtesy	11	33
Respect for others, sub paragraph (b) equality	2	8
Respect for others, sub paragraph (c) impartiality	1	7
Respect for others, sub paragraph (d) bullying	8	22
Leadership	14	30
Gifts and hospitality	0	0
Failure to register or declare an interest	1	7

Note: the numbers may not tally with the number of complaints received as a Complainant may identify none or more than one paragraph in their complaint.

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

	2021/22		2020/21		2019/20	
Complaint:	Borough	Town Parish	Borough	Town Parish	Borough	Town Parish
Rejected at preliminary assessment stage; failed to meet the assessment criteria	16	31	6	37	3	1
Concluded at Initial Assessment Meeting (breach or no breach)	3	8	3	22	7	12
Referred for formal external investigation	2	9* (* figure includes 3 internal investigations)	0	11	0	0
Referred to Standards hearing Sub Committee	0	6	0	11	0	0
Complaint ongoing	0	1	0	11	0	0

- 2.6. A total of 69 complaints were received for 2021/22.
- 2.7. In the 2021/22 period, 22 complaints progressed beyond initial assessment resulting in an outcome of 'breach' (15 cases), 'no likely breach' (6 cases), with one further matter not yet concluded.
- 2.8. This compares to the 2020/21 period during which 22 cases resulted in a finding of 'breach', and 14 cases 'no likely breach'.

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 the Code of Conduct and include for all Members, Disclosable Pecuniary Interests. Additionally, there is a requirement to declare personal and 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 are available on, or through, the 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 notable 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.

- 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. Gifts and hospitality received by Members were declared to the Monitoring Officer in the following numbers;

2021/22	2020/21	2019/20	2018/19
1	1	2	1

- 4.4. Training in respect of gifts and hospitality is covered 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. For any member who is elected as a result of a by election a one-to-one briefing session will be provided. The last session took place on 3 March 2020. It hasn't been held annually for some time due to a number of reasons. It's also been delayed due to the review of the code.

- 5.2. Following Council elections Code of Conduct training is delivered as part of the Induction programme for newly elected Members, with a wider, all Councillor briefing held in the 28-day period between the date of election and the deadline for completion of Members' Register of Interest Forms. Preparations are underway for delivering code of conduct training as part of the induction programme for new members following the local elections in 2023.

- 5.3. Plans are in place in relation to general code of conduct training over the coming year as part of the Council's four-year cycle of training and development. These plans take into account the earlier recommendations of the Committee on Standards in Public Life, as set out in its report on Local Government Ethical Standards published in January 2019. Training content will reflect the Council's recent transition to a committee system form of governance, with a particular focus on any changes to the Members Code of Conduct arising from a recent review, and the arrangements for dealing with Member complaints.

- 5.4. In respect of Town and Parish Councils, a training programme has been devised and delivered by The Cheshire Association of Local Councils (ChALC) with attendance by the Monitoring Officer when required.

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. These are set out through in Chapter 4, Part 1 of the Constitution at the end of the Member Code of Conduct.
- 6.3 No further general dispensations were granted during the course of 2021/22.

7. Information and Data Protection

- 7.1. Data Protection Requests
- 7.2. Data protection requests cover 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.
- 7.3. 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. 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. Council Tax receive disclosure requests from agencies to check liability and verify address details. They are responded to directly by the service; however these numbers are included in the figures below.
- 7.5. Table 1a below outlines the number of requests received under data protection legislation during the financial year 2021/22 compared with 2020/21. Table 1b 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 have not been included in the compliance rate.

Table 1a - Data Protection Requests Received

Cases received	2021/22	2020/21
Disclosure request	405	323
Council Tax requests responded to directly	412	553
Individual right request	36	15
Objection to processing personal information	0	1
Subject access request	246	202
Total	1099	1094

Table 1b – Percentage of requests responded to within one month (excluding Disclosure Requests)

	2021/22	2020/21
Response late	98	62
Response sent on time	108	137
Withdrawn/Rejected/Ongoing Request	9	1
Total cases received	215	200
Total requests processed in full at time of report	206	199
% of cases processed in full responded on time	52%	69%

- 7.6 There has been a steady increase in numbers of requests over the last few years and, while the number has increased slightly in 2021/22 compared to the previous year, the compliance rate has declined. The drop in compliance is due to capacity in the team and 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.

7.7 Freedom of Information/Environmental Information Requests

- 7.8 Tables 2, 3, 4 and 5 below outline the number of requests received under the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations (EIR) 2004. They also detail the type, source and number of requests made to the Council, the response times for individual services and the request outcomes.

- 7.9 There has been an increase in the number of FOIA and EIR requests and response rates have declined slightly to 96% compared to 97% in the previous year. This drop in compliance is primarily due to reduced resources in the team. The compliance rate is within the “Good” range of criteria set out by the Information Commissioner’s office.

Table 2 – Requests Received under FOIA and EIR's

Type of Request	2021/22	2020/21
FOIA/EIR Requests	1539	1474
EIR Requests to Land Charges ¹	2624	2735
Total FOIA/EIR Requests	4163	4209

Table 3 – Source of FOI/EIR Request

Source	2021/22	2020/21
Commercial	32%	32%
Charity	<1%	<1%
Councillor	<1%	1%
Individual	39%	40%
MP	<1%	1%
Other	1%	<1%
Press or media	9%	9%
Pressure Groups	3%	4%
Public Sector	1%	1%
Researchers	2%	2%
What do they know? ²	11%	9%

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

Directorate	2021/22	2020/21
Corporate Directorate	95%	97%
People Directorate	98%	98%
Place Directorate	96%	95%
Total	96%	97%

- 7.10 The Council provides full information to the requester in 53% of cases. In 147 cases at least some of the information was already publicly accessible without the need to make a request through either FOIA or the EIR's (see Table 6). Ordinarily, links are provided to the location of the published information. Responses are also routinely published in the authority's FOI Disclosure Log. Requesters are advised to look there before making a new request.

Table 5 details the number of cases where the information has not been released or has not been released in full.

¹ Personal Search Companies make EIR requests directly to the Land Charges Team, who respond directly to the requester. The requests are all completed within the statutory deadline of 20 working days.

² 'What do they know?' is a website used to make FOI and EIR requests

Table 5 – FOI/EIR Outcomes – 2021/22

Outcomes	2021/22	2020/21
All information sent	829	856
Information not held	136	107
Ongoing Request at year end (outcome not known)	47	26
Some information sent but not all held	138	105
No information sent - all held but exempt	226	219
Some information sent but part exempt	76	86
Exceeds appropriate limit (18 hours) - refused ³	26	9
Request lapsed – (clarification sought but not provided by requester)	27	36
Some information sent and exceeds appropriate limit ³	26	23
Neither confirm nor deny information held	3	6
Vexatious request	2	0
Repeated request	0	0
Part exempt and exceeds appropriate limit	3	1
Some information sent, part exempt and exceeds limit	0	0
Total	1539	1474

7.11 As shown in Table 6 below, 331 FOI Exemptions and EIR Exceptions were applied to refusals issued during 2021/22.

Table 6 – FOI/EIR Refusal Notice Reasons

Refusal Notices issued	2021/22	2020/21
EIRs Regulation 12(3) Personal Information	8	2
EIRs Regulation 12(4)(a) Information Not Held	11	4
EIRs Regulation 12(4)(b) Manifestly Unreasonable	21	1
EIRs Regulation 12(4)(c) Formed in too general a manner	1	0
EIRs Regulation 12(4)(d) Draft Information	4	0
EIRs Regulation 12(4)(e) Internal Communications	1	0
EIRs Regulation 12(5)(b) Course of Justice	5	0
EIRs Regulation 12(5)(c) Intellectual Property Rights	0	0
EIRs Regulation 12(5)(d) Confidentiality of Proceedings	1	0
EIRs Regulation 12(5)(e) Commercial Interests	2	0
EIRs Regulation 12(5)(f) Information in Confidence	2	0
EIRs Regulation 12(5)(g) Protection of Environment	2	0

³ The 'appropriate limit' is 18 hours, i.e. if it will take more than 18 hours to fulfil the request, then it can be refused. If a requester wishes to pursue the request and the response, then a fees notice can be issued. In most cases the requester will issue a new revised and reduced request.

EIRs Regulation 6(1)(b) Already Publicly Accessible	57	52
FOIA Section 12(1) Exceeds Appropriate Limit ³	0	9
FOIA Section 21 Already Publicly Accessible	90	79
FOIA Section 22 Intended for Future Publication	7	6
FOIA Section 23 Information relating to security bodies	0	0
FOIA Section 24 Safeguarding national security	1	
FOIA Section 30 Investigations & Proceedings	1	15
FOIA Section 31 Law Enforcement	40	68
FOIA Section 32 Court Records etc.	0	0
FOIA Section 33 Audit Functions	0	0
FOIA Section 36 Prejudicial to conduct of public affairs	0	1
FOIA Section 38 Health & Safety	0	0
FOIA Section 40 Personal Information	44	43
FOIA Section 41 Information Provided in Confidence	19	10
FOIA Section 42 Legal Professional Privilege	2	1
FOIA Section 43 Commercial Interests	12	7
Total	331	298

It should be noted that the number of exemptions/exceptions does not match with the number of requests refused (Table 4) because more than one exemption/exception may be used in a single refusal notice.

7.12 Internal reviews and referrals to the Information Commissioner's Office

Should a requester be unhappy with the initial response to their request, they have the right to request an internal review. This is conducted by someone independent of the initial response and usually by a senior officer within the Compliance and Customer Relations Team.

Table 7 - Internal Reviews and Outcomes

Outcome	2021/22	2020/21
Not upheld (in favour of Council)	56	40
Ongoing review at end of year	1	0
Upheld – full (in favour of requester)	17	13
Upheld – partial (in favour of requester)	14	19
Withdrawn	5	1
Total	93	73

Should a requester remain unhappy following the internal review, he/she may appeal to the Information Commissioner's Office (ICO) for a decision. Table 8 below outlines the outcomes for complaints made to the ICO.

Table 8 – Outcomes of complaints to the Information Commissioner's Office (ICO)

Complaints to the ICO	2021/22	2020/21
Information Notice	1	1
Ongoing at year end	4	0
Withdrawn	1	0
Complaint Upheld	3	1
Complaint Not Upheld	0	4
TOTAL	9	6

8 Complaints including Local Government and Social Care Ombudsmen Referrals

8.1 During 2021/22 the Council received 2993 instances of customer feedback under the Council's Corporate Compliments, Suggestions and Complaints Policy, as well as the Council's Adults and Children's Social Care Complaints Policies. Of these, 554 were compliments, 105 were suggestions and 2334 were complaints. Details are attached in Appendix 1.

Total complaints have increased by 32% in 2021/22 compared with the previous year, when 1753 were received. Most service areas have seen an increase in complaints, however the service areas with the most proportionate increases are Waste and Recycling, Highways, Planning, Council Tax and Special Educational Needs.

The number of recorded compliments in 2021/22 was 554, compared with 887 in 20/21; Council Tax recorded the most compliments followed by Adult Services. The Council also recorded 105 suggestions. These are neither complaints nor compliments, but often suggested changes to policy or working practice.

Appendices 1, 2(a) and 2(b) show the number of cases of formal feedback received. A summary of the cases closed during 2021/22 by the Local Government and Social Care Ombudsman is also provided. Figures for 2020/21 are also included for comparison.

8.2 Stage 2 Corporate Complaints

Of the 2316 corporate (i.e. non-children's social care) complaints received in 2021/22, 169 cases were escalated to a Stage 2 investigation and 19 went straight to Stage 2; for example in cases where there may have already been lengthy correspondence exchanged between the service and the customer.

This compares with 2020/21, when 113 complaints were escalated to a Stage 2 investigation and 24 were considered directly at Stage 2. The main service areas which received requests for Stage 2 investigations were Highway Operations (30), Development Management (46) and Special Educational Needs (11).

8.3 Children's Social Care Complaints

In 2021/22 18 new statutory children's social care complaints were received compared with 32 in 2020/21. Of the 18 complaints, 2 were dealt with at Stage 2, compared with 7 in 2020/21. Two complaints in 2021/22 were considered at Stage 3 (Review Panel) of the Children's social care complaints procedure.

8.4 Adult Social Care Complaints

In 2021/22 122 new adults social care complaints were received, compared with 91 in 2020/21. Of the 122 complaints, 17 were dealt with at Stage 2.

8.5 Local Government and Social Care Ombudsman (LGSCO) referrals

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.

Appendices 2a and 2b show the number of Decision Notices issued to the Council during 2021/22 (64) and 2020/21 (also 64). For comparison, during 2019/20 the Council received 73 Decision Notices, in 2018/19 it was 78 and 91 during 2017/18.

Of the 64 Decision Notices issued by the LGSCO in 2021/22, 40 cases were closed after the LGSCO conducted their initial enquiry with no further action for the Council. They carried out detailed investigations on 19 cases. In 2 of these cases they found there had been Fault with No Injustice and in 12 there was Fault with Injustice to the complainant. Most of these cases related to Highways and SEND as detailed in the table below.

Service	No of LGO Decision Notices	Fault with No Injustice	Fault with Injustice
Highways	17	1	3
SEND	7	0	5
Children's Social Care	6	1	2
Anti-Social Behaviour	1	0	1
Licensing	1	0	1

There were 6 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.

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 Regulation of Investigatory Powers (RIPA) Act

- 9.1** The Council occasionally needs to use directed surveillance and obtain communications data to carry out its enforcement functions effectively, e.g. planning enforcement, licensing enforcement, trading standards, environmental health and community enforcement. RIPA provides a regulatory framework to enable public authorities to obtain information using certain covert investigatory techniques.

It is imperative that, when investigating alleged wrongdoing, certain conditions are met in each case in order that successful prosecutions can be made. 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.

The Council's Authorising Officers/Designated Persons are:

Place Directorate

Peter Skates, Director of Growth & Enterprise

Paul Bayley, Director of Environment & Neighbourhood Services

Corporate Directorate

Alex Thompson, Director of Finance & Customer Services

People Directorate

Jill Broomhall, Director of Adult Social Care Operations

Nichola Thompson, Director of Commissioning

Kerry Birtles, Director of Children's Social Care

Once authorised, all applications need the approval of a Justice of the Peace/Magistrate, as required by the Protection of Freedoms Act 2012. The Act also restricts the use of RIPA authorised surveillance to the investigation of offences which attract a custodial sentence of six months or more. The Director of Governance and Compliance Services assumes responsibility for the integrity of the process to ensure that the Council complies with the legislation.

9.2 Use of Covert Human Intelligence Source (CHIS)

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

9.3 Applications Authorised

Surveillance activity, including test purchases, has reduced significantly in the last two years due to COVID restrictions; however activity is expected to commence again later this year. The table below shows that no applications were authorised during 2021/22. The last authorisation was in 2019.

	2021/22	2020/21	2019/20
Directed surveillance	0	0	2
Communications Data	0	0	0
CHIS	0	0	0

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 2022/23, 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 2021/22 along with a breakdown of the outcome and comparative figures for 2020/21. The figures include all referrals via the online reporting tool and to the dedicated whistleblowing email account.

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

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 2020/21 and 2021/22, 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, with any significant changes submitted to Council for

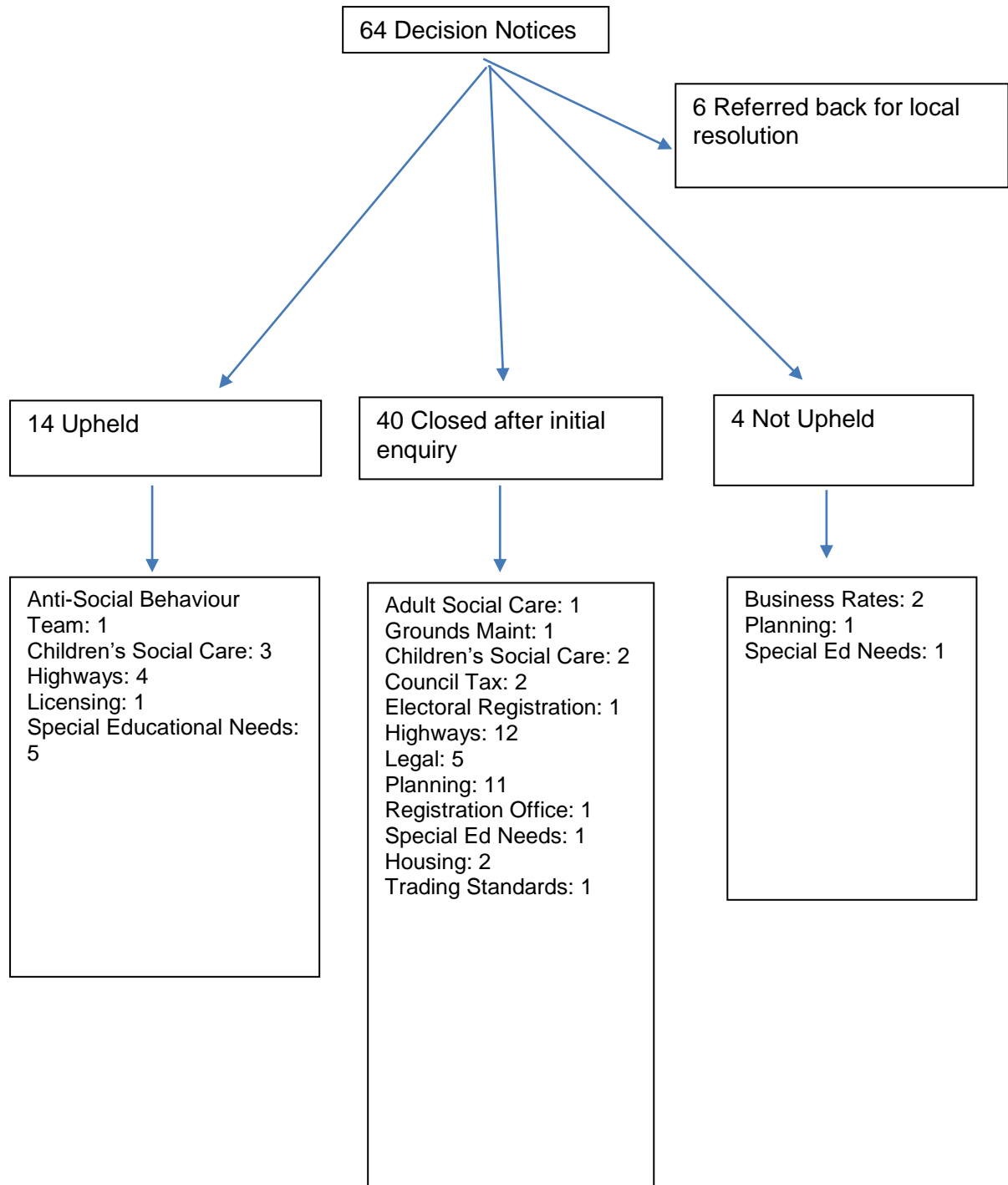
approval. Minor changes can be made by the Monitoring Officer in consultation with Members.

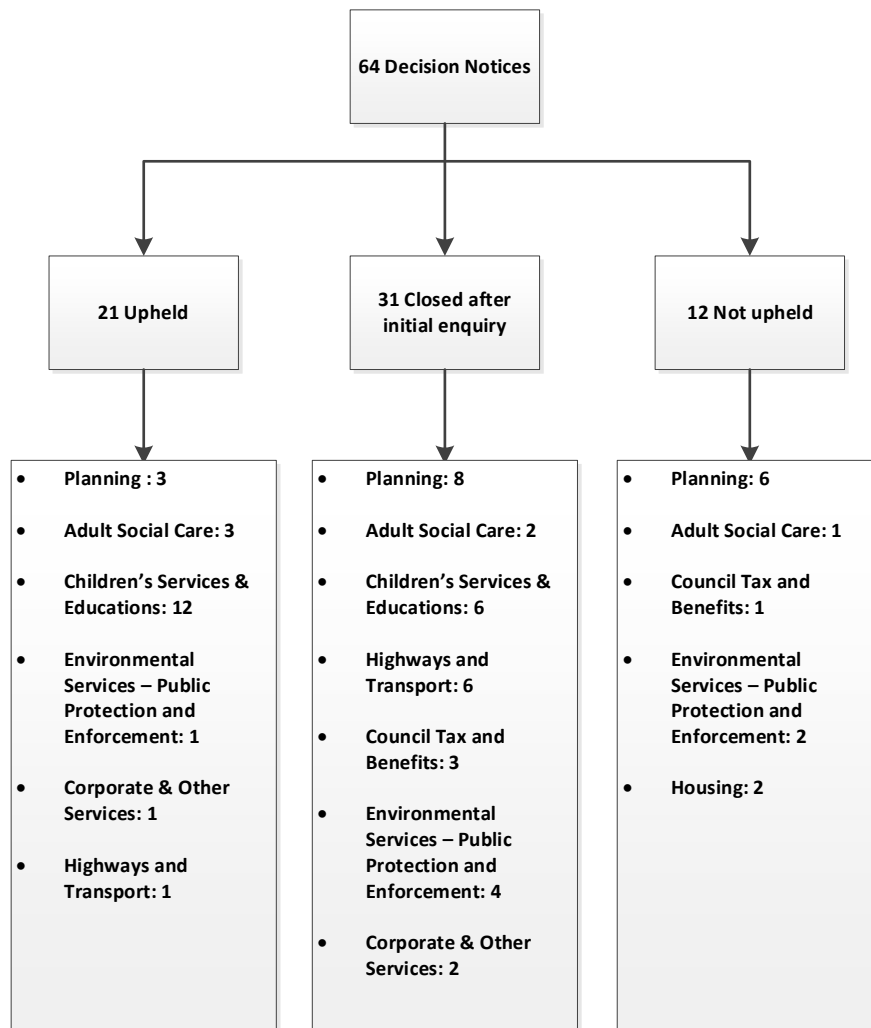
- 11.2 During 2020/21, a completely rewritten Constitution was produced to support the Council's transition to a committee system form of governance. The new Constitution was the product of extensive work undertaken by the Monitoring Officer and members of the Constitution Committee. Since its initial implementation, the new Constitution has been subject to ongoing review and refinement to ensure its practical application best fits the needs of the Council.
- 11.3 There were 157 formal meetings scheduled during 2021/22., Of the total number of meetings held, there were approximately 27 closed Committee sessions held under Schedule 12A of the Local Government Act 1972. These included meetings of the Appointments Committee, Audit and Governance Committee, General Appeals Sub-Committee, General Licensing Sub- Committee, LA School Governor Nomination Sub Committee, Corporate Parenting Committee, Staffing Appeals Sub Committee, Finance Sub Committee, Children and Families Committee, Economy and Growth Committee and Highways and Transport Committee.

Feedback Received – Appendix 1

Service Area	Complaints Received 2020 / 2021	Complaints Received 2021 / 2022	Compliments Received 2020 / 2021	Compliments Received 2021 / 2022	Suggestions Received 2020 / 2021	Suggestions Received 2021 / 2022
Waste & Recycling	598	689	110	55	29	8
Highway Operations	251	310	21	21	28	18
Development Management & Enforcement	151	258	0	2	21	4
Children's Services*	127	150	65	38	37	6
Council Tax & Billing	107	144	199	113	4	3
Adult Services*	91	122	105	90	1	3
Parking Services	88	65	2	4	2	0
Environmental Services (Waste Strategy)		89		3		15
Special Educational Needs (SEN)	55	93	0	28	15	1
Transport	24	29	0	1	0	7
Grounds Maintenance	23	30	82	51	2	11
Mixed Service Area	22	13	7	2	2	0
Environmental Protection	22	13	1	1	3	0
Housing	19	18	2	1	1	0
Business Rates & Billing	19	11	132	38	1	0
Customer Services	17	33	56	39	11	2
Benefits	16	29	4	2	1	0
Education (other than SEN)	15	28	0	14	0	2
Building Control	12	22	0	2	0	0
Street Cleansing	10	17	29	15	1	3
Communities & Partnerships	9	4	13	6	4	4
Electoral Registration	9	8	1	0	0	2
Assets	9	17	4	0	2	1
Licensing	8	7	0	0	1	0
Regeneration & Economic Development	7	7	2	0	1	0
Public Rights of Way	5	3	3	1	2	0
Bereavement	4	4	0	1	0	0
Legal Services	4	14	0	0	0	2
Ranger Service	4	0	1	0	2	0
Commercial Services	3	1	0	0	0	0
Trading Standards	3	4	0	2	0	0
Animal Welfare	3	5	0	0	0	0
Leisure	3	1	0	0	0	0
Democratic Services & Compliance	3	34	2	6	1	2
Gypsies and Traveller Service	2	0	1		2	0
Library & Cultural Services	2	4	34	11	4	0
Spatial Planning	2	2	0	0	1	0
Revenue Recovery	2	0	0	0	0	0
Visitor Economy incl. Tatton Park	1	0	0	0	0	2
Online Services	1	0	0	0	0	3
Communications & Media Relations	1	3	0	0	1	2
Business Intelligence & Performance	1	1	0	0	0	0
Highways Strategy	0	0	0	0	1	0
Facilities	0	1	0	0	0	0
Markets	0	1	0	0	0	0
Partnerships Business	0	0	0	0	0	0
Registration	0	12	0	0	0	0
Emergency Planning	0	0	0	0	0	0
HR	0	0	0	0	0	0
Public Health	0	6	11	1	3	2

Blue Badge Team				2		2
Other Areas	0	32		6		0
Total	1753	2334	887	554	184	105





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External Audit Progress Report

Cheshire East Council

Audit and Governance Committee

September 2022



1. Audit progress
2. National publications

01

Section 01: **Audit progress**

Audit Progress

Purpose of this report

This report provides Audit and Governance Committee with an update on progress in delivering our responsibilities as your external auditors and also includes, at Section 2, for your information, a summary of recent national reports and publications.

Audit progress

Audit of the 2020/21 Statement of Accounts

As reported to the May Audit and Governance Committee, we unable to issue our audit opinion on the Council's accounts for 2020/21 because there is an outstanding national issue around the accounting for infrastructure asset. The issue remain unresolved.

CIPFA, through a Task and Finish Group, has been working to identify potential solutions to the issue so that it can make appropriate amendments to the Code of Accounting Practice. During the early summer, CIPFA LASAAC consulted the sector and other stakeholders on proposals which are largely focussed on the derecognition of parts of infrastructure assets when replacement expenditure is undertaken. The issue is a technical accounting matter and a clear way forward has yet to be agreed.

Until further guidance is provided, the Council cannot consider the impact on the financial statements and we are unable to conclude our audit.

2020/21 Whole of Government Accounts (WGA) work

Our work in relation to whole of the government accounts (WGA) for 2020/21 remains outstanding. We will complete this once the audit of the financial statements can be concluded (see comments above).

Audit of the 2021/22 Statement of Accounts

During March and April 2022, we completed our initial planning work for the 2021/22 audit. Following this, we presented our Audit Strategy Memorandum to the July Audit and Governance Committee meeting. This set out the audit risks we identified in respect of the 2021/22 financial statements. There has been no change to our risk assessment since issuing our Audit Strategy Memorandum.

We received the Council's draft Statement of Accounts at the end of July 2022, in line with the timetable agreed with Officers. Our detailed fieldwork on the statements commenced in September 2022, and is due to continue until mid November. We plan to report our findings from our audit to the November Audit and Governance Committee meeting. However, this is subject to the resolution of the national technical issue in respect of accounting for infrastructure assets as detailed above.

We plan to complete and report our Value for Money arrangements work in line with our audit opinion. National Audit Office (NAO) guidance provides for this to be completed within three months of the audit report on the financial statements.

02

Section 02:

National publications

National publications

	Publication/update	Key points
Chartered Institute of Public Finance and Accountability (CIPFA)		
1	CIPFA/LASAAC Code Of Practice On Local Authority Accounting In The United Kingdom 2022/23	Code of Practice for 2022/23 financial statements
Department for Levelling Up, Housing and Communities		
2	Guidance on flexible use of capital receipts	Updated guidance on the type of projects that qualify for the capital receipts flexibility programme 2022-2025
3	Better Care Fund planning requirements 2022-23	Planning requirements for local authorities for the BCF 2022/23 year
National Audit Office (NAO)		
4	Improving government data: A guide for senior leaders	A good practice insight guide for senior leadership
Public Sector Audit Appointments Ltd		
5	Consultation on 2022/23 scale of audit fees	Consultation document

NATIONAL PUBLICATIONS

CIPFA

1. CIPFA/LASAAC Code Of Practice On Local Authority Accounting In The United Kingdom 2022/23, July 2022

Local authorities in the UK are required to keep their accounts in accordance with 'proper (accounting) practices'. Public sector organisations responsible for locally delivered services are required by legislation to comply with the terms of the Code of Practice on Local Authority Accounting in the United Kingdom (the Code). This 2022/23 edition of the Code has been developed by CIPFA/LASAAC and has effect for financial years commencing on or after 1 April 2022.

The Code specifies the principles and practices of accounting required to prepare financial statements which give a true and fair view of the financial position and transactions of a local authority. The Code applies to local government organisations across the UK including local authorities, police bodies, fire services and other local public service bodies.

This edition of the Code introduces a number of important amendments relating both to context and an understanding of requirements. Changes include:

- clarifying and expanding the applicability of the Code to Welsh authorities and bodies including corporate joint committees
- amendments to clarify the treatment of social benefits
- provisions which allow local authorities to account for leases in accordance with IAS 17, while also offering the option for local authorities to choose to adopt IFRS 16 on a voluntary basis. Where the latter option is taken, service concession arrangement liabilities must also be measured in accordance with the measurement requirements of IFRS 16.

The Code sets out the relevant requirements on local authority accounting including material developed as a result of an exceptional consultation which explored options which might help alleviate pressures on the timetable for publication and audit of local authority financial statements. However, preparers should be aware that further consultation has been undertaken in relation to accounting for infrastructure assets, and this may result in amendments and updates being made to this edition of the Code and potentially other earlier editions of the Code.

<https://www.cipfa.org/policy-and-guidance/publications/c/code-of-practice-on-local-authority-accounting-in-the-united-kingdom-202223-online>

NATIONAL PUBLICATIONS

Department for Levelling Up, Housing and Communities

2. Guidance on flexible use of capital receipts, August 2022

This is an updated direction and statutory guidance to extend the freedom for local authorities to use eligible capital receipts to fund the revenue costs of projects that deliver ongoing savings or improved efficiency. This direction revokes and replaces the direction of the same name issued on 4 April 2022.

Capital receipts are the money councils receive from asset sales, the use of which is normally restricted to funding other capital expenditure or paying off debt. The receipts cannot usually be used to fund revenue costs. The direction introduces a new restriction that authorities may not use the flexibility to fund discretionary redundancy payments, i.e. those not necessarily incurred under statute. This does not affect other types of severance payments and, to be clear, does not restrict, including pension strain costs, which may still be qualifying expenditure.

The direction allows authorities to use the proceeds from asset sales to fund the revenue costs of projects that will reduce costs, increase revenue or support a more efficient provision of services. This is an extension of the flexibility that has been in place since 2016, and will allow this freedom to continue to 2024/25 to help authorities plan for the long-term.

This direction clarifies that the capital receipts obtained must be disposals by the local authority outside the “group” structure.

As introduced in the direction issued on 4 April 2022, this direction includes the requirement to submit the planned use of the flexibility in advance of use for each financial year. This condition can be met by sending the authority’s own strategy documents provided they contain the detail asked for in the direction. This is not an approval process, the information must be sent to ensure transparency and allow proper monitoring by central government.

<https://www.gov.uk/government/publications/final-guidance-on-flexible-use-of-capital-receipts>

3. Better Care Fund planning requirements 2022-23, July 2022

The Better Care Fund (BCF) planning requirements set out details of the requirements that BCF plans must meet. They apply to both integrated care boards and local authorities, and they are published jointly with the Local Government Association.

<https://www.england.nhs.uk/publication/better-care-fund-planning-requirements-2022-23/>

NATIONAL PUBLICATIONS

National Audit Office

4. Improving government data: A guide for senior leaders, July 2022

This guide is for senior leaders responsible for delivering government services. The NAO's aim is to encourage decision-makers to realise the benefits of better use of data by helping them understand in more detail the core issues to be addressed which have held back progress in the past.

The guide focuses on data to support the operational delivery of public services, but the NAO intends that much of their guide will also be relevant to data for decision-making and to improve performance.

The guide discusses overcoming barriers in data sharing, data quality, data standards, resourcing, access to raw data and APIs (application programming interfaces), creating cross-government data sets for multiple users, data analytics.

[Improving government data: A guide for senior leaders - National Audit Office \(NAO\) insight](#)

NATIONAL PUBLICATIONS

Public Sector Audit Appointments Ltd

5. Consultation on 2022/23 scale of audit fees, August 2022

PSAA is consulting on the fee scale for 2022/23 audits. This is the final fee scale under PSAA's current audit contracts, which cover audits of the financial statements of opted-in bodies for the five-year period 2018/19 to 2022/23. Audit work under the proposed 2022/23 fee scale will largely be undertaken from autumn 2023 onwards.

This fee scale consultation is separate from the procurement exercise PSAA is currently undertaking for audit contracts that will apply for the next five years, for audits from 2023/24. Audit work under the new contracts will take place from 2024 onwards. Any audit fee implications arising from the results of the procurement will be covered by our consultation on the 2023/24 fee scale in twelve months' time.

Consultees will be aware that auditors and auditing have been subject to very high levels of scrutiny in recent times following a number of widely reported financial failures in the private sector. These changes have resulted in significant tensions and pressures in the wider audit market and profession and have led to a series of government-commissioned reviews of audit and audit regulation. The Department for Levelling Up Housing and Communities (DLUHC) has announced a range of measures to be implemented to address the issues identified in the local audit framework specifically. These include a new system leader role to be discharged by a new regulator, the Audit Reporting and Governance Authority (ARGA) when it is established under future legislation.

This consultation on the 2022/23 fee scale is taking place in the context of these pressures and changes. The consultation explains how PSAA proposes to calculate the audit fees which will make up the 2022/23 fee scale, managing the impact of three key elements:

- fee variations approved in relation to 2019/20 and 2020/21 audit work which relate to recurrent audit work that is needed in subsequent audit years;
- changes in local audit requirements; and
- the impact of changes in inflation.

The consultation will close on Friday 30 September 2022.

<https://www.psaa.co.uk/appointing-auditors-and-fees/list-of-auditor-appointments-and-scale-fees/2022-23-auditor-appointments-and-audit-fee-scale/>

Contact

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Audit & Governance Committee

Date of Meeting:	29 September 2022
Report Title:	Draft Annual Governance Statement 2021/22
Report of:	Jane Burns, Executive Director of Corporate Services
Report Reference No:	AG/01/22- 23
Ward(s) Affected:	All

1. Purpose of Report

- 1.1. The purpose of this report is for the Committee to receive the draft Annual Governance Statement (AGS) for 2021/22.

2. Executive Summary

- 2.1. Each year, Cheshire East Council produces an Annual Governance Statement that explains how it makes decisions, manages its resources, and promotes values and high standards of conduct and behaviour.
- 2.2. The review is carried out against the Council's Code of Corporate Governance. The draft Statement, at Appendix A, reflects activity over the 2021/22 financial year, and includes activity up to the date of producing the report. The draft will be further updated to cover activity up to the date of approval of the Council's Statement of Accounts.

3. Recommendations

- 3.1. That the Committee:
 - 3.1.1. Considers the draft Annual Governance Statement 2021/22 (Appendix A)
 - 3.1.2. Approves the proposed changes to the Significant Governance Issues as detailed in Section 7
 - 3.1.3. Approves the proposed additional Significant Governance Issue as detailed in Section 8; and

- 3.1.4. Notes the final statement will be considered by this Committee by the end of November 2022, prior to its approval and publication on the Council's website.

4. Reasons for Recommendations

- 4.1. In accordance with the Accounts and Audit Regulations 2015, the final Annual Governance Statement would usually be approved by Members of the Council meeting as a whole, or by a Committee by 31st July. The Audit and Governance Committee has delegated authority to approve the Annual Governance Statement.
- 4.2. In recognition of the ongoing impact of covid-19, the Accounts and Audit (Amendment) Regulations 2021 amended the timescales of the publication of the draft statement from the 31st August to not later than the 30th September 2021, the publication of the final statements remains the 30th November. The Accounts and Audit (Amendment) Regulations 2022 extend the deadline for publishing audited local authority accounts to 30 November 2022 for the 2021/22 accounts. Following this, the deadline reverts to 30 September for 6 years, taking effect for the 2022/23 accounts and ending once the 2027/28 accounts have been completed.
- 4.3. Following discussion and agreement with the external auditors it was determined that the Council would continue to operate to these extended deadlines.

5. Other Options Considered

- 5.1. No other options are available.

6. Background

- 6.1. There is a strong correlation between effective governance and effective service delivery. Whilst the statement by its nature is only signed off once a year, the process of review is continuous, so as to give assurance on the effectiveness on the processes and/or to address identified weaknesses, supporting the continuous improvement of the Authority.
- 6.2. In preparing the draft AGS, reliance has been placed on existing reports, which have been referenced throughout the draft.
- 6.3. Sources of assurance for the Committee in considering the draft AGS include the progress updates on items included in the AGS, the annual Internal Audit Opinion 2021/22, the Annual Monitoring Officer's report, and interim reports from Internal Audit and Risk Management.

- 6.4. Whilst assurance of this kind always forms a very significant part of the AGS production, it is also supplemented by the outcome of separate assurance exercises such as the management assurance statements. This is currently ongoing and will be completed before the final AGS is signed off in November. The Statement will be updated as necessary for any issues arising.
- 6.5. As a result of national issues in relation to the valuation of infrastructure assets, it was not possible for the external auditors to complete their audit of the 2020/21 statement of accounts. This resulted in a delay in producing the AGS, which was not approved until January 2022.
- 6.6. As a result, the 2020/21 AGS included items up to and including January 2022 and there is therefore more duplication between the two documents than would normally be the case.
- 6.7. Updates on items recognised in previous Annual Governance Statements are included in Section 7 which will be further updated before the final Statement is presented for approval. It is proposed that the following three items included in the 2020/21 Statement are removed as they are no longer considered to be significant governance issues:
- Proposed Change to the Committee System of Governance
 - Replacement of the Council's Core Financial and HR Systems
 - Responding to the impact of COVID-19
- 6.8. It is also proposed that the two remaining items; Council Funding, and Health and Social Care Integration are restated to reflect the latest issues and proposed actions to address these challenges. Both items have been included since 2015/16 and although the overarching issues remain, the detail has developed and needs to be updated to ensure that they present an accurate picture to the Council and its stakeholders.
- 6.9. An additional Significant Governance Issue is proposed in Section 8 relating to ASDV Governance and reflects issues recognised nationally and the challenges faced by the Council in ensuring governance of ASDV's and the associated reporting arrangements meet best practice.
- 6.10. A workshop for Members regarding the Annual Governance Statement and the Statement of Accounts will be offered prior to the final AGS being considered by the Committee in November.

- 6.11. Once approved, the AGS will be signed by the Leader and the Chief Executive and the AGS will then be published on the Council's website, along with the Statement of Accounts by 30th November deadline.

7. Consultation and Engagement

- 7.1. The draft AGS has been considered by Corporate Leadership Team and senior managers to ensure that all issues impacting the Council have been taken into account.

8. Implications

8.1. Legal

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

- 8.1.2. The preparation and publication of the draft Annual Governance Statement has been carried out in accordance with the guidance produced by the Chartered Institute of Public Finance (CIPFA): "Delivering Good Governance in Local Government (2016)".

- 8.1.3. The timescales for approval of the AGS and Statement of Accounts have changed in recognition of the impact of the pandemic via The Accounts and Audit (Amendment) Regulations 2022. The draft and final Statements are scheduled to meet the updated deadlines.

8.2. Finance

- 8.2.1. The Internal Audit team is appropriately resourced to comply with statutory and best practice requirements. Resourcing of the Internal Audit team is regularly monitored and reported upon to the CLT and the Audit and Governance Committee

8.3. Policy

- 8.3.1. There are no direct policy implications.

8.4. Equality

- 8.4.1. There are no direct implications for Equality and Diversity.

8.5. Human Resources

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

8.6. Risk Management

8.6.1. The Authority is required to prepare and publish an Annual Governance Statement to meet the statutory requirement set out in Regulation 6 of the Accounts and Audit England Regulations 2015 and updated by the Accounts and Audit (Coronavirus) (Amendment) Regulations 2021. Failure to do so could result in non-compliance with the requirements of the Regulations.

8.7. Rural Communities

8.7.1. There are no direct implications for rural communities.

8.8. Children & Young People/Cared for Children

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

8.9. Public Health

8.9.1. There are no direct implications for public health.

8.10. Climate Change

8.10.1. There are no direct implications for climate change

Access to Information	
Contact Officer	Josie Griffiths Head of Audit and Risk josie.griffiths@cheshireeast.gov.uk
Appendices	Appendix A: Draft Annual Governance Statement 2021/22
Background Papers	N/A

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Annual Governance Statement 2021/22

DRAFT

Working for a **brighter future**  together



1. Executive Summary and Approval

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

The Council's framework of risk management, control and governance is assessed as adequate for 2021/22

- 1.4. We, as Chief Executive and Leader of the Council, have been advised on the implications of the result of the review of the effectiveness of the governance framework by the Audit and Governance Committee, and that the arrangements, to the best of our knowledge, continue to be regarded as fit for purpose in accordance with the governance framework.
- 1.5. The Annual Governance Statement is required to reflect the arrangements in place for 2021/22 and up to the time of its approval. The ongoing impact of COVID-19 on the Council's governance arrangements is therefore included throughout the Statement.
- 1.6. Due to a delay in the external auditors completing their work on the 2020/21 financial statements, the 2020/21 AGS was not approved until January 2022. In accordance with the requirement for the statement to be current at the time of approval it reflected matters up to and including January 2022. As such, there is an element of duplication in the current statement.
- 1.7. In May 2021 the Council changed from an 'executive' form of governance to operate a 'committee system' for decision making. The Council operated under a cabinet system since it formed in 2009, meaning that decisions previously made by the Cabinet, are now made by service committees.
- 1.8. To date, our assessment of the effectiveness of our governance arrangements for 2021/22 has identified one arising governance issue relating to ASDVs, which can be found in Section 8.

1.9. Updates on items recognised in previous Annual Governance Statements are included in Section 7. It is proposed that the following three items included in the 2020/21 Statement are removed as they are no longer considered to be significant governance issues:

- Proposed Change to the Committee System of Governance
- Replacement of the Council's Core Financial and HR Systems
- Responding to the impact of Covid-19

1.10. The two remaining items from the 2020/21 Statement; Council Funding and Health and Social Care Integration have been restated to reflect the latest issues and proposed actions to address these challenges. Both items have been included in the Statements since 2015/16 and although the overarching issues remain, the detail has developed and required updating to ensure they present an accurate picture to the Council and its stakeholders.

1.11. We propose over the coming year to take all appropriate action to address the matters outlined in this Statement and any other issues to further enhance our overall governance and stewardship arrangements. We are satisfied that our plans will address the improvement areas identified in our review of effectiveness. We will monitor their implementation and operation as part of our next annual review.

Lorraine O'Donnell Chief Executive	Cllr Sam Corcoran Leader

This section will be signed by the Leader of the Council and the Chief Executive after the final AGS is agreed.

2. Introduction

2.1. The Accounts and Audit Regulations 2015 require that:

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

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

3. Scope of Responsibility

3.1. The Council is responsible for ensuring that its business is conducted in accordance with the law and proper standards, and that public money is safeguarded and properly accounted for and used economically, efficiently, and effectively. The Local Government Act 1999 also places a duty on all councils to secure continuous improvement and to demonstrate economy, efficiency, and effectiveness.

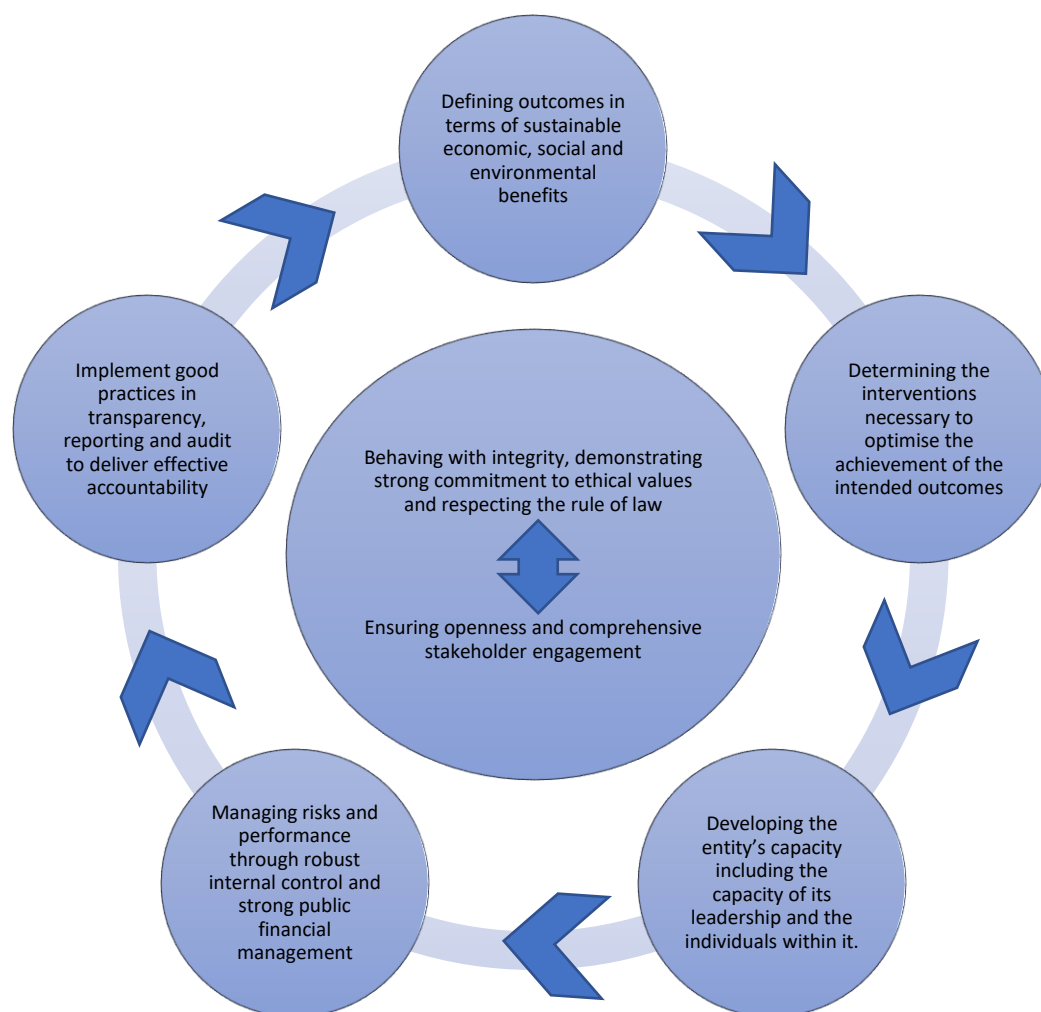
3.2. In discharging this overall responsibility, the Council is responsible for putting in place proper arrangements for the governance of its affairs, facilitating the effective exercise of its functions, and arrangements for the management of risk.

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

- Defining outcomes in terms of sustainable economic, social, and environmental benefits
- Determining the interventions necessary to optimise the achievement of the intended outcomes
- Developing the entity's capacity including the capacity of its leadership and the individuals within it
- Managing risks and performance through robust internal control and strong public financial management

- Implement good practices in transparency, reporting and audit to deliver effective accountability
- Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law
- Ensuring openness and comprehensive stakeholder engagement

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



- 3.4. The annual review of effectiveness has been carried out against the Code of Corporate Governance. The draft AGS will be published following consideration by Audit and Governance Committee on 29 September 2022 and will be updated as necessary to ensure this Statement remains current for when the Audit and Governance Committee considers it as final in November 2022.
- 3.5. Once approved by the Audit and Governance Committee it will be signed by the Leader and the Chief Executive. It will then be published as Final alongside the Statement of Accounts.

- 3.6. The Annual Governance Statement provides assurance that:
- Governance arrangements are adequate and operating effectively in practice; or
 - Where reviews of the governance arrangements have revealed improvements are required, action is planned to ensure effective governance in future.

4. The Purpose of the Governance Framework

- 4.1. The Governance Framework comprises the systems, processes, cultures, and values by which the Council is directed and controlled. It also includes the activities through which it is accountable to, engages with and leads the community. This covers services provided and managed directly by the Council, and arrangements delivered through external partners, including the Council's wholly owned companies.
- 4.2. The framework enables the Council to monitor the achievement of its strategic objectives and to consider whether those objectives have led to the delivery of appropriate, cost-effective services.
- 4.3. The system of internal control is a significant part of that framework and is designed to manage risk to a reasonable level. It cannot eliminate all risk of failure and can therefore only provide reasonable and not absolute assurance of effectiveness. It is based on an ongoing process designed to:
- Identify and prioritise the risks to the achievement of the Council's policies, aims and objectives
 - To evaluate the likelihood of those risks being realised and the impact should they be realised, and
 - To manage them efficiently, effectively, and economically.

5. The Governance Framework

- 5.1. The Council's Code of Corporate Governance includes examples of how the Council demonstrates the principles in practice and operation. Therefore, to minimise duplication, it is only supplementary examples and features of the Council's governance framework, specific to 2021/22 which are set out below.
- 5.2. The Governance Framework described below and shown in Appendix 1 was in place from the 4 May 2021, when the new committee system model of governance took effect to the year ended 31 March 2022. A diagram explaining the committee system can be found at Appendix 2.

- 5.3. Prior to the 4th May 2021, the Council operated under a cabinet system which is explained at Appendix 3.

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

- 5.4. Cheshire East Council's vision and priorities are outlined in the Council's Corporate Plan. The Corporate Plan and Medium Term Financial Strategy (MTFS) for 2021-2025 were agreed by full Council on 17 February 2021.
- 5.5. The Council's previous Corporate Plan coverage finished in 2020, which was supported by the proposals within the MTFS 2020 to 2024. The new 2021-2025 plan sets out the priorities of the administration, within the context of the needs of the borough, the views of residents and the resources available.
- 5.6. The MTFS 2022-26 was agreed at the 24 February 2022 meeting of Council. The report sets out the Council's plan and required funding to ensure Cheshire East remains one of the best places to live in the North West.
- 5.7. The Corporate Plan 2021-25 is reviewed by the Corporate Policy Committee. A mid-year review was considered at the meeting on 2 December 2021 as part of the Council's performance management accountability framework.
- 5.8. The 2020/21 provisional Group financial outturn was reported to Finance Sub Committee on 22 September 2021 and Council on 20 October 2021, prior to publication of the statutory accounts.
- 5.9. The Council delivered and progressed several infrastructure improvements and developments across the Cheshire East area. These major schemes are critical elements in delivering the ambitions of the Council. These include Congleton Link Road which opened in April 2021 and Poynton Relief Road which is ongoing with completion expected in Autumn 2022.
- 5.10. As recognised in previous Statements, the sustained and increasing financial pressures on health and social care services continue to present challenges to the Council. These are recognised as high scoring risks in the Council's Corporate Risk Register. An update on the actions undertaken during 2021/22 is provided later in this Statement. Members were however provided with regular separate updates on the financing of pandemic activity.

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

- 5.11. The Council's Constitution sets out the rules for conducting business undertaken by the Council, including executive arrangements, committee structures, finance and contract procedure rules and schemes of delegation.

- 5.12. At the meeting of Council in May 2019, a Notice of Motion committing the Council to a change in its decision-making governance arrangements was referred to Constitution Committee.
- 5.13. In November 2019, the Constitution Committee determined not to make a recommendation to Council at that stage, requesting further work to be undertaken. The Constitution Committee received an update in October 2020.
- 5.14. In November 2020, Council agreed that the new governance arrangements would take effect from the Annual Council meeting on 12 May 2021 and at the meeting held 19 April 2021 a report on the Constitutional Update to implement the Committee System was considered and it was agreed to adopt the Constitution from the next Annual General Meeting. In April 2021, the Corporate Overview and Scrutiny Committee considered a report on the financial implications on the incoming committee system. Furthermore, on 4 November 2021 the Corporate Policy Committee received a report on the Interim Review of the Committee System. This report was also presented to Council at their 15 December meeting.
- 5.15. The Council undertook extensive pre-budget consultation, setting out change proposals for consideration over the period 2021/22 to 2024/25. Stakeholders were invited to comment on the Council's pre-budget report using an online survey launched in December 2020 and a summary of the responses formed part of the consideration of the MTFS 2021/25 by Council at the meeting held 17 February 2021.
- 5.16. The MTFS clearly identifies how resources will be matched against the delivery of priorities established in the Council's Corporate Plan. In October 2021, Council approved a report on aligning the MTFS to the Committee Structure.
- 5.17. The Strategy also provides information on delivering financial stability, the budget setting process, and the Council's Capital, Investment and Reserves Strategies.
- 5.18. In January 2020, Cheshire East Council hosted its first Corporate Peer Challenge (CPC). Facilitated by the Local Government Association (LGA), a peer team consisting of councillors and senior officers from local authorities around the UK examined the Council's leadership, governance, financial planning, and capacity to deliver its priorities. In addition to the five core areas examined, the Council had asked the team to consider two specific areas: workforce and culture, and internal assurance and audit.
- 5.19. The final report of findings from the Peer Review was shared at both the Cabinet and Corporate Overview and Scrutiny meetings in June 2020. Key observations from the review team included:
- The Council has made good progress in a relatively short space of time.

- It delivers several high-quality services to the residents of the borough which we should be proud of.
- a profound difference has been made to the way the organisation functions and the experience of staff.

- 5.20. A number of actions were proposed to address recommendations made by the Corporate Peer Challenge team and were included in the report to Cabinet in June 2020. Corporate Overview and Scrutiny considered a report in April 2021 outlining progress made against the recommendations one year on from when it was undertaken prior to it being considered by Cabinet at the meeting held on 13 April 2021.
- 5.21. The Council utilised the powers available under the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 (“the Regulations”) to enable meetings of the Council to take place using virtual means. The regulations came into force on 4 April 2020 and applied to meetings taking place before 7 May 2021. This allowed authorities to conduct meetings and take decisions in ways other than face to face so that decisions could still be made to maintain good governance, principles of openness and accountability.
- 5.22. Council met in October 2020 for the first time using the virtual technology, Cabinet met regularly, and meetings of various committees were held, demonstrating the Council’s commitment to democratic engagement in unprecedented times.
- 5.23. Legislation to allow remote meetings was not extended beyond 7 May 2021, as such the Council made a commitment to ensure meetings held face to face were COVID-19 secure and remained in line with government guidelines securing external venues wherever necessary.

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

- 5.24. The Chief Executive, Executive Directors and Statutory Officers met regularly during 2021/22 as the Corporate Leadership Team (CLT), receiving assurance reports and updates from across the Council. CLT is supported by service/departmental management team meetings, and several cross functional officer, and officer/member groups. The reporting lines between these and relevant Committees are shown in the Governance Framework diagram in Appendix 1.
- 5.25. The Council’s Constitution defines the standards of conduct and personal behaviour expected of, and between, members, staff, and the community, defined and communicated through Codes of Conduct and protocols. The Constitution includes a Member/Officer Relations Protocol, which was established to encourage effective communication between members and officers. Audit and

Governance Committee considered the development of a working group to review and update the Member Code of Conduct in September 2021. The Committee received a verbal update at the meeting held 30 September where it was confirmed that the working group had met and held two sessions with Town and Parish Councils and agreed to extend the time for feedback until November. The draft Member Code of Conduct was received by Audit & Governance Committee on 28 July 2022.

- 5.26. The programme of training introduced following the implementation of the committee system has continued 2021/22 having commenced in September 2020. Sessions have focused on committee finance and the Constitution, paving the way for further training in 2022/23 on supporting better decision making. Most Members have attended at least one session in this programme.
- 5.27. Members continued to work towards completing the foundation skills of Corporate Parenting, Safeguarding Children and Adults, Equality, Diversity and Inclusion, General Data Protection Regulations (GDPR) and Members' Code of Conduct. During 2021/22, the majority of sessions were held virtually and whilst this has improved attendance, it remains low. In response, work is being undertaken in conjunction with Group Administrators to encourage increased participation and completion of these modules.
- 5.28. The statutory roles of the Head of Paid Service, Monitoring Officer and Chief Finance Officer are described in the Constitution, as are their responsibilities for providing robust assurance on governance, ensuring lawful expenditure in line with approved budgets and procurement processes.
- 5.29. In January 2021, the Staffing Committee received a briefing from the Chief Executive on the proposals for an interim management structure following the departure of the Executive Director People to enable the continued delivery of the Council's statutory requirements and to deliver the ambitions set out in the Corporate Plan and associated MTFS. In June 2021, Corporate Policy Committee recommended to full Council the adoption of the Senior Management Structure which included the deletion of the Executive Director of People and Strategic Director Adult Social Care and Health roles and the creation of two new posts, Executive Director of Children's Services and Executive Director of Adults, Health and Integration.
- 5.30. Following a recruitment process the new posts were successfully filled. The Executive Director of Adults, Health and Integration joined the Council in October 2021 and the Executive Director of Children's Services joined in November 2021.
- 5.31. The Council publishes a Pay Policy Statement by 31 March on an annual basis. This provides transparency about the Council's approach to setting the pay of its employees and is in accordance with Section 38 of the Localism Act 2011. The 2021/22 Pay Policy Statement recommended to Council on 17 February 2021

from Staffing Committee, included a small number of key updates including a review of the JNC Pay Structure for Chief Officers to be implemented 2021/22. Further changes to the NJC pay structures were proposed including the removal of grade overlaps subject to further consultation with Trade Unions and employees.

- 5.32. The 2022/23 Pay Policy Statement was recommended to Council from the Corporate Policy Committee. The Policy was approved on 24 February 2022 where it was also agreed that it would be reviewed in-year and any further changes be approved by the Monitoring Officer and published accordingly.
- 5.33. The Council's Staffing Committee continued to receive update reports on the Council's Brighter Future Together Programme in 2020/21. Following the move to the committee system, the Corporate Policy Committee received an update on the Organisational Culture Change Programme in July 2021. There has been an emphasis for the Brighter Future Together (Culture) Programme since March 2020 on supporting staff and promoting their wellbeing throughout the COVID-19 pandemic. Feedback from staff on the additional wellbeing initiatives, put into place as a response to the pandemic, was positive.
- 5.34. The Corporate Policy Committee received a report on an updated Workforce Strategy at its meeting on 4 November 2021. The Workforce Strategy 2021-25 sets out how the Council will develop the capacity and capability of its workforce to support the priorities identified within the Corporate Plan and deliver the MTFS.
- 5.35. All staff are required to undertake mandatory training on protecting and managing information, dignity at work and equality in the workplace. Completion and compliance is monitored and reported to Heads of Service and Directors. Managers are also supported with training on the Council's Dignity at Work and Grievance procedures.

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

- 5.36. An updated Risk Management Framework was taken to the Audit and Governance Committee on 12 March 2020 and approved by Cabinet in June 2020. The Council's approach to risk management was reviewed and refreshed during 2020/21. The Committee received the 2020/21 Annual Risk Management Report on 30 September 2021. The Committee also received regular updates during 2021/22 and the 2021/22 Annual Risk Management Report was received on 26 May 2022. The current Risk Management Framework 2020-2022 is being updated to reflect the needs of risk management and risk reporting in the context of the committee system.

- 5.37. Operational risk registers are included in the department and service plans. These are reviewed by the team plan owners, and risks are considered for escalation to the Strategic Risk Register as necessary.
- 5.38. The management of risk and monitoring of risk exposure has been a key part of the Council's response to the COVID-19 pandemic. An emergency planning incident was invoked, and a command structure was established in March 2020. This was to ensure that the Council could respond effectively to the pandemic and to report to central government, the National Health Service, and engage with the regional structures of the Local Resilience Forum and Strategic Coordinating Group (SCG). The command structure remained in place throughout 2020/21 and into 2021/22.
- 5.39. The Corporate Leadership Team led the operational emergency response, which was co-ordinated by a bespoke Council Emergency and Response Team (CEMART), supported by officers from the Joint Emergency Planning Team. CEMART received weekly updates from Public Health, and the various bronze level command cells, who in turn have held localised meetings across smaller teams and services, focused on adapting service delivery to manage the risk of transmission wherever possible. Whilst Covid has not gone away, and the pandemic is still having impacts on life in the Borough and the way in which some council services are delivered, the Council is no longer in the emergency response phase. As such, CEMART stood down in April 2022. However, the emergency response can be stood back up again if the situation escalates.
- 5.40. Risk registers were developed and maintained for each of the emergency response cells, as well as the inclusion of the pandemic risk on the Strategic Risk Register. Business Continuity Plans were reviewed as a priority during early stages of the pandemic response and continue to be refreshed as recovery plans are implemented. Risk registers were also in place for each of the recovery workstreams established to focus on supporting the longer-term recovery from the pandemic.
- 5.41. In addition, the Council introduced a parallel command structure to oversee the recovery from the COVID-19 pandemic. This has overseen the stepping up of key services, support for businesses and town centres as the lock down restrictions have been eased by the Government. Scenario and risk planning are being used to support the longer-term planning for recovery.
- 5.42. Reports to all decision-making committees are produced in line with a reporting protocol which involves clearance of reports through the relevant directorate management team, legal and financial review and the identification and mitigation of risks associated with the report content.
- 5.43. Following the move to the committee system on 4 May 2021, the Overview and Scrutiny Committees were decommissioned. Scrutiny powers under Section 21

of the Local Government Act 2000 are now fulfilled through the Children and Families, Adults and Health, Environment and Communities and Corporate Policy Committee

- 5.44. Each of the service committees scrutinised quarterly performance scorecards and budget proposals for the 2021/22 period relevant to their area of focus.
- 5.45. During 2021/22, the Children and Families Committee has met on six occasions. It received an update on the SEND Revisit, the Children and Families Performance Report Quarter 4 2020-21 and Quarter 1 2021-22 and the Children and Families Budgets 2021-22. The Committee approved the All-Age Carers Hub and Strategy and School Organisation: Academisation of Schools: Middlewich High School and Forward Plan. The Committee received an update report on the 2021/22 Action Plan to address the Ofsted Inspection of Local Authority Children's Services, the Corporate Parenting Committee Annual Report 2021-21 and an update on Afghan Families Resettlement Scheme.
- 5.46. In November 2021, the Committee received reports on the Care at Home Recommission, Crewe Youth Zone, SEND Strategy, School Transport Update, All Age Sensory Impairment Strategy and the Cheshire East Joint Market Position Statement
- 5.47. At the meeting held in January 2022, the Committee received a verbal update on COVID-19 in Schools and an update report on the Ofsted Inspection. The Committee also received the Cheshire East Safeguarding Children's Partnership Annual Report 2020-21, the 2021/22 Financial Year Review, the MTFS 2022/23 – 2025/26, the Children and Families Performance Report Q2 2021-22 and the Self Evaluation of Children's Services.
- 5.48. In February 2022, the Committee approved the Schools Funding Formula and Early Years Funding Formula 2022/23 and received a progress update on the Children and Families Mental Health Spotlight Review. Furthermore, the Committee considered a report on a new primary school in Nantwich.
- 5.49. At the March 2022 meeting, the Committee received a verbal COVID-19 update for schools. It also approved the All-Age Carers Strategy 2021-2025 and the Children's Care at Home Recommission. The Self-Evaluation of Children's Services report was received along with the Children and Families Performance Report Quarter 3 2021-2022 and Councillor Frontline Visits Annual Report.
- 5.50. Since April 2022, the Committee considered the following updates and reports:
 - Verbal updates on COVID-19 (schools) and the Ukrainian Refugee Position in Cheshire East
 - The Ofsted Action Plan and Progress Update
 - The Proposed Expansion of Springfield School

- The Academisation of Oakfield Lodge School (Pupil Referral Unit) and the Forward Plan: Academisation of Schools
- Participation in Department of Education, Delivering Better Value Programme
- Review of Travel Support for Children and Young People
- The Children and Families Budgets 2022/23
- Allocation of Additional High Needs Dedicated Schools Grant Funding
- 'Opportunity for All: Strong schools with great teachers for your child' The Education White Paper and Development of Local Authority-initiated Trusts
- Cared for Children and Care Leavers Strategy 2022-26
- Children and Young People's Plan 2022-26
- School Catering Service: External Review
- School Organisation: Academisation of Schools: Forward Plan

- 5.51. The Adults and Health Committee met on 5 occasions during 2021/22. In July 2021, it received a report on the Adults and Health Budgets 2021/22, the Annual Flu Report, an update on the Health and Social Care Integration, approved the Market Position Statement and considered the Performance Scorecard – Quarter 4 2020/21.
- 5.52. At the meeting in September 2021, the Committee considered the Performance Scorecard – Quarter 1 (2021/22) and received a presentation on Adult Social Care Improvement Plan – Learning from COVID-19. It also approved the Advocacy Service Recommissioning, Assistive Technology Recommissioning, NHS Health Checks Recommissioning and All Age Carers Hub and Strategy and considered the Assistive Technology Charging Policy and the Notice of Motion on Right to Food.
- 5.53. In November 2021, the Committee received an update on the Adult Social Care Winter Plan 2021-22, the All-Age Sensory Impairment Strategy, Cheshire East Day Opportunities Strategy and the Cheshire East Place Dementia Strategy. The Committee also received reports on the Cheshire East joint Market Position Statement, the Recommissioning of the Assistive Technology Service and the Cheshire East Local Account for Adult Social Care 2020-21.
- 5.54. In January 2022, the Committee received the Local Safeguarding Adults Board Annual Report 2020/21 and the Adult Social Care Performance Scorecard Q2 (2021/22). The Committee approved the Director of Public Health Annual Report 2020/21 and the Recommissioning of the Statutory Advocacy Service. Furthermore, the 2021/22 Financial Year Review was received, and the Committee responded to the MTFS 2022/23 – 2025/26 budget consultation.

- 5.55. At the March 2022 meeting, the Committee approved the Day Opportunities Flexible Purchasing System, All-Age Carers Strategy and Recommission, the Cheshire East Live Well for Longer Plan 2022-25, Care at Home Recommission (Domiciliary Care) and the Better Care Fund Section 75 Agreement. The Committee also considered the Q3 Adult Social Care Performance Scorecard 2021-22, a report on Audit Social Care Short Term Funding Streams and a verbal update on staffing/recruitment in Adult Social Care.
- 5.56. Since April 2022, the Committee has received the following updates and reports:
- Progress updates on the Place Partnership Board, the Providing Financial Incentives to Support Smoking Cessation and the Learning Disabilities Conference
 - Adults and Health Budgets 2022/23
 - The Cheshire East Day Opportunities Strategy 2022-2027 Delivery Plan
 - The Brocklehurst Centre – Future Options
 - Financial incentives to support smoking cessation
 - Terms of Reference for the Place Partnership Committee
 - Trailblazer Programme Update
 - Update on Public Health Grant
 - Minutes of the Sub-Committee - Cheshire East Health and Wellbeing Board
- 5.57. The Environment and Communities Committee met on 5 occasions during 2021/22. At the July 2021 meeting it considered the Waste and Recycling Services – Implications of the Environment Act, the Contaminated Land Strategy, approved the Sustainable Drainage Strategic Planning Document and the Anti-Social Behaviour and Waste Management Policies.
- 5.58. At the meeting in September 2021, the Committee approved the GEN4 (Recovery of forward funded infrastructure costs) SPD, the Environmental Protection SPD, Houses of Multiple Occupation SPD and the Taxi Licensing Policy for public consultation.
- 5.59. In November 2021, the Committee received the Mid-Year Performance Review, the Food Law Enforcement Plan, Communities Team Update, a review of the Cheshire East cemeteries Strategy, Withdrawal of the Crewe Hub Area Action Plan, Housing SPD and Jodrell Bank Supplementary Planning Document. The committee also considered a request for a review of the systems currently in use for determination of Planning applications by Cheshire East Council submitted by Councillor Tony Dean.

- 5.60. At the January 2022 meeting, the Environment and Communities Committee considered the Carbon Neutral Programme Progress Report, Draft Conservation Area Appraisal and Management Plans, Quarter 3 Finance Review and the MTFS budget consultation. The Committee also considered a report in response to Referrals of Notice of Motion: Protect the Right of Communities to Object to Individual Planning Applications and approved the annual Brownfield Land Register Update. Verbal updates were also received from the Chair of the Member Advisory Working Sub-Group Committee in relation to the Cheshire East Cemeteries Strategy Review and the Cheshire East Planning Process Review.
- 5.61. In March 2022, the Committee considered a Referral of Notice of Motion in relation to Low Carbon Advertising, the Replacement Recycling Site at Congleton and Single Use Plastics. The Committee also received oral updates from the Chair of the Member Advisory Panel regarding the Cheshire East Cemeteries Review and the Cheshire East Planning Process Review.
- 5.62. Since April 2022, the Committee received the following updates and reports:
- 2021-22 Annual Performance Review
 - Implementation of Public Spaces Protection Order (PSPO) for Macclesfield
 - Housing Supplementary Planning Document (SPD)
 - The Minerals and Waste Development Plan
 - Local Strategy Review
 - Alignment of 2022/23 Budgets
 - Member Advisory Panel: Cheshire East Planning Process Review and Cheshire East Cemeteries Strategy Review
 - Single Use Plastics Update
 - Household Waste Recycling Centre User Guide/Policy
 - Developer Contributions SPD
 - Hackney Carriage and Private Hire Licensing Policy
- 5.63. The Corporate Policy Committee met on 8 occasions during 2021/22. The Committee considered the Member Allowances Report, the Senior Management Restructure and approved the Media Relations Protocol. The Committee also considered reports on the MTFS Corporate Services Budget 2021/22, the Apprenticeship Levy Procurement Framework, Organisational Culture Change Programme and Consultation on Council Tax Support Scheme 2022/23. It also received the Customer Experience Progress Report, Shared Services Update Report and 2023 Review of Parliamentary Constituencies.

- 5.64. Further reports were received on the response to COVID-19, the Consultation on the Emergency Assistance Scheme, Developing a Digital Strategy – Progress Report, Workforce Efficiencies and Terms and Conditions. They also considered a report on the Interim Review of the Committee System, an HS2 Update, agreed the Integrated Care System Governance: The Cheshire Clinical Commissioning Group Cheshire East Place Committee Interim Arrangements – Proposals and Membership and Joint Scrutiny Committee Protocol, approved the Workforce Strategy and considered reports on Modern Slavery Act Transparency Statement, Review of Test and Trace Support Payments Discretionary Scheme.
- 5.65. In December 2021 the Committee received the 2021/22 Financial Year Review, Mid-Year Review of the Corporate Plan and Performance Reporting Update, Council Tax Support Scheme 2022/23, Domestic Tax base 2022/23, an Apprenticeship Programme Update and a report on Insurance Contracts Procurement.
- 5.66. At the January 2022 meeting, the Committee responded to the MTFS 2022/23 – 2025/26 budget consultation. It also considered a report on the Communications Plan for Residents and Health and Safety Update Quarter 2 along with receiving minutes from the Finance and General Appeals Sub-Committees.
- 5.67. The February 2022 meeting included updates on COVID-19 and the Shared Services Joint Committee. The Committee also considered the MTFS 2022-26, the High-Speed Rail (Crewe – Manchester) Bill Petition and the Pay Policy Statement 2022/23. The Committee also received the Finance Sub-Committee minutes.
- 5.68. In March 2022, the Committee received updates on the Afghan Relocations and Assistance Policy (ARAP) and Afghan Citizens Resettlement Scheme (ACRS), Cyber Security, the Equality, Diversity and Inclusion Strategy and Workforce Terms and Conditions Review. The Committee also considered reports on the proposed changes to the Emergency Assistance Scheme for 2022/23 and the Health and Safety Update for Quarter 3. The Committee also approved the Cheshire East Digital Strategy.
- 5.69. Since April 2022, the Committee has considered the following reports:
- Community Governance Review of Town and Parish Council Governance
 - Progress on Governance for the Integrated Care System
 - Workforce Strategy 2021-2025 – Progress Review
 - Wilmslow Town Centre Business Improvement District
 - Open Data – Annual report
 - First Annual Review of the Committee System

- Corporate Services Budgets 2022/23
- Appointments to Sub-Committees, Working Group, Joint Committees and Boards
- Covid-19 Update
- Corporate Services Budgets 2022/23
- Appointments to Sub-Committees, Working Groups, Joint Committees and Boards
- Workforce Strategy 2021-2025 Progress Review
- Health and Safety Update – 2021/22
- Minutes of General Appeals Sub-Committee
- Performance Outturn 2021/22
- Strategic Risk Register Assurance Report
- Approach to Consultation and Engagement
- Communications Strategy for Residents 2022-25
- UK Shared Prosperity Fund – Cheshire East Allocation
- Update on Shared Services Joint Committee and Best for Business
- Review of Appointments to Outside Organisations
- Minutes of Finance Sub-Committee

5.70. The Information Governance Group (IGG) met regularly throughout 2021-22, managing a programme of proactive improvement and ongoing compliance with the requirements of the Data Protection Act 2018. The Group also managed responses to reported data related incidents, providing updates to the SIRO (Senior Information Risk Owner), and the Corporate Leadership Team.

5.71. A Virtual Task and Finish Group, with representatives from across the Council, was set up during 2020 specifically to respond to the challenges of COVID-19. The group provide advice and guidance in relation to information governance arrangements for home working, information sharing, use of video conferencing facilities and the test and trace programme. This has now been incorporated into the IGG working group and continues to meet fortnightly. The Annual Information Governance Update 2020/21 was presented at the September 2021 meeting of the Audit and Governance Committee.

5.72. The Brighter Futures Commercial Board continued to meet during 2021 and up until April 2022 when it was agreed that the Board had achieved its objectives.

- 5.73. The Contract Management System is being rolled out to services on a phased basis and went live in September 2021 for Procurement, ICT and the People's Directorate. Procurement reports are regularly provided to the Finance Sub-Committee which include pipeline, contracts, waivers and relevant procurement updates.
- 5.74. Commissioning, procurement, and contract management training is currently being refreshed to include the basic contract management, roles and responsibilities of contract managers and contract management system training.
- 5.75. The Audit and Governance Committee plays a key role in the Council's review of the effectiveness of its governance framework. It seeks assurance on the adequacy of the Council's risk management, control and governance arrangements and it monitors the implementation of the AGS action plan.
- 5.76. During 2021/22 the Audit and Governance Committee received or approved a broad range of reports and assurances, including:
- Approval of the Internal Audit Plan and subsequent progress reports, the Committee's Annual Report and the External Audit Plan and progress reports
 - Updates on Risk Management
 - Regular updates and the Annual Report of the Council's COVID-19 Response and Recovery
 - Maladministration Decision Notices from Local Government and Social Care Ombudsman which are reported to the Committee, alongside the details of the learning from the issue and actions undertaken by each service in response
 - Assurance around procurement controls including overseeing governance arrangements and reviewing all approved Waivers and Records of Non-Adherences. The WARN process forms part of the Contract Procedure Rules (CPR's) which are intended to promote good Procurement and Commissioning practice, transparency, and clear public accountability. Since June 2016 onwards, summary information on the number and reasons for WARN's has been provided to the Committee as a standard part one agenda item, with the details being considered in part two of the meeting
 - Member Code of Conduct Sub-Committee Report summarising the recent Member Code of Conduct complaints and associated investigations involving elected members of a Parish Council
 - A summary of the key findings identified during the External Auditors certification process – Certification of Claims and Returns 2020/21

- The Annual Report of the Monitoring Officer 2020/21.

- 5.77. The Audit and Governance Committee's self-assessment against the CIPFA guidance was considered at the March 2020 meeting. A number of actions were identified to be developed into an Action Plan. The Action Plan will be revisited as part of the 2022/23 self-assessment process.
- 5.78. The Committee's Annual Report for 2020/21 was presented to the November 2021 Audit and Governance Committee. The Annual Report for 2021/22 is to be presented to the 29 September 2022 meeting of the Committee.
- 5.79. The 2020/21 Annual Governance Statement was approved at the January 2022 meeting of the Audit and Governance Committee. The Statement was signed by the Leader of the Council and the Chief Executive.

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

- 5.80. The Council's internal and external auditors are key sources of assurance. The Internal Audit opinion on the Council's control environment is set out in the Internal Audit Annual Report for 2021/22 which was received by the Audit and Governance Committee on 28th July 2022 and is as follows:

Internal Audit Opinion

The Council's framework of risk management, control and governance is assessed as adequate for 2021/22

- 5.81. In forming its opinion, Internal Audit considered issues arising from the implementation of the Unit 4 ERP System, the impact on the framework of risk management, control and governance and the actions taken to mitigate these matters. Internal Audit will continue to undertake detailed reviews jointly with Cheshire West and Chester Council to obtain assurance that appropriate controls are in place across the key financial systems.
- 5.82. As referenced elsewhere within the statement, there is an ongoing national issue in relation to the valuation of infrastructure assets that has prevented the external auditors from completing their 2020/21 audit. This has resulted in a pause in the sign off on the audit report and opinion. Assurance has been provided by the external auditors to the Audit & Governance Committee around this that this is a national matter and that the risk to Cheshire East Council is minimal and not expected to have a material impact upon service delivery.
- 5.83. Following completion of all police investigations into the Council and consideration by the Crown Prosecution Service, the former external auditors, Grant Thornton, are completing work in relation to the outstanding audit certificate under the Local Audit and Accountability Act 2014. This work commenced during 2021/22 and is being supported by Internal Audit and the Council as a whole.

- 5.84. Counter Fraud activity is reported to the Audit and Governance Committee through the Internal Audit progress reports. The latest update was provided to the May 2022 meeting.
- 5.85. The Council has a number of wholly owned companies. Several changes were made following an independent review of these Alternative Service Delivery Vehicles (ASDVs).
- 5.86. The following ASDVs were in operation during 2021/22:
- Orbitas Bereavement Services Limited
 - ANSA
 - Transport Service Solutions Limited. (TSS Ltd)
 - Tatton Park Enterprises Limited
- 5.87. In February 2021, Cabinet approved that the contract between the Council and Orbitas Bereavement Services be modified by extending it by a period of one year, to March 2022.
- 5.88. In May 2022, the Finance Sub-Committee approved the recommendation of the Shareholder Working Group for “the inclusion of the Bereavement Services Contract on the Procurement Pipeline Report for a period of 5 years, with an extension for a further 3 years, at a value determined by the Commissioner for Bereavement Services in line with the current MTFS”. The Council entered into a new contract for the provision of bereavement services with Orbitas Bereavement Services on 31 March 2022 for a period of 5 years with the option to extend for a further 3 years.
- 5.89. In May 2021, Cabinet approved the recommendations that the strategic, planning, commissioning, and procurement functions of TSS Ltd were to be transferred and delivered directly by the Council, with the operational delivery functions of the company to be delivered by ANSA. The new arrangements came into force on 1 April 2022.
- 5.90. Following the move to the Committee System in May 2021, the responsibilities of the ASDV Shareholder Committee were transferred to the Finance Sub-Committee. In September 2021, a Shareholder Working Group was appointed to review and provide advice on the strategic business cases and current governance arrangements for each wholly owned company (WOC). The Sub-Committee received and considered the report of the Working Group at the 5 January 2022 meeting. The Sub-Committee also considered the Wholly Owned Companies Matters report at the meeting held on 1 June 2022 and received a verbal update on 6 July 2022.

- 5.91. Everybody Health and Leisure (Everybody) is an independent charitable trust which delivers recreation and leisure facilities. The Council retains ownership of significant assets such as buildings. Everybody deliver services for the Council as set out in the operating contract, which is monitored through client commissioning arrangements, including contract management meetings and monitoring visits. The current operating agreement between the Council and Everybody runs to 30 April 2029. Prior to 1 May 2022, Everybody was known as Everybody Sports and Recreation (ESAR).
- 5.92. Everybody's annual performance report for 2021/22 was reported to the commissioning manager and was shared with members of the Environment and Communities Committee in January 2022.
- 5.93. The Shared Services Joint Committee oversees the management of the services provided on behalf of Cheshire East and Cheshire West and Chester Councils, to ensure effective delivery of services and strategic direction. Regular reports on performance and progress have been received during the year by the Committee on all 8 shared services including ICT Services, the Transactional Service Centre. They have also overseen the review of the shared services.
- 5.94. The Shared Services Joint Committee has also received regular progress reports on the shared programme with Cheshire West and Chester Council to replace the existing Finance and HR Systems throughout 2021/22. The Finance element of the Unit4 ERP solution was successfully launched to users on 8 February 2021, the HR and Payroll element of Unit 4 ERP launched in November 2021 with the December 2021 payroll being successfully run in the new system.
- 5.95. The progress reports to the Shared Services Joint Committee included the following:
- Update on developments following go live of the HR and payroll elements
 - Update on a post go-live transition plan and technical close of the programme
 - Proposals for a Member-led Lessons Learned review of the programme
- 5.96. In June 2022, the Shared Services Joint Committee received a further update on the implementation of the Unit 4 ERP System. This report provided an update on each of the three elements detailed above, including that the terms of reference for the lessons learned review were expected to be agreed by August 2022 and an externally facilitated task group was being established to undertake the review. The report of the task group will be presented to members of the Committee and the Best4Business Joint Scrutiny Working Group and will represent the final report of the Best for Business programme to the Committee.

- 5.97. In preparing the AGS we have examined reports, feedback and action plans from other agencies and inspectorates, which review the services provided by the Council.
- 5.98. In April 2018, the Council received a Written Statement of Action following an Ofsted and Care Quality Commission (CQC) SEND Review. In May 2021, Ofsted and the CQC carried out a SEND revisit and determined that sufficient progress has been made to improve the areas of significant weakness. The Children and Families Committee received a presentation with the findings from the revisit at the meeting held on 12 July 2021.
- 5.99. The Accounts and Audit Regulations (2015) legislation prescribes the format and timescale of the production of the Annual Governance Statement and the Statement of Accounts for local authorities.
- 5.100. In recognition of the ongoing impact of COVID-19, the Accounts and Audit (Amendment) Regulations 2021 amended the timescales of the publication of the draft statement from the 31 August to not later than the 30 September 2021, the publication of the final statements remains the 30 November. Following discussion and agreement with the external auditors it was determined that the Council would operate to these extended deadlines.
- 5.101. However, due to a national issue regarding accounting for infrastructure assets, it has not yet been possible for the external auditors to complete and conclude the audit. The Council and external auditors are awaiting further information from the sector on the proposed way forward.
- 5.102. The Audit and Governance Committee therefore considered the draft statement at the 30 September 2021 meeting and approved the final statement at the meeting held on 17 January 2022.

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

- 5.103. The Audit and Governance Committee promotes high standards of ethical behaviour by developing, maintaining, and monitoring a Code of Conduct for Members of the Council. Complaints are considered by the Monitoring Officer and an Independent Person. Complaints can be received about Cheshire East Councillors, co-opted members and Town and Parish Councillors.
- 5.104. The promotion of high standards of conduct, and of strong ethical governance among elected members, co-opted Members, and Town and Parish Council Members within the Borough, is critical to the corporate governance of the authority and to the Council's decision-making process across the organisation.
- 5.105. In September 2021, the Audit and Governance Committee received the Annual Report of the Monitoring Officer 2020/21, which provided background and an

overview on the Monitoring Officer's statutory duties. The report also advised on the number of complaints received under the Code against each category, the paragraph(s) of the Code alleged to have been breached, and the outcome of each complaint, once completed.

- 5.106. The Audit and Governance Committee agreed that a review of the Member Code of Conduct would be added to the Committee's Work Plan for 2020/21 and that it should be linked to the Local Government Association publication of a revised Model Code of Conduct which was published for consultation in July 2020. The Local Government Association published its Model Councillor Code of Conduct in May 2021, and the supporting guidance was published in July 2021. A Councillor Code of Conduct Working Group was established to consider the Model Code and propose a revised Code of Conduct for Cheshire East Council. The review remained on the Committee's work plan for 2021/22, and the draft Code was received by the Committee on 28 July 2022.
- 5.107. At the meeting of the Audit & Governance Committee held on 10 March 2022, the Committee received a report summarising recent Member Code of Conduct complaints and associated investigations involving elected members of Handforth Parish Council. Consequential amendments to the Code of Conduct resulting from this report were considered by the Councillor Code of Conduct Working Group.
- 5.108. In November 2021, the Crown Prosecution Service took the decision to take no further action with regard to investigations into historical land transactions in Middlewich and Crewe. This concludes all police investigations into the matters referred by the Council, following Internal Audit work.
- 5.109. Section 151 responsibilities for 2021/22 were covered by the Director of Finance and Customer Services. These arrangements complied with the arrangements set out in CIPFA's Statement on the Role of the Chief Financial Officer in Local Government (2010).
- 5.110. The Monitoring Officer responsibilities were covered by the Director of Governance and Compliance Services.
- 5.111. Prior to the adoption of the committee system in May 2021, the Staffing Committee received updates on the Brighter Future Together (Culture) Programme. This is the transformation programme established to deliver changes in the organisational culture of the Council following the review undertaken by the Local Government Association (LGA). The LGA's report was received in January 2018 and is available on the Council's website. Following the move to the committee system the Corporate Policy Committee assumed the responsibilities of the Staffing Committee and received an update on the Organisational Culture Change Programme in July 2021. The Committee also approved the Workforce Strategy in November 2021 and received an update on progress in June 2022.

Ensuring openness and comprehensive stakeholder engagement

- 5.112. The Council's open data portal '[Insight Cheshire East](#)' holds the majority of our transparency information and open data together in one place. The site is designed to make inspecting, accessing, and downloading our data easier for everyone, including developers, who may wish to use our data in their own applications or websites. Work is continuing to expand the content on the site, with emphasis on areas that residents most frequently request information about.
- 5.113. As required by the Transparency Code 2015, the Council published the current number of Council employees with basic salaries of £50,000 or over on the Open Data Cheshire East Portal.
- 5.114. Committee meetings continued to be audio cast throughout 2021/22. Recordings can be found on the relevant Committee pages. Meetings are held in public, and agendas, reports, and minutes are published via the Council's website.
- 5.115. The Council utilised the powers available under the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 ("the Regulations") to enable meetings of the Council to take place using virtual means during 2021. Legislative provisions permitting remote meetings were not extended beyond 7 May 2021. COVID-19 secure face to face meetings were reintroduced after this date.
- 5.116. Updates on the organisation's response to COVID-19 were provided to the monthly Cabinet meetings held in 2020/21. Following Cabinet being decommissioned, updates have been provided to both the Corporate Policy Committee and Audit and Governance Committee.
- 5.117. The Council publishes delegated officer decisions on its website, demonstrating how the provisions of the Constitution have been exercised.
- 5.118. Engaging with our communities is essential to ensure that we are a resident led Council. Consultation exercises are carried out as appropriate, including statutory consultation processes for areas such as Planning and Licensing. Information is available on the Council's website in relation to current consultations and the feedback received on previous consultations and the subsequent decisions are also available.
- 5.119. Council employees receive a weekly internal newsletter (Team Voice) in addition to service specific communication and briefings. In response to the lockdown restrictions imposed in response to the COVID-19 pandemic steps were taken to ensure that staff and managers were supported during what was a time of significant change in working arrangements.

- 5.120. Weekly Manager Share and Support sessions were provided throughout 2020/21 and have continued through 2021/22. These sessions cover a wide variety of topics and provide an opportunity for managers to interact, raise any issues and concerns that they may have, and receive briefings and training on new developments such as the effective use of Teams.
- 5.121. In addition to the sessions detailed above, weekly TLC – Time to Listen and Chat sessions have also been provided. The purpose of these sessions is to keep people connected and support wellbeing in work. These 30 minute calls offer an opportunity to take a break from the pressures of work to meet with colleagues from across the organisation for an informal chat.
- 5.122. Members and Officers continued to receive frequent briefings on COVID-19 related matters during 2021/22 with dedicated areas of content on CEntranet directing colleagues to advice and guidance.
- 5.123. Wider Leadership Team and Wider Leadership Community sessions were held during the year which facilitated briefing, networking, and development opportunities across the senior officer leadership cohort. Key messages from these sessions are cascaded through department and team management sessions. There has been a move towards face to face sessions since the lifting of COVID-19 restrictions.
- 5.124. Since 2020, the Chief Executive has provided regular video updates to staff via a Vlog. The videos and transcripts are available on the CEntranet.
- 5.125. Members of staff are encouraged to participate in the “Making a Difference” recognition scheme, nominating colleagues for an instant recognition “Made my Day” message, or for nomination in the annual awards which will be held again during 2022/23 after the disruption of the last couple of years. The recognition panel itself includes volunteers from across the organisation.
- 5.126. The Council’s Corporate Leadership Team has continued to meet virtually with staff groups from across the organisation and offer an opportunity for staff to raise any questions or issues they have directly with their Senior Managers.
- 5.127. Council services use various forms of social media, to engage and inform communities and stakeholders. The main Council website has a Media Hub page, where a variety of information about the Council is published. The Communications team also provide related media releases, where appropriate. Statutory public notices are also shared online.

6. Review of Effectiveness

- 6.1. The Council undertakes an annual review of its governance arrangements. This process is informed by a range of sources. The various sources of assurance

which inform the annual review are described below and referenced in the Governance Framework in Appendix 1.

6.2. Examples of the sources of assurance considered in preparing the Annual Governance Statement include:

- **Line Management** - Assurance on individual line managers' areas of responsibility are provided by Disclosure Statements and informed by the acceptance and implementation of recommendations from internal and external audit.
- **Management Review** - Assurance on the effective management of core function activities is provided by reviewing compliance with policies, including how this information is used to drive improvement, and how relevant risk management information is escalated up or cascaded down through the Council.
- **Internal Review** - The performance of Internal Audit and the Audit and Governance Committee, along with their assessments of the performance of individual service areas, and cross function service areas informs the preparation of the Statement.
- **External Review** - The findings and feedback from external inspectorates and peer reviews of the Council also provide assurance which is considered in preparing the Statement.
- **Reference and review of existing reports and assessments**

6.3. For the purposes of the Annual Governance Statement "significant" is defined as an issue which has had or has the potential to have a noticeable impact on the Service's and/or Council's ability to achieve its objectives.

6.4. Examples might include:

- Legal action against the Council for failing to fulfil a statutory duty (resulting in a substantial financial penalty and/or loss of reputation)
- An instance of fraud or corruption involving financial loss, a noticeable impact on service delivery and/or loss of reputation
- An unexpected occurrence resulting in substantial financial loss, disruption to service delivery and/or loss of reputation (including significant media coverage/interest)
- Failure of a major project to meet stated objectives; or

- A serious breach of the Code of Conduct having a noticeable effect on service delivery and/or reputation.
- 6.5. Section 7 sets out the progress made against the issues identified in previous Annual Governance Statements, which have been monitored through 2020/21.
- 6.6. Progress on managing and monitoring the discrete actions identified to manage and resolve these issues has previously been reported upon to the Audit and Governance Committee, through previous Annual Governance Statements, and through regular update reports.
- 6.7. The following previously included issues are no longer considered to be significant and have therefore been removed:
- Proposed Change to the Committee System of Governance
 - Replacement of the Council's Core Financial and HR Systems
 - Responding to the impact of COVID-19
- 6.8. The issues of "Council Funding" and "Health and Social Care Integration" are included again as continuing areas of concern issues for 2021/22 in the updates in Section 7. This recognises the continuing significance of these two specific areas, at national and local levels.
- 6.9. However, as both issues have been included since 2015/16, the descriptions and proposed actions have been updated to reflect the latest position and better articulate the challenges that they currently present to the Council.
- 6.10. The Council's assessment of its governance arrangements has also identified one significant issue arising during 2021/22 relating to ASDV Governance.
- 6.11. The review has considered the effectiveness of the Council's governance arrangements against the principles set out in the Code of Corporate Governance.
- 6.12. **Overall, we can confirm that the Council has appropriate systems and processes in place to ensure good governance is maintained. Whilst we are satisfied that these generally work well, our Annual Governance review has identified areas where further improvements are underway (Section 7).**

7. Progress against issues identified in previous Annual Governance Statements

Council Funding <i>Recognised as a Continuing Governance Issue in the 2015/16 AGS but revised and restated for 2021/22</i>	
Description of Issue at the time of inclusion in AGS	<p>The uncertainty of demand for services, particularly during the pandemic, makes forecasting the adequacy of funding requirements more challenging.</p> <p>This is exaggerated through ongoing uncertainty of the potential yield from many of the Council's largest funding sources.</p> <p>For example, Council Tax and Business Rate collections and taxbase calculations have been impacted by the pandemic and by government intervention. DSG is impacted by academisation and shortfalls in High Needs funding. Other grants are subject to ongoing review and therefore often presented as single year allocations.</p> <p>Without certainty the Council may have to make short term decisions which could prove inefficient as well as disruptive.</p> <p>Council received and approved a balanced 4-year MTFS 2022 to 2026 in February 2022. This followed consideration at each service Committee and was recommended to Council by the Corporate Policy Committee. This includes the Budget and Council Tax levels for the 2022/23 financial year.</p> <p>Although the Local Government Finance Settlement was publicised as a Three Year Settlement, the local allocation of total funding was only certain for 2022/23. The MTFS aimed to minimise the medium term risk of reduced funding by assuming lower allocations in later years in line with statements from Ministers.</p> <p>Whilst funding from Council Tax and Business Rates has stabilised to a degree there is still uncertainty over any structural changes to these income sources. Material funding issues remain within the High Needs funding block in the DSG.</p> <p>The ongoing impact of the pandemic continues to cause forecasting issues with the demand for services, particular in social care.</p>
Responsibility	Executive Director of Corporate Services

Action proposed at the time of inclusion in the AGS	<p>The Council's approach to the continuing financial challenges, linked to austerity, are being addressed through a range of activities and communication channels.</p> <p>Finance staff and senior leaders are engaging with government officials and professional bodies (such as CIPFA, SCT, RSN and UTS), in the review of local government finance. Responses have been provided to consultations and regular seminars and meetings have been attended to ensure that issues relevant to Cheshire East Council are being considered.</p> <p>Funding estimates are transparent and reported to the Finance Sub-Committee. Working Groups from the Sub-Committee have also reviewed estimates in detail. This includes estimates within all financial strategies that make up the over-arching Medium Term Financial Strategy.</p> <p>The Council's increasing level of collaboration and integration with public sector partners, such as health services and neighbouring local authorities, is also subject to significant review and work is ongoing in line with CIPFA's Aligning Public Services model.</p> <p>The best fit of service providers, also described in the Corporate Plan, remains a key element of the Council's approach. Contract management, with its strong links to achieving outcomes, is also developed as a key feature of the Council's control framework.</p>
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<u>Health and Social Care Integration</u> <i>Recognised as a Continuing Governance Issue in the 2015/16 AGS but revised and restated for 2021/22</i>	
Description of Issue revised for inclusion in 2021/22 AGS	<p>Since the 1 July 2022 integrated care systems have been formalised as statutory bodies following changes brought about by the 2022 Health and Care Act, and has meant the abolishment of the Clinical Commissioning groups.</p> <p>Cheshire East Council sits within the Cheshire & Merseyside ICS footprint, which comprises of 9 Local Authority Areas.</p> <p>The central aim of ICS's is to integrate care across different organisations and settings, joining up hospital and community-based services, physical and mental health, and health and care.</p> <p>The key challenges and risks that this presents are as follows:</p> <ul style="list-style-type: none"> • That the ICS is not a partnership of equals across the broader health, wellbeing and social care system.

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	<ul style="list-style-type: none"> • Risk that central control remains at central level and decision making and delegations are not devolved to place. • National versus local tensions. • Budget deficits.
Responsibility	Executive Director of Adults, Health and Integration
Action proposed at the time of inclusion in the AGS	<p>Ensuring representation at a Cheshire and Merseyside level</p> <p>Collaboration with the ICB local representative – Mark Wilkinson-place director.</p> <p>Ensuring local priorities are understood and communicated.</p>

Proposed Change to the Committee system of Governance	
<i>To be removed from the 2021/22 AGS as no longer a significant issue</i>	
Description of Issue at the time of inclusion in AGS	<p>Following the change in political leadership in May 2019, the Council will be exploring a change from the Leader and Cabinet Model of governance to the implementation of a full Committee model of governance.</p> <p>This will be developed during 2019/20 with a view to taking effect from the beginning of the 2020/21 Municipal Year subject to a legally and constitutionally robust process, led by the Council's Constitution Committee, and agreed by Council.</p>
Responsibility	Chief Executive
Action proposed at the time of inclusion in the AGS	The change in the Council's decision-making arrangements and governance framework will be undertaken through the Council's Constitution Committee and Council to ensure that the process of change is legally compliant and delivers the intended outcome.
Progress Update for AGS 2021/22	<p>At its meeting in November 2020, Council agreed to the adoption of the Committee system as set out in the design principles, committee structure, and to cease operating the existing Leader and Cabinet model of governance, moving to the Committee system model of governance from the Annual Council meeting on 12th May 2021.</p> <p>Council authorised the Director of Governance and Compliance, in consultation with the Constitution Committee to prepare such draft constitutional provisions as to give effect to the wishes of the Committee and be submitted to the Constitution Committee in phases during 2020/21 for recommendation to Council.</p> <p>The new arrangements took effect from May 2021 and on 4th November 2021 the Corporate Policy Committee received a report</p>

	on the Interim Review of the Committee System from the Director of Governance and Compliance. This report was also presented to Council at their 15 December meeting.
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Replacement of the Council's Core Financial and HR Systems <i>To be removed from the 2021/22 AGS as no longer a significant issue</i>	
Description of Issue at the time of inclusion in AGS	<p>The Council is in the process of replacing its existing ERP system, in a joint project with Cheshire West and Chester Council.</p> <p>This will see the replacement of the existing Oracle system including core modules covering accounts payable, income and payroll.</p> <p>The new system will achieve business efficiencies through changes in the software and supporting business processes.</p> <p>Change in the Council's core business system needs to be carefully managed to ensure the new system is fit for purpose that the changeover managed with minimal disruption, and that the transition to new business processes is successfully implemented to deliver the intended benefits.</p>
Responsibility	Executive Director of Corporate Services
Action proposed at the time of inclusion in the AGS	<p>The governance model adopted to deliver the replacement business system recognises the significance of the change required and risk involved in project delivery.</p> <p>Member involvement has been set up through the Shared Services Joint Committee and a specific joint scrutiny working group.</p> <p>Programme delivery is monitored by a monthly Steering Group comprised of Chief Officers from the two councils and the Programme Director. This is supported by a monthly Programme Board which is attended by the external implementation partner and is supported by a jointly staffed internal team which has been involved from the procurement stage.</p> <p>The Councils' Internal Audit teams are undertaking a joint programme of review and assurance throughout the implementation of the replacement and ahead of the new system going live.</p>
Progress Update for AGS 2021/22	The Finance and Payments element of Unit 4 ERP launched in February 2021 and is being used to process procurement and payment activity, income accounting, financial reporting and project related financial delivery.

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	<p>The HR and Payroll element of Unit 4 ERP launched in November 2021 with the December 2021 payroll being successfully run in the new system.</p> <p>Member oversight of the programme continued via the Shared Services Joint Committee, the Joint Scrutiny Working Group and Portfolio holder briefings (until May 2021 for CEC, with responsibility now with the Corporate Policy Committee). Members have received update reports on the latest position of the implementation of the system including the post go-live transition plan, technical closure of the programme and the lessons learned review.</p>
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Responding to the impact of COVID-19	
<i>To be removed from the 2021/22 AGS as no longer a significant issue</i>	
Description of Issue at the time of inclusion in AGS	<p>Like other local authorities, the Council has been significantly challenged by the coronavirus pandemic.</p> <p>Responding to the pandemic will bring substantial risks to the Council in 2020-21.</p> <p>The challenges to the Council have been recognised in the reports provided to Cabinet, Scrutiny and Audit and Governance to date, which have highlighted the challenges being experienced, the Council's response, recovery plans, and future risks.</p>
Responsibility	Chief Executive
Action proposed at the time of inclusion in the AGS	<p>There will be an ongoing review of the financial impact as well as the impact on procedures and processes relating to the emergency.</p> <p>Reports on the Council's ongoing response will continue to be provided to Cabinet, and other Committees where appropriate.</p>
Progress Update for AGS 2021/22	<p>Regular reports have been provided to Cabinet, providing updates on the Council's response to the COVID-19 pandemic. These reports have also been provided to the Corporate Overview and Scrutiny and the Audit and Governance Committees.</p> <p>Cabinet received the COVID-19 – Annual Report of our COVID-19 Response and Recovery in May 2021.</p> <p>Since the change to the committee system, Corporate Policy Committee have received these regular update reports with the latest having been received in February 2022.</p>

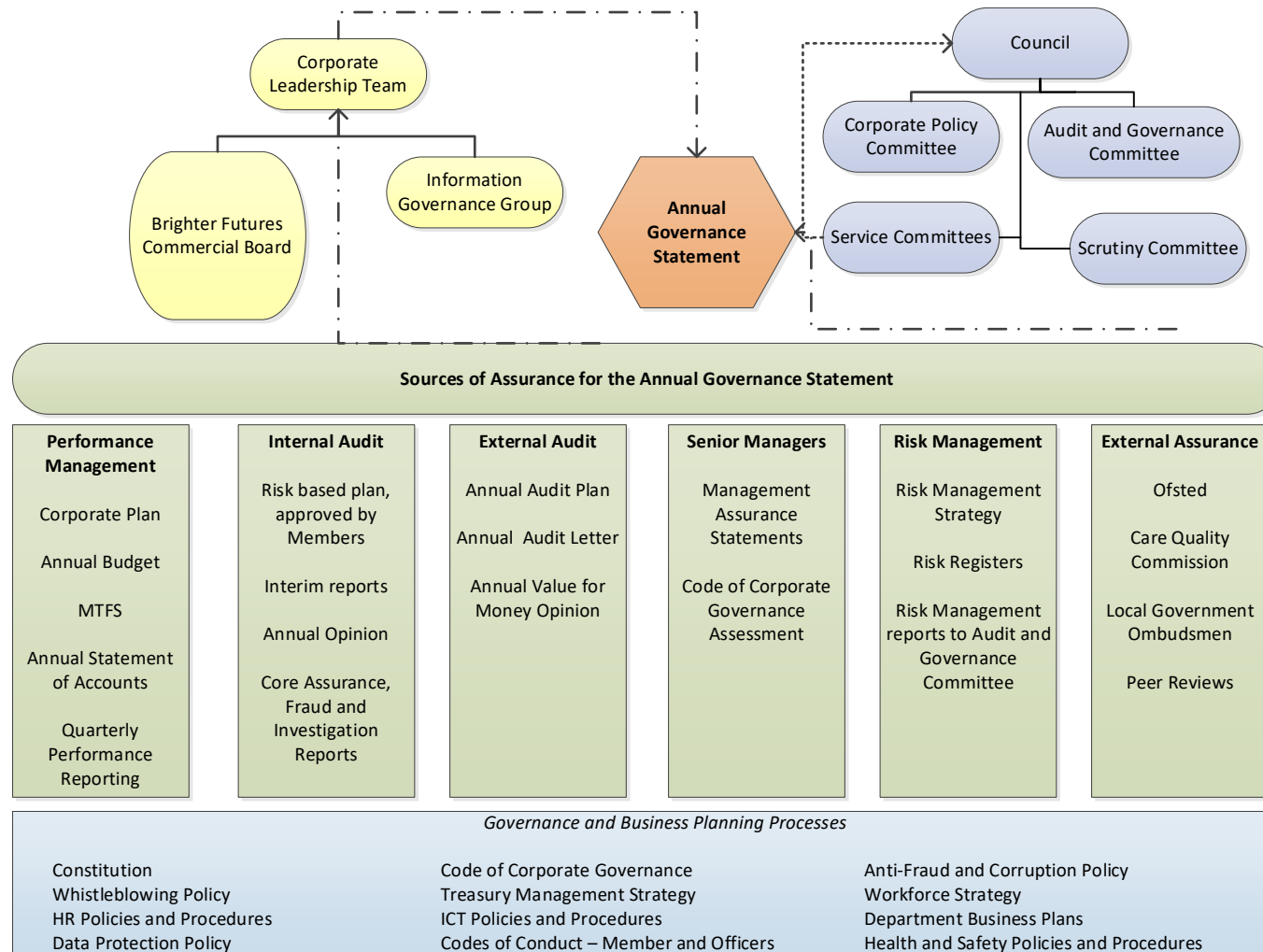
	The financial impact of COVID-19 has been monitored and reported on through these updates, and in the quarterly performance reports received by Cabinet and scrutiny committees. The impact of COVID-19 is also acknowledged within the Council's Medium Term Financial Strategy and budget 2022-26.
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8. Significant Governance Issues 2021/22

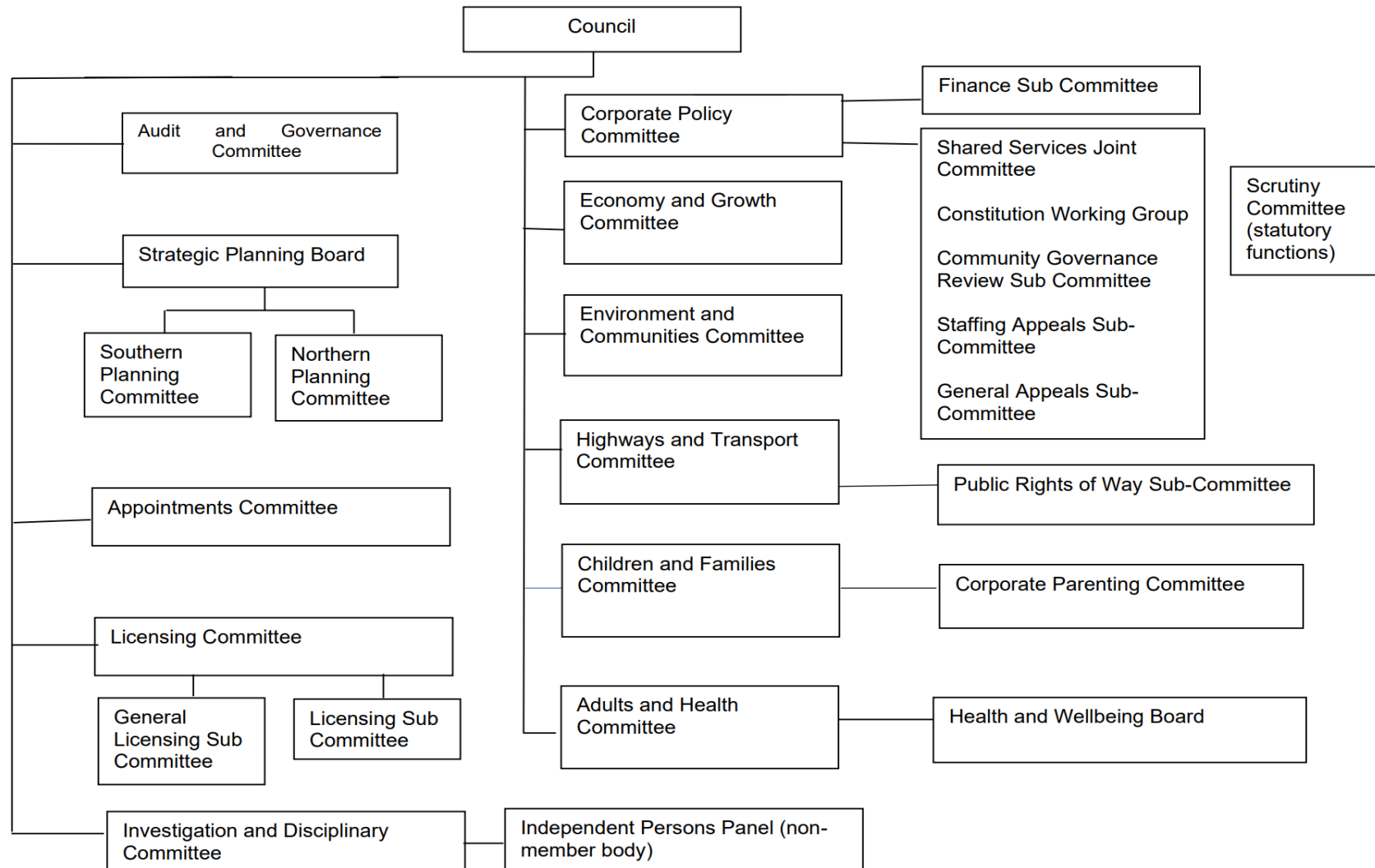
- 8.1. The significant governance issues the Council recognises as arising during 2021/22 are detailed below. A description of the issue, along with details of the actions undertaken to date, and any further actions required to manage the issue is also given. These issues will need implementing and monitoring by the Council to ensure that actions are undertaken in line with this plan. Progress will be monitored by the Corporate Leadership Team and reported to the Audit and Governance Committee.

Description	Actions	Responsibility
<p><u>ASDV Governance</u></p> <p>The governance of wholly owned companies across the local government sector has come under the spotlight following failures which have resulted in the publication of Public Interest Reports.</p> <p>Those reports highlighted that failings in the governance of those companies resulted in "institutional blindness" and a failure to recognise, understand, and so address commercial pressures and conflicts of interest. These governance failings resulted in high profile financial losses and reputational damage to those Councils and in some cases external intervention.</p> <p>In the light of these high-profile company failures, CIPFA have recently published guidance aimed at mitigating the risk to local authorities of company ownership. Whilst framed as guidance, its status is such that it will affect reporting and external assessment of the Council. There</p>	<p>Work has been undertaken to identify proposed changes to the current ASDV governance and reporting arrangements to ensure that they broadly align with the good practice as described in the CIPFA guidance.</p> <p>This has also proposed that a full review of the overall company structures and governance arrangements is undertaken and that a reporting structure is implemented to strengthen insight into the operation of the Council's ASDVs.</p> <p>The review is proposed to include a review of directors, the process for their appointment, and the training and support provided to them.</p>	<p>Director of Governance and Compliance</p>

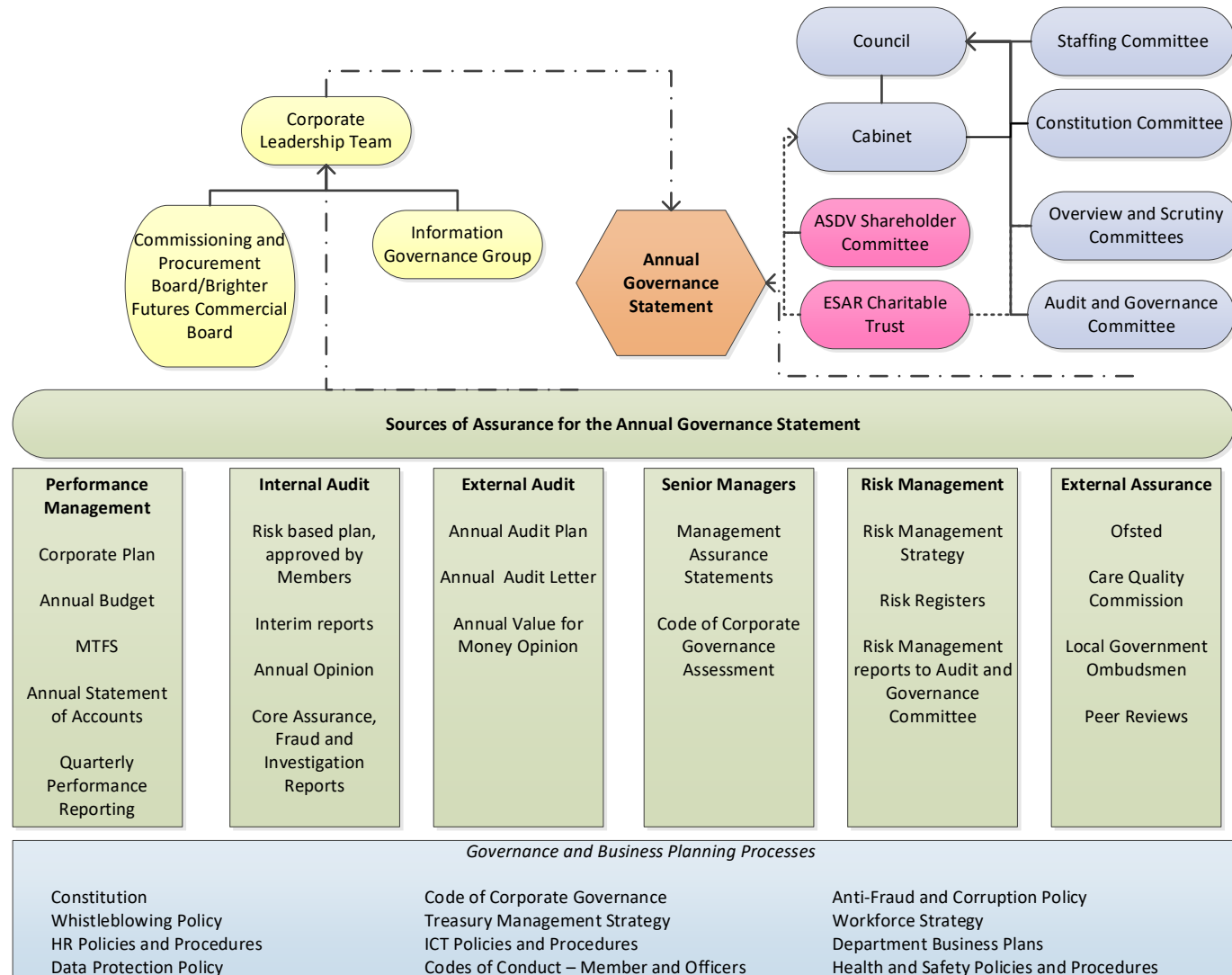
Description	Actions	Responsibility
<p>is therefore merit in being proactive and taking action in response to these highlighted risks.</p> <p>A comparison of the Council's current governance arrangements against the CIPFA guidance has highlighted risks in the current company structures, and with the levels of transparency and assurance. Improvement in the reporting and assurance can be achieved which will mitigate these risks and bring Cheshire East's arrangements in line with best practice.</p>		



Appendix 2: The Committee Structure



Appendix 3: The Governance Framework prior to 4th May 2021





Working for a brighter future together

Audit & Governance Committee

Date of Meeting:	29 September 2022
Report Title:	Annual Report of the Audit and Governance Committee 2021/22
Report of:	Jane Burns, Executive Director of Corporate Services
Report Reference No:	AG/44/21- 22
Ward(s) Affected:	All

1. Purpose of Report

- 1.1. The purpose of this report is for the Committee to consider the draft version of the Audit and Governance Committee's Annual Report 2021/22 and agree the final version of the report that will go to the next meeting of Council.

2. Executive Summary

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

3. Recommendations

- 3.1. That the Committee considers the draft report for 2021/22 at Appendix A and agrees the final version which will be presented at the next meeting of Council.

4. Reasons for Recommendations

- 4.1. 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.

- 4.2. 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.

5. Other Options Considered

- 5.1. Not applicable.

6. Background

- 6.1. CIPFA guidance, *Audit Committees – Practical Guidance for Local Authorities and Police 2018 Edition* states that audit committees should report regularly on their work and at least annually report an assessment of their performance. Aspects to consider include:

- whether the committee has fulfilled its agreed terms of reference
- whether the committee has adopted recommended practice
- whether the development needs of committee members have been assessed and whether committee members are accessing briefing and training opportunities
- whether the committee has assessed its own effectiveness or been the subject of a review and the conclusions and actions from that review
- what impact the committee has on the improvement of governance, risk and control within the authority.

- 6.2. The requirement to submit an annual report is recommended by CIPFA guidance and included within Cheshire East Council's Constitution.

- 6.3. It is acknowledged that CIPFA is due to release the 2022 edition of *Audit Committees – Practical Guidance for Local Authorities and Police* in September 2022. Furthermore, CIPFA has been engaged to undertake an independent review of the effectiveness of the Audit and Governance Committee during 2022/23.

7. Implications

7.1. Legal

- 7.1.1. 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.

7.2. Finance

7.2.1. 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.

7.3. Policy

7.3.1. The production of the annual report and its presentation to Council ensures compliance with the CIPFA best practice guidance.

7.4. Equality

7.4.1. There are no direct implications for equality.

7.5. Human Resources

7.5.1. There are no direct implications for human resources.

7.6. Risk Management

7.6.1. 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.

7.7. Rural Communities

7.7.1. There are no direct implications for rural communities.

7.8. Children & Young People/Cared for Children

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

7.9. Public Health

7.9.1. There are no direct implications for public health.

7.10. Climate Change

7.10.1. There are no direct implications for climate change

Access to Information	
Contact Officer	Josie Griffiths Head of Audit and Risk josie.griffiths@cheshireeast.gov.uk Tel: (01270) 685860

Appendices	Appendix A: Audit and Governance Committee Annual Report 2021/22
Background Papers	N/A

Annual Report of the Audit and Governance Committee 2021/22

DRAFT
(May 2021 - April 2022)

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OFFICIAL

Foreword by the Chair of the Audit and Governance Committee

As Chair of the Audit and Governance Committee for the year in review, I am pleased to present this detailed report on the work of the Committee over 2021/2022.

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.

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 Margaret Simon

Chair of the Audit and Governance Committee 2021-22

September 2022

1. Introduction to the Audit and Governance Committee

Governance is defined in the “Delivering Good Governance in Local Government: Framework” (CIPFA/SOLACE 2016) as follows:

Governance comprises the arrangements put in place to ensure that the intended outcomes for stakeholders are defined and achieved.

To deliver good governance in the public sector, both governing bodies and individuals working for public sector entities must try to achieve their entity’s objectives while acting in the public interest at all times.

Audit Committees are therefore an essential element of good governance. Good corporate governance requires independent, effective assurance on the adequacy of the risk management framework, the internal control environment and the integrity of the financial reporting and annual governance processes.

These functions are best delivered by an Audit Committee independent from the decision making and scrutiny functions.

Effective Audit Committees help raise the profile of internal control, risk management and financial reporting issues within an organisation, as well as providing a forum for the discussion of issues raised by internal and external auditors. They enhance public trust and confidence in the financial governance of an authority.

2. Audit and Governance Committee - Statement of Purpose

The Audit and Governance Committee is a key component of the Council’s corporate governance. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.

It provides an independent assurance to the Council of the adequacy of the risk management framework and the internal control environment.

It provides independent review of the Council’s governance, risk management and control frameworks and oversees the financial reporting and annual governance processes.

It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.

It promotes high standards of ethical behaviour by developing, maintaining and monitoring performance and Codes of Conduct for Members of the Council (including co-opted Members and other persons acting in a similar capacity).

The Audit & Governance Committee has delegated responsibilities from Council. This report provides details of how the Committee has discharged those responsibilities and delivered against its terms of reference which can be found in the Council's [Constitution](#).

Meetings of the Audit & Governance Committee were held on the following dates during 2021/22:

- 27th May 2021
- 30th September 2021
- 25th November 2021
- 17th January 2022
- 10th March 2022

More information on the Audit & Governance Committee Meetings, including agendas, minutes and attendance details is available [here](#).

3. Governance, Risk and Control within Cheshire East Council

Reports have been received by the Audit and Governance Committee in the following areas, providing assurance and updates on the Council's governance, risk and control framework over the past year.

Internal Audit

Meeting	Reports received
30 September 2021	Internal Audit Annual Report 2020/21
25 November 2021	Internal Audit 2021/22 Plan Progress Update
10 March 2022	Internal Audit Plan 2022/23

External Audit

Meeting:	Reports received:
27 May 2021	External Audit Strategy Memorandum
30 September 2021	External Audit Update Report
25 November 2021	Annual Audit Letter 2020/21 and Certification Report to report on progress
17 January 2022	Annual Audit Letter 2020/21 and Certification Report
10 March 2022	External Audit Progress and Update Report

Risk Management

Meeting:	Reports received:
30 September 2021	Annual Risk Management Report 2020/21
25 November 2021	Risk Management Update
10 March 2022	Risk Management Update – Strategic Risk Register (Q3)

Corporate Governance & Annual Governance Statement (AGS)

Meeting:	Reports received:
30 September 2021	Annual Monitoring Officer Report 2020/21
25 November 2021	Annual Governance Statement 2020/21 Audit and Governance Committee Annual Report 2020/21
17 January 2022	Annual Governance Statement 2020/21 - Progress Update Partnerships Governance

Accounts & Financial Statements

Meeting:	Reports received:
30 September 2021	Draft Pre-Audit Statement of Accounts 2020/21
25 November 2021	Statement of Accounts 2020/21
17 January 2022	Statement of Accounts 2021/22

Information Governance

Meeting:	Reports received:
30 September 2021	Annual Information Governance Update 2020/21

4. Effectiveness of the Committee

In November 2020, a working group was established to consider the future composition and structure of the Audit and Governance Committee, and in particular:

- Review the structure and size of the Committee in line with the recommendations from the Corporate Peer Review and the CIPFA guidance and make recommendations as needed,
- Review the number of co-opted independent members and make recommendations for changes as needed,

- Identify any other associated recommendations arising as a result of the move to the Committee structure.

The Committee received reports in January and March 2021 which recommended the Committee should be reduced to 9 elected members and 2 co-opted independent members.

To minimise conflicts of interest arising as the Council moved to a Committee system of decision making, it was also recommended that membership should not include the Leader and Deputy of the Council, Chairs or Vice Chairs of the service committees and that the Chair and Vice Chair of the Audit and Governance Committee should not sit on a service committee.

A draft Terms of Reference (ToR) was presented, and both the composition and ToR were approved by Committee in March 2021 and Full Council in April 2021. The first meeting of the Audit and Governance Committee under the new ToR and composition was held in May 2021.

In March 2022, the Committee received an update on the appointment of co-opted members and a recommendation from the appointments panel. It was recommended that:

- The co-option of the first Independent Member and the appointment of 2 Independent Persons to the Committee for a period of 4 years under the Localism Act 2011 be recommended to full Council, and;
- The remaining co-opted Independent Member vacancy be re-advertised using the same process and member panel.

The co-option of the first Independent Member, Mr Ron Jones, and appointment of the 2 Independent Persons was subsequently approved by Council in April 2022. Mr Jones attended his first meeting in May 2022.

The Committee regularly undertakes a formal review of its own effectiveness. against the CIPFA guidance, Audit Committees – Practical Guidance for Local Authorities and Police 2018. This was last undertaken during 2020/21.

Due to the work undertaken to review and update of the Committee's ToR during 2021/22, a formal review of the Committee's effectiveness was not undertaken. However, CIPFA has been engaged to undertake an independent review during 2022/23. Furthermore, it is acknowledged that CIPFA is to release the 2022 edition of 'Audit Committees: Practical Guidance for Local Authorities and Police' later in 2022.

The Committee has continued to provide challenge and feedback to the reports received.

5. Additional Assurance

Additional assurance work requested by the Committee has been provided around ongoing issues including:

Covid-19 Updates on Response, Recovery and Financial Impact

In May 2021 the Committee considered the Annual Report of the Council's COVID-19 Response and Recovery, which was subsequently considered at the meeting of Cabinet on 4 May 2021.

A report to Committee in January 2022 set out the ongoing implications of COVID-19 and Cheshire East Council's response. The report was retrospective and had previously been presented to Corporate Policy Committee. The finance, risk and governance elements of the report were of concern to this Committee.

Ombudsman complaints and lessons learnt

The Committee received regular update reports detailing the decision notices received by the Council from the Local Government Ombudsman and Social Care Ombudsman. The detailed reports provided the Committee with information on those decision notices which concluded that there had been maladministration causing injustice.

The Committee considered what reassurances could be implemented and it was agreed, as part of the Action Tasks, that a consolidated report of upheld complaints would be compiled to help identify themes and trends. Each theme would be considered in order to recognise lessons learned and seek assurance that improvements would be made, and the reputation of the Council would not be damaged.

Reporting of all WARNs's (Waiver and Record of Non-adherence)

The Audit and Governance Committee has a key role in overseeing governance arrangements and requirement to review all approved WARNs. The WARN process forms part of the Contract Procedure Rules (CPR's) which are intended to promote good procurement and commissioning practice, transparency and clear public accountability.

Since June 2016, summary information on the number and reasons for WARN's has been provided to the Committee as a standard part one agenda item, with the details being considered as part two, following exclusion of press and public from the meeting pursuant to Section 100(A)4 of the Local Government Act 1972 on the grounds that it involves the likely disclosure of exempt information as defined in Paragraphs 1 2 and 3 of Part 1 of Schedule 12A to the Local Government Act 1972 and public interest would not be served in publishing the information.

Standards Responsibilities

The Committee received a verbal update in September 2021 relating to the Councillor Code of Conduct. The Director of Governance and Compliance provided an update on the work of the Councillor Code of Conduct Working Group and the progress with consideration on whether to adopt the LGA model Code of Conduct.

In March 2022 the Committee received a report providing a summary of Member Code of Conduct complaints and associated investigations involving elected members of Handforth Parish Council. This report recommended that the Audit and Governance Committee Working Group considered any consequential amendments to the Code of Conduct arising from the report.

The Working Group continued to meet through 2021/22, and further updates on a revised Code of Conduct were discussed at meetings of the Committee in the current municipal year; May 2022 and July 2022, with a recommendation from the Committee for Council to approve a proposed revised Code at its October 2022 meeting.

Counter Fraud Update

Counter Fraud updates were provided as part of the regular reports detailing progress against the Internal Audit plan.

6. Members of the Committee

Members of the Committee during 2021/22 are set out in **Appendix 2**.

The Audit and Governance Committee has been supported by officers providing reports in accordance with the Committee's work programme and at the request of the Committee.

The Committee has routinely been attended by the Executive Director Corporate Services, Director of Governance and Compliance (Monitoring

Officer), the Director of Financial and Customer Services (Section 151 Officer) and Head of Audit and Risk.

7. Statutory Requirements, New Guidance and Recommended Practice

During the year, the Committee has carried out statutory requirements including approving the Financial Statements and the Annual Governance Statement.

Committee members were provided with a copy of the Committee's Terms of Reference in advance of the May 2021 meeting.

The Committee has received updates on changes to relevant legislation, particularly in relation to Covid-19.

8. Training and Development

The following training was carried out during the 2021/22 year:

- Annual Governance Statement & Role of the Audit Committee
- Approving the Financial Statements
- Treasury Management

The training has been recorded and made available to all Councillors to improve understanding of the role of this Committee.

Where needed, induction briefings for new and deputising Members of the Committee have been provided. In addition, Members have access to copies of the CIPFA Better Governance Forum *Audit Committee Update* featuring a round-up of legislation, reports and developments of interest to Audit and Governance Committee Members.

9. Work programme for 2022/23

The Committee has an agreed work programme for 2022/23, which includes the annual statutory requirements (e.g. approval of the Statement of Accounts, approval of the AGS etc.) of the Committee and also those regular reports and assurances it receives on External Audit, Internal Audit, Risk Management and other areas.

The forward looking work programme ensures comprehensive coverage of the Committee's responsibilities and in addition to this, the Committee will:

- Continue to develop the proactive nature of the Committee to facilitate actions by officers to ensure that risks are identified as early as possible and remedial actions are taken in a timely fashion;
- Oversee any development required of the Audit and Governance Committee work programme to comply with the requirements of the CIPFA Audit Committees guidance;
- Continue to review governance arrangements to ensure the Council adopts the latest best practice and continues to be an open and transparent public organisation;
- Continue to support the work of internal and external audit and ensure that responses are given to their recommendations;
- Receive assurance on compliance with best practice such as the Public Sector Internal Audit Standards and the CIPFA Statement on the Role of the Head of Internal Audit;
- Continue to support the Council in managing the risk of fraud and corruption;
- Continue to develop the Audit and Governance Committee to review risk and partnership issues and safeguarding of public sector assets;
- Equip existing and new Members to fulfil their responsibilities by providing more detailed and focused training on all key areas of responsibility, including financial arrangements and risk management, governance and audit planning.

How the Audit and Governance Committee's Terms of Reference were met during 2021/22:

Terms of Reference of Committee	Relevant activity in 2021/22
Governance, Risk and Control	
To consider the Council's corporate governance arrangements against the good governance framework and consider annual governance reports and assurances.	<p>The Committee approved the 2020/21 Annual Governance Statement in January 2022.</p> <p>The Annual Monitoring Officer's Report 2020/21 and the Annual Information Governance Update 2020/21 were received and approved in September 2021.</p>
To review and approve the Annual Governance Statement and consider whether it properly reflects the risk environment and supporting assurances, taking into account internal audit's opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control, including an agreed action plan for improvements where necessary.	The Committee received the final 2020/21 Annual Governance Statement in January 2022.
To consider the effectiveness of the system of risk management arrangements by receiving regular reports on the adequacy and effectiveness of the Council's risk management and reporting arrangements and receive assurance that actions have been taken as necessary.	<p>The Committee received update reports on Risk Management in November 2021 and March 2022.</p> <p>The Annual Risk Management Report 2020/21 was received by the Committee in September 2021.</p>
To review the Council's Risk Management Policy and Framework and recommend it for approval by Corporate Policy Committee.	This has not been relevant during 2021/22.
To review the assessment of fraud risks and potential harm to the Council from fraud and corruption.	The Committee monitors Anti-Fraud and Corruption arrangements through regular updates on activity provided as part of the regular Internal Audit update reports.

Terms of Reference of Committee	Relevant activity in 2021/22
To monitor the counter-fraud strategy, actions and resources.	As above.
To review the governance and assurance arrangements for significant partnerships or collaborations.	<p>Governance and assurance arrangements are set out as part the Annual Governance Statement.</p> <p>The Committee considered the scope and phasing of a review of the review of the governance and assurance arrangements for significant partnerships or collaborations in January 2022, which is due to be completed during 2022/23.</p>
To consider amendments to the Constitution and recommend proposals to Full Council for approval except where specifically delegated to the Monitoring Officer.	This has not been relevant during 2021/22.
Internal Audit	
To approve the internal audit charter.	An updated Internal Audit Charter was approved at the March 2020 Committee meeting. This was reviewed within 2020/21 with no further changes required during 2021/22.
<p>To approve the risk-based internal audit plan, including internal audit's resource requirements, the approach to using other sources of assurance and any work required to place reliance upon those other sources.</p> <p>To approve significant interim changes to the risk-based internal audit plan and resource requirements</p>	<p>The Committee approved the 2021/22 Internal Audit Plan in March 2021.</p> <p>The Committee approved the 2022/23 Internal Audit Plan in March 2022.</p>
To consider reports from the Head of Audit and Risk Management on internal audit's performance during the year, including:	The Committee monitored progress against the plan in November 2021.

Terms of Reference of Committee	Relevant activity in 2021/22
<ul style="list-style-type: none"> • Updates on delivery of the audit plan, including key findings, issues of concern and monitoring the actions taken in response to internal audit recommendations. • Reports on Internal Audit's effectiveness and compliance, it's Quality Assurance and Improvement Programme, including conformance with the Public Sector Internal Audit Standards, and the results of the external assessment review of Internal Audit when due. 	
To approve significant interim changes to the risk-based internal audit plan and resource requirements.	This has not been relevant during 2021/22.
To make appropriate enquiries of both management and the Head of internal audit to determine if there are any inappropriate scope or resource limitations.	The Audit and Governance Committee regularly consider this as part of discussion on the Internal Audit plan and progress updates.
To consider any impairments to independence or objectivity arising from additional roles or responsibilities outside of internal auditing of the head of internal audit. To approve and periodically review safeguards to limit such impairments	The Audit and Governance Committee is made aware of the other operational responsibilities of the Head of Audit and Risk through the Internal Audit Charter.
Receive the annual report from the Head of Audit and Risk Management setting out internal activity during the year, and an opinion on the level of assurance as to the Council's arrangements for governance, risk management and internal control.	The 2020/21 Internal Audit Annual Report, including the annual audit opinion was presented to the Committee in September 2021.
To consider summaries of specific internal audit reports as requested.	Internal Audit interim reports include a summary of Internal Audit work completed and the significant issues arising from individual assignments.
To receive reports outlining the action taken where the Head of internal audit has concluded that management has accepted a	Internal Audit interim reports against the 2020/21 plan was received in November 2021.




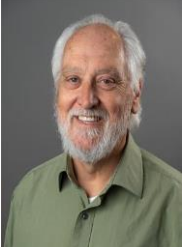
Terms of Reference of Committee	Relevant activity in 2021/22
level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.	Internal Audit interim reports include a summary of Internal Audit work completed and the significant issues arising from individual assignments.
External Audit	
To oversee the process by which the Council's external auditor is appointed.	<p>In November 2021, the Committee considered a report on the proposals for appointing the Council's external auditors for the five year period from 2023/24.</p> <p>The Committee recommended to Council to accept the invitation from Public Sector Audit Appointments to 'opt in' to the sector led option for the appointment of external auditors for 5 financial years commencing 1 April 2023.</p>
To consider specific reports as agreed with the external auditor.	<p>The Committee received and considered the work of the External Auditor (all meetings during the year).</p> <p>A summary of the External Audit findings from the 2020/21 audit was presented to Committee in January 2022 by the External Auditor.</p>
To commission work from internal and external audit.	<p>The Committee consider the work plan at all meetings and commission additional work where Committee members determine that additional assurance is required.</p> <p>The relationship between Internal and External Audit is reviewed at least annually together with any requirements to liaise with any other relevant agencies.</p>

Terms of Reference of Committee	Relevant activity in 2021/22
To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.	This has not been relevant during 2021/22.
Annual Statement of Accounts	
To review and approve the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.	The Annual Statement of Accounts 2021/22 was presented to the Committee in January 2022, and it was resolved that the Chairman be given delegated authority to sign off the final Accounts on behalf of the Committee, in consultation with the Director of Finance and Customer Services.
To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.	<p>A summary of the External Audit findings from the 2020/21 audit were presented to Committee in January 2022 by the External Auditor.</p> <p>The 2020/21 Annual Audit Letter was reported to the January 2022 Committee meeting.</p>
Monitor management actions in response to issues raised by the external auditor.	This has not been relevant during 2021/22.
Related Functions	
Subject to the requirements set out below, to consider findings of the Local Government Ombudsman, including reports resulting in a finding of maladministration against the Council, and to make recommendations as to actions that may be	The Committee received regular update reports throughout 2021/22 on the number of decision notices received from the Local Government and Social Care Ombudsman.

Terms of Reference of Committee	Relevant activity in 2021/22
<p>necessary or which arise from or are as a result of the Ombudsman's findings.</p> <p>(a) There are statutory obligations which will, in some circumstances, require reports to be taken to Council or a Committee.</p> <p>(b) The Ombudsman operates protocols in relation to the timing of the publication of findings. The Council would have to give Committees April 2021 Chapter 2 – Part 4 Page 34 consideration to those protocols when determining how to manage the Audit and Governance Committee's agenda</p>	
To oversee the operation of the Contract Procedure Rules and provide assurance in respect of procurement and significant partnerships or collaborations.	The Committee considered a report on the scope and phasing of the review of Partnerships Governance at it's meeting in January 2022.
Standards Arrangements	
<p>The Committee is responsible for the Council's standards arrangements to:</p> <p>(a) promote high standards of ethical behaviour.</p> <p>(b) develop, maintain and update Codes of Conduct and protocols</p> <p>(c) Training Audit and Governance Committee</p>	<p>In May 2021 the Committee established a Hearing Sub-Committee to deal with complaints that a councillor breached the Code of Conduct for Members.</p> <p>A verbal update was provided on the progress of the Councillor Code of Conduct Working Group in September 2021.</p> <ul style="list-style-type: none"> • A Member Code of Conduct Sub-Committee Report was received in March 2022. The report detailed a summary of recent Member Code of Conduct complaints and associated investigations with a recommendation that the working group consider any consequential amendments

Terms of Reference of Committee	Relevant activity in 2021/22
	to the Code of Conduct and associated process arising from the report.
The Committee is responsible for monitoring and advising Council about the operation of its Code of Conduct for Councillors in the light of best practice and any changes in the law.	During 2021/22, the Committee formed a Working Group which met on a number of occasions to review the LGA model code and assess suitability for adoption by Cheshire East Council during 2022/23.
The Committee will approve the arrangements for dealing with allegations that a Councillor or a town/parish Councillor within the borough has failed to comply with the relevant Councillors' Code of Conduct.	As above.
To assist the Council with the appointment of Independent Persons as required by the Localism Act 2011 and any independent persons under other secondary legislation.	In March 2022, the Committee received an update on the appointment of independent members and a recommendation from the Appointments Panel.
To determine any request for a dispensation under Section 33 of the Localism Act 2011, where not determined by the Monitoring Officer or to appeal against a determination by the Monitoring Officer.	This has not been relevant during 2021/22.
To respond on behalf of the Council to national reviews and consultations on standards related issues.	This has not been relevant during 2021/22.
To consider and make recommendations to Full Council on any other matter that may be referred to the Standards Committee relating to the conduct and training of Councillors.	This has not been relevant during 2021/22.
To review, advise, monitor and report to Full Council on member training.	Via the Audit & Governance Committee Annual Report.
To recommend proposals to Full Council for changes to the constitution in respect of any governance or standards matters, except where specifically delegated to the Monitoring Officer.	This has not been relevant during 2021/22.

Membership of the Audit and Governance Committee during 2021/22:

Members of the Audit and Governance Committee during 2021/22	
	<p>Councillor Margaret Simon (Chair)</p> <p>Councillor Simon re-joined the Committee in March 2020 having previously served on the Committee from its first meeting in June 2010 until March 2017.</p>
	<p>Councillor David Marren (Vice Chair)</p> <p>Councillor Marren became an elected member of Cheshire East Council in May 2011. He re-joined the Committee in September 2022 having previously served between May 2011 to June 2013 and again in December 2012 to March 2017.</p>
	<p>Councillor Rachel Bailey</p> <p>Councillor Bailey has been an elected member of Cheshire East Council since its beginning in April 2009. She joined the Committee in May 2019.</p>
	<p>Councillor Mike Sewart</p> <p>Councillor Sewart became an elected member of Cheshire East Council in May 2015. He joined the Committee in March 2017.</p>
	<p>Councillor Byron Evans</p> <p>Councillor Evans became an elected member of Cheshire East Council in May 2019 and has served on the Committee from May 2019 to May 2022.</p>
	<p>Councillor Patrick Redstone</p> <p>Councillor Redstone became an elected member of Cheshire East Council in May 2019 and was appointed to the Audit and Governance Committee in May 2021.</p>

Members of the Audit and Governance Committee during 2021/22	
	<p>Councillor Marilyn Houston Councillor Houston became an elected member of Cheshire East Council and joined the Committee in May 2019.</p>
	<p>Councillor A Harewood Councillor Harewood became an elected member in May 2011 and joined the Committee in January 2021.</p>
	<p>Councillor C Bulman Councillor Bulman became an elected member in May 2019 and joined the Committee in July 2021.</p>
No image available	<p>Councillor Toni Fox Councillor Fox was an elected member from Feb 2015 to June 2021 and served as Vice Chair on the Committee for one meeting in May 2021.</p>

There were no substitutions for Members of the Committee during the 2021/22 meetings.

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Audit and Governance Committee

Date of Meeting:	29 September 2022
Report Title:	Maladministration Decision Notices from Local Government and Social Care Ombudsman – April to July 2022
Report of:	Alex Thompson
Report Reference No:	AG/21/21- 22
Ward(s) Affected:	ALL

1. Purpose of Report

- 1.1. This report provides an update on the Decision Notices issued by the Local Government and Social Care Ombudsman “the Ombudsman” when his investigations have found maladministration causing injustice to complainants.
- 1.2. The report also makes recommendations for the future frequency and content of reports to Audit & Governance committee and to other relevant service committees. The aim of these proposals is to provide members with more comprehensive information and analysis of complaints and of the improvements undertaken by services to remedy issues identified.

2. Executive Summary

- 2.1. This report details the decisions made between 30th March 2022 and 31st July 2022 and the actions of the responsible services to address the cause of the complaints and lessons learned. The Ombudsman imposes a 6-week reporting embargo on Decision Notices so we cannot report on any issued from the beginning of August 2022 onwards. Any decisions received after 1st August 2022 will be reported at a subsequent Audit & Governance Committee meeting.

- 2.2.** During the period between 30th March 2022 to 31st July 2022 the Council received two Decision Notices in which the Ombudsman has concluded that there has been maladministration (Fault) causing injustice. The complaints were made by two different complainants but relate to the same substantive issue and were therefore investigated together by the same investigator. The details of these cases can be found in Appendix 1.
- 2.3.** This report also recommends a change to the frequency of reports to Audit and Governance to a 6 monthly cycle. Reports would continue to advise of all maladministration notices but also provide a more comprehensive view of all complaints, an analysis of lessons learned and details of the actions and improvements undertaken by Services. The format of the reports would be similar to that of the Annual report submitted to Audit and Governance Committee on 28th July 2022 and would be shared with the Chairpersons of the Service Committees. If any matters of serious maladministration were recorded then a conversation would take place with the Chair of the Committee as to whether additional reporting may be required.

3. Recommendations

- 3.1.** That the Committee
- 3.1.1. Notes the content of the report and acknowledges the Council's compliance with the Corporate Complaints Policy, and with the recommendations of the Ombudsman.
 - 3.1.2. Agrees that this report be provided to the Chair of each Service Committee.
 - 3.1.3. That the committee agrees to a move to a 6 monthly report of Upheld Ombudsman Decisions, thereby allowing more time for analysis and provision of context for the complaints.

4. Reasons for Recommendations

- 4.1.** To ensure that the Committee is kept informed, at appropriate intervals, of the Ombudsman's findings and to provide assurance that the Council is complying with the Corporate Complaints Policy and any recommendations made by the Ombudsman.
- 4.2.** To ensure that the Committee is provided with assurance of service departments' improvements to customer service to reduce the number of complaints referred to the Ombudsman.

5. Other Options Considered

- 5.1.** Not applicable

6. Background

- 6.1.** The Local Government Act 1974 established the Local Government and Social Care Ombudsman. It empowers the Ombudsman to investigate complaints against councils and adult social care providers and to provide advice and guidance on good administrative practice. Once a complainant has exhausted the Council's Complaints procedure, their next recourse, should they remain dissatisfied with the Council's response, is to contact the Ombudsman.
- 6.2.** The Ombudsman will assess the merits of each case escalated to them and seek clarification from the Council as necessary before making the decision to investigate a complaint. Once the Ombudsman decides to investigate, they will try to ascertain if maladministration has occurred and whether there has been any resulting injustice to the complainant because of the maladministration.
- 6.3.** In instances where maladministration with injustice is found, the Ombudsman will usually make non-legally binding recommendations which they consider to be appropriate and reasonable. Although not legally binding, refusal to accept the Ombudsman's recommendation(s) will trigger a Public Report.
- 6.4.** A Public Report is a detailed account of the complaint, outlining the failures by the Council in the investigation; this can have a significant damaging effect on the Council's reputation.
- 6.5.** Appendix One provides details of the two Decision Notices in which the Ombudsman has concluded that there has been maladministration (Fault) causing injustice during the period between 30th March 2022 to 31st July 2022 and of the actions or improvements taken to remedy these.
- 6.6.** The use of complaints as a learning tool to drive service improvements is integral to the Council's Customer Experience Strategy. The Complaints Team now fall under the responsibility of the Head of Customer Service and it is an opportune time to review the information and subsequent assurance provided to the Committee.
- 6.7.** Audit and Governance Committee received the first annual complaints on 28th July 2022, the format of which was welcomed by the Committee.
- 6.8.** The annual report aimed to provide the Committee with an overview of both maladministration notices and the Council's internal complaints procedure to provide assurance of the management and response to complaints at all stages of the complaints process.
- 6.9.** It is proposed to replace the current reports to Audit and Governance Committee with a 6 monthly report based on the format of the annual report and with an emphasis on providing assurance that lessons are learned from

complaints and that appropriate improvements and actions have been delivered.

7. Implications

7.1. Legal

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

7.2. Finance

If fault causing injustice is found, the Council can be asked to pay compensation to a complainant, the level of which is determined on a case-by-case basis. The cost of such compensation is paid for by the service at fault. In the cases outlined in this report the Council was required to make compensation payments totalling £400.

7.3. Policy

There are no direct implications to policy from this report, however, whilst the primary purpose of this report is to inform Members of the Ombudsman's findings, and to seek to secure improvements in performance, resource implications arise from high numbers of Ombudsman findings. These primarily relate to the increased demand upon officers in researching the background to, and in administering complaints. However, if a high volume of complaints were received about a specific policy, a review of the relevant policy could be triggered and referred to the relevant service committee.

7.4. Equality

When responding to complaints, the Council must ensure that people are treated fairly and that we comply with the Equality Act 2010, making reasonable adjustments where necessary. This may include providing responses in large font, using coloured paper or communicating by specific means such as email only.

7.5. Human Resources

Whilst the primary purpose of this report is to inform Members of the Ombudsman's findings, and to seek to secure improvements in performance, resource implications arise from the high numbers of complaints. These relate to the increased demand upon officers in researching the background to complaints and responding appropriately. Where complaints relate to specific staff members, for example because of behaviour or attitude, these are escalated to the appropriate manager.

7.6. Risk Management

If recommendations made by the Ombudsman are not followed, this could trigger a public report, as detailed in paragraph 6.5 and 6.6 of the report.

Rural Communities

There are no direct implications for rural communities.

7.4 Children and Young People/Cared for Children

Children and young people are affected by complaints to SEND, particularly in cases where their needs are not being met. Reference to children's issues is made earlier in the report.

7.5 Public Health

There are no direct implications for Public Health.

7.6 Climate Change

There are no direct implications for climate change.

Access to Information	
Contact Officer:	Mr Alan Ward, Complaints Manager Alan.ward@cheshireeast.gov.uk 01270 686200
Appendices:	Appendix 1 – see below
Background Papers:	None

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

April 2022 to July 2022

	Summary and Ombudsman's Final Decision	Agreed Action	Action Taken	Comments from Service
Planning Complaint 1	<p>Decision Date: 26 April 2022</p> <p>Summary: Mr X complained the Council delayed taking enforcement action in relation to drainage works linked to a development near his property. The Council was at fault for not taking action sooner. The Council has agreed to remedy Mr X's injustice.</p> <p>21 009 044 - Local Government and Social Care Ombudsman</p>	<p>Within 4 weeks of my final decision, the Council has agreed to:</p> <p>a) Apologise to Mr X for the delayed enforcement action and the impact this had on flooding of the highway outside his property.</p> <p>b) Pay Mr X £100 for the distress and inconvenience caused by the delayed enforcement action and the impact this had on flooding of the highway outside his property.</p> <p>c) Pay Mr X £100 for the time and trouble it has taken him to complain.</p>	<p>An apology letter was issued to the complainant on 13 May 2022 and a payment of £200 was made.</p>	
Planning Complaint 2	<p>Decision Date: 26 April 2022</p> <p>Summary: Mr X complained the Council delayed taking enforcement action in relation to drainage works for a development near his property. The Council was at fault for not taking action sooner. The Council has agreed to remedy Mr X's injustice.</p> <p>21 011 880 - Local Government and Social Care Ombudsman</p>	<p>Within 4 weeks of my final decision, the Council has agreed to:</p> <p>a) Apologise to Mr X for the delayed enforcement action and the impact this had on flooding of the highway outside his property.</p> <p>b) Pay Mr X £100 for the distress and inconvenience caused by the delayed enforcement action and the impact this had on flooding outside his property.</p> <p>c) Pay Mr X £100 for the time and trouble it has taken him to complain.</p>	<p>An apology letter was issued to the complainant on 13 May 2022 and a payment of £200 was made.</p>	

OFFICIAL

Work Programme – Audit and Governance Committee – 2021/22

Reference	Committee Date	Report title	Purpose of Report	Report Author /Senior Officer	Consultation and Engagement Process and Timeline	Equality Impact Assessment Required and Published (Y/N)	Part of Budget and Policy Framework (Y/N)	Corporate Plan Priority	Exempt Item and Paragraph Number
AG/32/21-22	28 Jul 2022	Annual Audit Letter 2020/21	Summary of the External Audit findings from the 2020/21 audit. The letter will also confirm the final audit fee	Director of Finance and Customer Services (s151 Officer)				Ensure that there is transparency in all aspects of council decision making	
AG/16/21-22	28 Jul 2022	VFM report from External Auditors	To receive the Value for Money report from the External Auditors in relation to the 2020/21 Statement of Accounts.	Director of Finance and Customer Services (s151 Officer)				Ensure that there is transparency in all aspects of council decision making	
AG/41/21-22	29 Sep 2022	Monitoring Officer Report	To consider a report by the Monitoring Officer.	Director of Governance and Compliance (Monitoring Officer)				Ensure that there is transparency in all aspects of council decision making	
AG/17/21-22	29 Sep 2022	External Audit 2021/22 Progress Report	To receive an update from the Council's External Auditors in relation to the 2021/22 external audit report to minimise risk and time slippage	Director of Finance and Customer Services (s151 Officer)				Ensure that there is transparency in all aspects of council decision making	

Reference	Committee Date	Report title	Purpose of Report	Report Author /Senior Officer	Consultation and Engagement Process and Timeline	Equality Impact Assessment Required and Published (Y/N)	Part of Budget and Policy Framework (Y/N)	Corporate Plan Priority	Exempt Item and Paragraph Number
AG/44/21-22	29 Sep 2022	Audit & Governance Committee Annual Report	To consider the Committees Annual Report.	Director of Governance and Compliance (Monitoring Officer)				Ensure that there is transparency in all aspects of council decision making	
AG/01/22-23	29 Sep 2022	Draft Annual Governance Statement 2021/22		Director of Governance and Compliance (Monitoring Officer)		N/A	N/A	Ensure that there is transparency in all aspects of council decision making	N/A
AG/21/21-22	29 Sep 2022	Standing Item: Upheld Complaints to the Local Government Ombudsman	To consider the decision notices issued by the Local Government Ombudsman.	Director of Governance and Compliance (Monitoring Officer)				Ensure that there is transparency in all aspects of council decision making	
AG/24/21-22	29 Sep 2022	Standing Item: Work Programme 2022/23	To consider the Committees Work Programme.	Executive Director Corporate Services				Ensure that there is transparency in all aspects of council decision making	
AG/25/21-22	29 Sep 2022	Standing Item: Compliance with Contract Procedure Rules	To update the Committee on Waivers and Non-Adherences (WARNs)	Director of Governance and Compliance (Monitoring Officer)				Ensure that there is transparency in all aspects of council decision making	
AG/26/21-22	29 Sep 2022	Standing Item: Compliance with Contract Procedure Rules: PART TWO	To update the Committee on Waivers and Non Adherences (WARNs) PART TWO.	Director of Finance and Customer Services (s151 Officer)				Ensure that there is transparency in all aspects of council decision making	

Reference	Committee Date	Report title	Purpose of Report	Report Author /Senior Officer	Consultation and Engagement Process and Timeline	Equality Impact Assessment Required and Published (Y/N)	Part of Budget and Policy Framework (Y/N)	Corporate Plan Priority	Exempt Item and Paragraph Number
AG/28/21-22	24 Nov 2022	Conflict of Interest Policy	To consider the Conflict of Interest Policy following the adoption of the Code of Conduct.	Director of Governance and Compliance (Monitoring Officer)		TBC	TBC	Ensure that there is transparency in all aspects of council decision making	No
AG/37/21-22	24 Nov 2022	Internal Audit Plan 2022/23	To receive a progress update on the Internal Audit Plan 2022/23	Director of Governance and Compliance (Monitoring Officer)				Ensure that there is transparency in all aspects of council decision making	
AG/35/21-22	24 Nov 2022	Final Annual Governance Statement	To review the final version of the Audit and Governance Annual Governance Statement 2021/22 for approval.	Director of Governance and Compliance (Monitoring Officer)				Ensure that there is transparency in all aspects of council decision making	
AG/39/21-22	24 Nov 2022	Final Statement of Accounts	To consider the Final Statement of Accounts.	Director of Finance and Customer Services (s151 Officer)				Ensure that there is transparency in all aspects of council decision making	
AG/37/21-22	24 Nov 2022	Internal Audit Plan 2022/23	To receive a progress update on the Internal Audit Plan 2022/23.	Director of Governance and Compliance (Monitoring Officer)				Ensure that there is transparency in all aspects of council decision making	
AG/22/21-22	24 Nov 2022	Risk Management Update	To update the Committee on Risk Management and Business Continuity activity in the Council.	Executive Director Corporate Services				Ensure that there is transparency in all aspects of council decision making	

Reference	Committee Date	Report title	Purpose of Report	Report Author /Senior Officer	Consultation and Engagement Process and Timeline	Equality Impact Assessment Required and Published (Y/N)	Part of Budget and Policy Framework (Y/N)	Corporate Plan Priority	Exempt Item and Paragraph Number
AG/25/21-22	24 Nov 2022	Standing Item: Compliance with Contract Procedure Rules	To update the Committee on Waivers and Non-Adherences (WARNs)	Director of Finance and Customer Services (s151 Officer)				Ensure that there is transparency in all aspects of council decision making	
AG/26/21-22	24 Nov 2022	Standing Item: Compliance with Contract Procedure Rules: PART TWO	To update the Committee on Waivers and Non-Adherences (WARNs): PART TWO	Director of Finance and Customer Services (s151 Officer)				Ensure that there is transparency in all aspects of council decision making	
AG/21/21-22	24 Nov 2022	Standing Item: Upheld Complaints to the Local Government Ombudsman	To consider the decision notices issued by the Local Government Ombudsman	Director of Governance and Compliance (Monitoring Officer)				Ensure that there is transparency in all aspects of council decision making	
AG/24/21-22	24 Nov 2022	Standing Item: Work Programme 2022/23	To consider the Committees Work Programme.	Executive Director Corporate Services				Ensure that there is transparency in all aspects of council decision making	
AG/15/21-22	9 Mar 2023	Whistleblowing Policy	To consider the Whistleblowing Policy and recommend to Council for approval.	Director of Governance and Compliance (Monitoring Officer)				Ensure that there is transparency in all aspects of council decision making	
AG/43/21-22	9 Mar 2023	Audit & Governance Committee Self-Assessment	To approve the adoption of the new CIPFA Code and the annual self-assessment.	Director of Governance and Compliance (Monitoring Officer)				Ensure that there is transparency in all aspects of council decision making	

Reference	Committee Date	Report title	Purpose of Report	Report Author /Senior Officer	Consultation and Engagement Process and Timeline	Equality Impact Assessment Required and Published (Y/N)	Part of Budget and Policy Framework (Y/N)	Corporate Plan Priority	Exempt Item and Paragraph Number
AG/1/21-22	9 Mar 2023	Annual Audit Letter 2021/22	Summary of the External Audit findings from the 2021/22 audit. The letter will also confirm the final audit fee.	Director of Finance and Customer Services (s151 Officer)				Ensure that there is transparency in all aspects of council decision making	
AG/36/21-22	9 Mar 2023	Annual Governance Statement Progress Update	Update on actions to improve governance arrangements and respond to emerging issues identified in the 2021/22 Annual Governance Statement. Proposed process for the production of the 2022/23 Annual Governance Statement.	Director of Governance and Compliance (Monitoring Officer)				Ensure that there is transparency in all aspects of council decision making	
AG/45/21-22	9 Mar 2023	Certification of Claims and Returns 2021/22	To review the Certification of Claims and Returns 2021/22.	Director of Finance and Customer Services (s151 Officer)		N/A	N/A	Ensure that there is transparency in all aspects of council decision making	N/A
AG/17/21-22	9 Mar 2023	External Audit 2021/22 Progress Report	To receive an update from the Council's External Auditors in relation to the 2021/22 external audit report to minimise risk and time slippage	Director of Finance and Customer Services (s151 Officer)				Ensure that there is transparency in all aspects of council decision making	
AG/22/21-22	9 Mar 2023	Risk Management Update	To update the Committee on Risk Management and Business Continuity activity in the Council.	Executive Director Corporate Services				Ensure that there is transparency in all aspects of council decision making	

Reference	Committee Date	Report title	Purpose of Report	Report Author /Senior Officer	Consultation and Engagement Process and Timeline	Equality Impact Assessment Required and Published (Y/N)	Part of Budget and Policy Framework (Y/N)	Corporate Plan Priority	Exempt Item and Paragraph Number
AG/25/21-22	9 Mar 2023	Standing Item: Compliance with Contract Procedure Rules	To update the Committee on Waivers and Non-Adherences (WARNs).	Director of Finance and Customer Services (s151 Officer)				Ensure that there is transparency in all aspects of council decision making	
AG/26/21-22	9 Mar 2023	Standing Item: Compliance with Contract Procedure Rules: PART TWO	To update the Committee on Waivers and Non-Adherences (WARNs): PART TWO	Director of Finance and Customer Services (s151 Officer)				Ensure that there is transparency in all aspects of council decision making	
AG/21/21-22	9 Mar 2023	Standing Item: Upheld Complaints to the Local Government Ombudsman	To consider the decision notices issued by the Local Government Ombudsman.	Director of Governance and Compliance (Monitoring Officer)				Ensure that there is transparency in all aspects of council decision making	
AG/24/21-22	9 Mar 2023	Standing Item: Work Plan 2022/23 & 2023/24	To consider the Committees Work Programme.	Executive Director Corporate Services				Ensure that there is transparency in all aspects of council decision making	
AG/16/21-22	9 Mar 2023	Value For Money Report from External Auditors	To receive the Value for Money report from the External Auditors in relation to the Statement of Accounts.	Director of Finance and Customer Services (s151 Officer)				Ensure that there is transparency in all aspects of council decision making	

Audit and Governance Committee

Date of Meeting:	29 th September 2022
Report Title:	Contract Procedure Rules
Report of:	Alex Thompson, Director of Finance and Customer Services - S151 Officer
Report Reference No:	AG/25/21- 22 & AG/26/21- 22
Ward(s) Affected:	All

1. Purpose of Report

- 1.1. The purpose of this report is to provide an update to the Audit and Governance Committee on the number of cases where, and reasons why, procurement activity has required the use of waivers and/or non-adherences (WARNs). The report covers cases from 1st June 2022 to the 31st August 2022.

2. Executive Summary

- 2.1. The approved WARNs are published retrospectively for information to the next appropriate Audit and Governance Committee. The total number of WARNs to be presented to the September Audit and Governance Committee is 7 (consisting of 7 waivers, 0 non-adherences).
- 2.2. All WARNs will be presented to the Audit and Governance Committee without any information redacted. However, they will be presented in Part 2 of the Committee as they may contain commercially sensitive information and/or Officer Details.
- 2.3. The Finance Sub Committee responsibilities include an oversight of Procurement. To manage these responsibilities the Finance Sub Committee requested that a Procurement Working Group was established to review several completed procurements and to report their finding back to the Committee. The working group included 3 elected members from the Sub Committee, 1 Procurement and 1 Legal Officer. The Group met during August and fed back to the Committee in September.

3. Recommendation/s

That the Audit and Governance Committee:

- 3.1. Notes the reason for 7 waivers approved between 1st June 2022 and 31st August 2022 (13 in total in 2022/23).
- 3.2. Notes that the Finance Sub-Committee, on the 7th September 2022, has reviewed the Waivers for this period as part of their responsibility for the pipeline of procurement activity.

4. Reasons for Recommendation/s

- 4.1. The Audit and Governance Committee has an assurance role in overseeing governance arrangements within the Council. The Committee exercises this role in relation to the Council's Contract Procedure Rules (CPRs) by having oversight of the WARN process. The CPRs promote good procurement and commissioning practice, transparency, and clear public accountability.
- 4.2. In introducing the Committee system of governance, from May 2021, Council has allocated responsibility for the procurement pipeline to the Finance Sub-Committee. As such that sub-committee will receive reports on procurement activity, such as contracts awarded, contracts to be advertised, waivers and processes for significant procurement decisions.
- 4.3. WARNs cover Waivers which are pre-approved variations from the Contract Procedure Rules, and these form part of the procurement process. Non-Adherence recognises instances where CPRs have not been followed. As such the Audit & Governance Committee can seek assurance from the Finance Sub-Committee that procurement process has followed an appropriate approval process.

5. Other Options Considered

- 5.1. N/A

6. Background

- 6.1. All WARNs approved in the period between Audit and Governance Committees will be presented to the next Committee meeting. This report contains all WARNs approved from the 1st June 2022 to the 31st August 2022, (13 waivers and 1 non adherences).

The WARN process records the following:

- Waivers to the Contract Procedure Rules – These are agreed waivers in accordance with the Contract Procedure Rules, Chapter 3, Part 5. Section 7.1-7.4.
- Non-Adherence to the Contract Procedure Rules – This is a breach of the Contract Procedure Rules in accordance with Chapter 3, Part 5. Section 7.5 - 7.12.

Waivers are a compliant part of the Contract Procedure Rules and are used where there is a genuine business case to direct award without the need for competition.

Table 1: Waiver's

Waivers	2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022	April – August 2022
	40	20	16	17	25	37	13

6.2 The number of waivers has increased in the past two years because of COVID and the impacts it has had on the care market.

Table 2: Non-Adherences

Non-Adherence	2016-2017	2017-2018	2018-2019	2019 - 2020	2020-2021	2021-2022	April - August 2022
	33	10	5	1	3	3	1

6.3 The Finance Sub Committee has responsibility for the oversight of Procurement. To manage these responsibilities the Sub Committee requested that a working group was established to review past procurement projects and report observation back to the Sub Committee.

6.4 The Finance Sub Committee approved the Terms of Reference for the Procurement Working Group in July 2022. The group met during August to review a number of procurements to provide the Sub Committee with assurance that the procurement projects followed the Contract Procedure Rules, complied with the Public Contract Regulations 2015 and achieved value for money.

The feedback and minutes from the Finance Sub Committee on the 7th September.

“At its meeting on 6th July 2022, the Sub-Committee had appointed a working group comprising Councillors Councillor S Carter, J Clowes and N Mannion to review several completed procurements and report back to the Sub-Committee. The working group had met on 5th August, with Councillor Mannion acting as chair. Councillor Mannion reported that the working group had considered an overview of the current procurement process, preparations for changes required by new legislation currently going through Parliament,

and a close look at a small range of varied procurement exercises. The quality and clarity of the process was seen to be very good, with consistent application and compliance across the authority. The group was also satisfied that the lessons learned were being accepted and that preparation for the forthcoming post-Brexit changes were well understood and implemented. The working group felt that there would be potential value in holding another such review at a future date. Councillor Clowes added that any changes to the procurement process would need to be reflected in the Constitution”.

7. Consultation and Engagement

7.1 Consultation and engagement have been undertaken with Cheshire East Council staff who have a role within Commission, Procuring and Contract Managing goods, services or works for the Council.

8. Implications

8.1. Legal

8.1.1. All employees must ensure that they use any Council or other public funds entrusted to them through their job role in a responsible and lawful manner.

8.1.2. Employees must also seek to ensure value for money and take care to avoid the risk of legal challenge to the Council in relation to the use of its financial resources. The Council's Officer Delegations, Finance and Contract Procedure Rules and Operating Procedures must, therefore, be followed at all times. Waivers are a compliant procurement route within the Rules and oversight of their use forms part of the Finance Sub Committee's oversight and management functions.

8.1.3. The Audit & Governance Committee will receive reports on all WARNs as part of their assurance role.

8.1.4. The continued reporting of Waivers to the Audit & Governance Committee will provide assurance on both the operation of the Rules and the oversight and management of a compliant process which seeks value for money but does mean that contracts are awarded without competition.

8.2. Finance

8.2.1. The Council's Constitution Finance Procedure Rule 2.11; Chapter 3 - Part 4: Section 2 explains that the Corporate Leadership Team (CLT) are responsible for working within their respective budget limits and to utilise resources allocated to them in the most efficient, effective and economic way. This is supported by effective commissioning, procurement processes and appropriate contract management.

8.2.2. Along with comments from Procurement and Legal Officers, Finance Officers are invited to make comments in respect of each WARN, to help ensure Finance Procedure Rules are adhered to in this regard. The comments of Finance Officers focus on whether the Service: has identified sufficient existing budget to cover the proposal; and has also considered

8.3. Policy

8.3.1. N/A

8.4. Equality

8.4.1. All Cheshire East Council contracts have a clause stating “the supplier shall perform its obligations under the Contract in accordance with all applicable equality Law and the Council’s equality and diversity policy as provided to the Supplier from time to time”

8.5. Human Resources

8.5.1. There are no direct implications for human resources.

8.6. Risk Management

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

8.7. Rural Communities

8.7.1. There are no direct implications for rural communities.

8.8. Children and Young People/Cared for Children

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

8.9. Public Health

8.9.1. There are no direct implications for public health.

8.10. Climate Change

8.10.1. There are no direct implications for climate change.

9. Ward Members Affected

9.1. N/A

9.2. N/A

Access to Information	
Contact Officer:	Lianne Halliday, Senior Manager Procurement lianne.halliday@cheshireeast.gov.uk
Appendices:	Appendix 1 Part 2 items
Background Papers:	

Appendix 1

CPR WAIVERS – CATEGORIES FOR INTERNAL REPORTING

Category Ref	Ref Description
A	Genuine Emergency - which warrant an exception to the requirements of competition
B	Specialist Education or Social Care Requirements
C	Genuine Unique Provider - e.g. from one source or contractor, where no reasonably satisfactory alternative is available.
F	No valid tender bids received; therefore, direct award can be substantiated
G	Lack of Planning
H	Any other valid general circumstances up to the EU threshold
I	No time to undertake a tendering exercise, therefore extension necessary to avoid non-provision of deliverables
J	Procurement from any other source would be uneconomic at this time
K	Added value being offered by the Provider(s)
L	Extension is best option as highlighted in request form
D	Compatibility with an existing installation and procurement from any other source would be uneconomic given the investment in previous infrastructure
V	Covid-19 Exemption
E	In-depth Knowledge, skills and capability of project/services already in existence with consultants/providers carrying out related activity – therefore procuring new consultants/skills would be uneconomic given the investment in previous, related work.

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