

1.0 Management Processes

Undertaking an assessment of the risk that the financial statements may be materially mis-stated due to fraud or error

- 1.1 The Council's risk management process has identified the "Risk that the Council fails to manage expenditure within budget and maintain an adequate level of reserves, thereby threatening financial stability and service continuity and preventing the achievement of corporate objectives" as a Strategic Risk. This risk recognizes that the Council could be exposed to losses or unplanned expenditure, as a result of the misappropriation of assets and/or fraudulent financial reporting as well as other causes/triggers. Following the identification and assessment of mitigating controls and future planned actions/contingency the risk has been measured as high in recognition of the fact that although a number of controls have been strengthened, the overall economic situation and scale of organisational change continues to present a challenging climate.
- 1.2 This risk has been reviewed during the year through one to one discussions with the manager of this risk, which is the Finance Manager. The review date for this risk is decided at each review meeting and the risk has been revisited during the year accordingly and at least quarterly. At each risk review the risk stewardship template is forwarded for discussion and comment by the risk owner, the Director of Finance and Business Services, with the risk strategic lead which is the Portfolio Holder for Resources. Any comments received from the risk owner and strategic risk lead are updated on the risk stewardship template and risk register accordingly. This risk is a key corporate risk and as such is reviewed by the Corporate Risk Management Group and included in the risk update reports to the Corporate Management Team, Cabinet and the Audit and Governance Committee. Details of this risk are also held on the key corporate risk register which is available to view by all Members on the Centranet and has recently been communicated to all Scrutiny Committee Chairs.
- 1.3 The Internal Audit Plan for 2011/12 is designed to allow Internal Audit to offer an opinion on the adequacy and effectiveness of the Council's risk management, control and governance processes. The plan has been developed using the following areas of audit activity:
- Supporting Corporate Governance
 - Fundamental financial systems
 - Key Service and Departmental Systems
 - Fundamental Corporate Areas
 - Partnerships
 - Counter Fraud & Probity

In addition time is planned to provide advice and guidance on a responsive basis.

- 1.4 A programme of audits continues to be carried out in accordance with the plan that was approved by the Audit & Governance Committee in March 2011.
- 1.5 The work includes the Council's fundamental financial systems in order to gain assurance that the systems of financial control are in place and operating effectively. The fundamental systems (those that could give rise to material mis-statements) and key controls have been agreed with External Audit in order that they may rely on the work of Internal Audit. Internal Audit continues to undertake testing (examining whether the control has operated effectively throughout 2011/12) on the controls. In this way Management can get reasonable assurance with regard to the potential for override of management controls or other inappropriate influence over the financial reporting process.
- 1.6 A review of the closure of accounts processes has been carried out and incorporates the recommendations and findings of external audit. Work has continued during 2011/12 to improve bank and systems reconciliations and to strengthen closure processes. The timetable for the 2011/12 closure incorporates a quality checking process to provide assurance on the financial statements.
- 1.7 The introduction of International Financial Reporting Standards (IFRS) has required the finance team to receive additional training in complex areas and this continues to develop as improved processes relating to areas such as asset valuations and the treatment of leases, are embedded.
- 1.8 As part of the Annual Governance Statement process for 2011/12 the Directors, Heads of Service and Managers will be required to sign off on the adequacy of controls within their service areas/directorate via disclosure statements.

Identifying and responding to risks of fraud in the Council

- 1.9 The Council ensures that the standards of conduct expected of staff are defined and communicated through, for example, Codes of Conduct, an Anti-Fraud and Corruption Policy and the Whistleblowing Policy. Such policies, together with the Councils Constitution, prescribe the arrangements that ensure suspected cases of fraud and corruption are reported promptly to the appropriate person for further investigation.
- 1.10 The Council's Anti Fraud and Corruption Strategy states that Cheshire East Council's members and employees are positively encouraged to raise concerns regarding fraud and corruption, immaterial of seniority, rank or status, in the knowledge that such concerns will be taken

seriously and wherever possible, treated in confidence and properly investigated.

- 1.11 Concerns must be raised when members or employees reasonably believe that one or more of the following has occurred, is in the process of occurring, or is likely to occur:

a criminal offence
a failure to comply with a statutory or legal obligation
improper and/or unauthorised use of public or other funds
a miscarriage of justice
maladministration, misconduct or malpractice
endangering of an individual's health and safety
damage to the environment
deliberate concealment of any of the above.

- 1.12 Concerns must be raised firstly with the supervisor/line manager or, where a person feels unable to do this, via other routes, for example:-

- Heads of Service, Directors, or the Chief Executive, who will report such concerns to the Internal Audit Manager or their authorised representative.
- Directly to the Internal Audit Manager or a senior member of the internal audit team
- The External Auditor, who depending upon the nature of the concern will liaise with the Internal Audit Manager or Director of Finance and Business Services (as Section 151 officer)
- The Monitoring Officer as outlined in the Confidential Reporting (or Whistleblowing Protocol)
- The Customer, compliments, Comments & Complaints procedure for use by the general public.

- 1.13 Partners, contractors, consultants, suppliers, service users, employees and committee members of organisations which the Council funds and the general public are also encouraged to report concerns through any of the above routes.

- 1.14 The Council ensures that any allegations received in any way, including by anonymous letters or telephone calls are taken seriously and investigated in an appropriate manner.

- 1.15 Under the National Fraud Initiative (NFI) the Council supplies sets of data from information systems such as benefits, pay and pensions and suppliers. NFI then cross matches this data to identify potential inaccuracies and fraud which the Council then investigates.

- 1.16 Work by internal audit – See above. Furthermore, internal auditors are personally responsible for applying due professional care which includes being alert to the possibility of intentional wrongdoing, errors

and omissions and failure to comply with management policy and conflicts of interest.

- 1.17 All allegations of fraud are reported to Internal Audit even if it is not necessary for them to investigate. This informs the opinion on the control environment and Internal Audit's work programme. At the request of Management Internal Audit may assist with the investigation of suspected fraud ensuring that any local investigations are undertaken thoroughly, consistently and impartially or by requesting assurance that Management have taken action to reduce the likelihood of re-occurrence.
- 1.18 In line with the Anti Fraud and Corruption Strategy the Borough Solicitor will, in consultation with the appropriate Chief Officer, decide whether any matter under investigation should be recommended for referral to the Police or the appropriate enforcement agency. Internal Audit has made 4 formal referrals to the Police during this financial year.
- 1.19 Cheshire East actively pursues those committing Benefit Fraud offences by issuing Cautions (verbal reprimand), Administrative Penalties (30% of the overpayment in addition to any overpaid monies) and in the most serious cases taking Criminal proceedings through the Courts (a sentence from the Courts, a Criminal Record and liability for the stolen monies). The Benefit Fraud Team is responsible for all benefit fraud investigations and prosecutions. The Benefits Anti Fraud and Corruption Strategy, which deals specifically with welfare benefits issues, is complimentary to the main Anti Fraud Strategy. The benefits service strategy is supplemented by the Benefits Fraud Sanction Policy. This policy outlines the criteria used to determine which sanctions may be applicable if a case is proven by the Investigation Team. Benefit Fraud Sanctions from 01/04/2011 to 31/12/2011 include 23 cautions, 20 Administrative Penalties and 28 prosecutions.
- 1.20 In addition to a confidential reporting procedure the benefit investigation team also operate a separate hotline, for use by members of the public. The freephone number is 0800 389 2787. Referrals may also be made from the national fraud hotline managed by central government. These hotlines are publicised in relevant council literature as well as targeted media campaigns.
- 1.21 In May 2011 work done by Cheshire East Council in clamping down on potential council tax fraud was held up by the Communities Secretary Eric Pickles as best practice. The single person discount audit, which started in August 2010, was carried out by Northgate a company specialising in this area. The audit, using Experian credit data, found nearly 2000 people had wrongly claimed. It cost the Council £80,000 but will result in £500,000 extra income every year.

- 1.22 A no Purchase Order/No pay policy became effective on 1 January 2012 whereby invoices without a valid Council Purchase Order (PO) are now being returned to suppliers. The aim is to improve internal control and ensure that a Purchase Order is raised before any goods or services are purchased.
- 1.23 The Audit Commission's document 'Protecting the Public Purse 2011' (PPP 2011) identified criminals targeting councils and other public organisations in an attempt to redirect payments intended for legitimate creditors such as large construction companies as an emerging risk. The fraudsters gather the details about key creditors from the information that councils now publish on their websites. In the 2010/11 Audit Commission survey, councils reported several detected frauds of this type amounting to some £7 million. The report goes on to say that although the fraudsters continue to target local public bodies they have become increasingly successful at preventing these frauds by applying sound internal controls. They have prevented about £20 million of such attempted fraud.
- 1.24 The Council was issued with an early warning of the risk by the National Anti- Fraud Network and sought assurance with regard to the robustness of controls designed to prevent the fraud. Internal Audit followed this up by testing the mitigating controls as part of key systems testing in early 2011.

Communication to employees of views on business practice and ethical behaviour

- 1.25 All employees are governed by the Council's Financial and Contract Procedure Rules. They are required to follow the standards set out in the Code of Conduct, which is issued to all staff along with their Contract of Employment. Employees who consider other employees to be guilty of misconduct must report this to their line manager or raise it through one of the other available procedures. Employees are further governed by the Council's HR Policies (Disciplinary Procedure etc), which are issued to all staff. The Codes are communicated via briefings, training and are available on the Council's intranet and internet.
- 1.26 The role that employees are expected to play in the Council's framework of internal control is included in staff induction procedures by their line manager and then subsequently through corporate induction training, as appropriate.
- 1.27 The Anti Fraud & Corruption Policy states that Cheshire East Council expects its employees to comply with codes of practice or other relevant professional obligations issued by professional bodies of which they may be members. Furthermore it reminds employees that they must comply with Section 117 of the Local Government Act 1972 which requires any interests in contracts that have been proposed to

be entered into by the Council to be declared. The Legislation also prohibits the acceptance of fees or rewards other than by means of proper remuneration.

- 1.28 Employees must register any interests they may have in the departmental register recording Declarations of Interests.
- 1.29 All offers of gifts and hospitality, regardless of whether the offer was accepted or declined, must be recorded in the departmental register. Such registers are reviewed by the appropriate departmental management team on a regular basis and a record kept of such review.

Communication to those charged with governance on the processes for identifying and responding to fraud and possible breaches of internal control

- 1.30 Internal Audit Management provides a written report to the Audit & Governance Committee to support the Annual Governance Statement. The report includes an opinion on the overall adequacy and effectiveness of the Council's control environment, and a summary of the audit work from which the opinion is derived including counter fraud, probity and investigations work.
- 1.31 In addition to the annual report, Internal Audit provides the Committee with interim audit reports during the course of the year. The audit reports address emerging issues in respect of the whole range of areas to be covered in the annual report.
- 1.32 The Audit and Governance Committee work programme includes various update reports with regard to anti fraud and corruption. The Committee was advised, in January 2011, on the content of the Council's Anti- Fraud and Corruption Strategy and developments in best practice. As part of ongoing efforts to ensure that the systems and procedures in place within the Council remained relevant and met best practice the Anti-Fraud and Corruption arrangements were reviewed against the guidance issued by CIPFA in the publication "*Managing the Risk of Fraud – Actions to Counter the Risk of Fraud- Red Book 2*". A report in June 2011 advised the Committee of the findings of the review. Work is on-going to exploit improvement opportunities.
- 1.33 The Committee noted and endorsed, a revised Whistleblowing Policy in June 2011 following a review of the existing document against the *Whistleblowing Arrangements Code of Practice Publicly Available Specification 1998:2008*.
- 1.34 Where it becomes apparent that a Service has failed to comply with Council's Contract Procedure Rules, the Chief Officer or designated representative must issue a report outlining the reason for the non compliance and the steps taken to prevent a re-occurrence. The report

must be submitted to the Director of Finance and Business Services and the Borough Solicitor before being reported to the Audit and Governance Committee. In September 2011 the Committee received a report that noted the arrangements in place for the collection of waste from Council premises in the former Crewe and Nantwich Borough Council area, and concluded that poor practice has resulted in a procurement process that breached the Council's Contract Procedure Rules. The report included the steps taken to prevent a re-occurrence.

- 1.35 In accordance with the Internal Audit Plan for 2011/12 a review of Procurement has commenced in quarter 4. This review will include the approaches to reduce fraud risk outlined in the National Fraud Authority report on public sector procurement.

2.0 Breaches of Internal Control

- 2.1 From the work undertaken by Internal Audit during 2011/12, there is no evidence to suggest any impact on the 2011/12 Financial Statements. The adequacy and effectiveness of the Council's control environment will be considered as part of the annual reporting and presentation of audit opinion.
- 2.2 As part of the Annual Governance Statement process for 2011/12 the Directors, Heads of Service and Managers will be required to sign off on the adequacy of controls within their service areas/directorate via disclosure statements. This information will be made available to the Committee as part of the AGS approval process.
- 2.3 An Officer Group consisting of senior officers from Legal, Procurement, Audit and Democratic Services have produced revised Finance and Contract Procedure Rules together with associated guidance in order to make them more accessible and useable.

3.0 How management gains assurance that all relevant laws and regulations have been complied with.

- 3.1 The Council has in place, within the Constitution, various procedure rules which set out how budget and policy decisions are made. Officers are required to ensure compliance with relevant laws and regulations and that lawful expenditure is delivered. Reports provide a section for legal implications, and reports cannot go before Cabinet or Council without this being addressed.
- 3.2 The Council's Statutory Officers have a positive responsibility to report to the Council, in respect of:
- Co-ordination of functions, staff and management matters – the Chief Executive (Head of Paid Service)
 - Financial administration, probity and propriety – the Director of Finance and Business Services (Section 151 Officer)

- Legality and administration – Borough Solicitor (Monitoring Officer).
- 3.3 Internal Audit's annual plan contains a programme of work that includes reviews of compliance with policies, procedures, laws and regulations. In addition, work is carried out by Scrutiny Committees, External Audit and other inspection agencies.
- 3.4 Regular meetings are held with the finance management team and the Director of Finance and Business Services to consider accounting treatments and areas of high financial risk which could give rise to fraud, mis-statement or legality issues. Examples of these include Academy transfers, Tatton Park Developments and treatment of Special Expenses which have been subject to senior management and member scrutiny.
- 3.5 As part of the Annual Governance Statement process for 2011/12 the Directors, Heads of Service and Managers will be required to report instances of irregularity, fraud or misappropriation and issues that have attracted significant public interest including litigation or claims within their service areas/directorate via disclosure statements. This information will be made available to the Committee as part of the AGS approval process.
- 4.0 Whether there is any potential litigation or claims that would affect the financial statements.**
- 4.1 As part of the closure of the accounts the Director of Finance and Business Services (Section 151 Officer) will assess the adequacy of financial reserves and provisions for known and contingent liabilities arising from current or potential future litigation and claims. The nature and impact of such claims are disclosed in the notes to the accounts.
- 4.2 Directors and Heads of Service are required to notify the Director of Finance and Business Services of any significant control issues which may result in litigation or claims against the Council as part of their annual disclosure statement.
- 5.0 Assessment of the going concern assumption**
- 5.1 The concept of a going concern assumes that an authority, its functions and services will continue in operational existence for the foreseeable future. Accounts prepared under the Code of Practice on Local Authority Accounting assume that a local authority's services will continue to operate for the foreseeable future.
- 5.2 Section 25 of the Local Government Act 2003 requires the Director of Finance to report to the Council when considering the budget and level of Council Tax. This report deals with the robustness of the estimates

and the adequacy of reserves allowed for in the budget proposals, so members will have authoritative advice available to them when they make their decisions.

- 5.3 As part of the approval process for the Statement of Accounts the Director of Finance and Business Services will provide assurance regarding the key risks, policies and concepts applicable to the accounts and any such disclosures that are necessary to present fairly the financial position of the Council at its year end.