

**1.0 How the Audit and Governance Committee oversee Management's Processes in relation to:**

- **carrying out an assessment of the risk that the financial statements may be materially misstated due to fraud or error**

1.1 Risk Management processes, control systems and governance arrangements can never eliminate the risks of serious fraud, misconduct or misrepresentation of the financial position, they can, however, help reduce the likelihood of such events occurring, enable the early identification of such issues and determine the most appropriate way of responding. The Corporate Risk Management Group, the Corporate Governance Group, Finance and Audit (Internal & External) have played a vital part in advising the Audit and Governance Committee of the arrangements that are in place to manage such risks, whether they are operating properly and the action taken to ensure any shortcomings are rectified promptly.

1.2 Throughout 2012/13 the Council's risk management process has identified the following as a Strategic Risk "Financial Control: Risk that the Council fails to manage expenditure within budget, due to inaccurate financial planning in both the short term and longer term and/or ineffective financial control leading to a failure to maintain an adequate level of reserves, thereby threatening financial stability and service continuity and preventing the achievement of Cheshire East's objectives and outcomes". As part of this process it is recognised that the causes of ineffective financial control could be:-

- weaknesses in the corporate governance framework
- culture, skills and competences
- non-compliance
- breakdown of key systems and processes
- weaknesses in the anti-fraud and corruption mechanisms

1.3 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 factors outside the Council's control remain significant and the impact on corporate objectives if this risk materialised will always be critical.

1.4 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 Interim Chief Executive, with the risk strategic lead which is the Finance Portfolio Holder. Any comments received from the risk owner

and strategic risk lead are recorded 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.

- 1.5 The Audit and Governance Committee receive a risk management update from the Corporate Risk Management Group throughout the year. This includes an overview of the key corporate risks, corresponding risk ratings and the direction of travel of risks.
- 1.6 Furthermore, the Audit & Governance Committee request a short briefing at each meeting from the Risk Owners / Managers of the highest key corporate risks. (For this purpose, short briefing means attending the meeting and being able to talk through the risk stewardship template to explain the risk and controls). The following summarises the position with regard to the Financial Control risk:
  - June 2012 - The most up to date version of the risk stewardship template was made available for discussion with the Risk Owner
  - September 2012 – The Committee received the risk stewardship template that had been updated following the previous meeting
  - January 2013 - The Committee received the risk stewardship template that had been updated following the previous meeting
- 1.7 In the External Audit Plan (January 2012) the District Auditor identified the following significant risk relevant to the audit of the Council's Financial Statements:

“In year financial pressures and their potential impact on reserves increased the risk of financial misreporting which may impact on the true and fair presentation of the financial statements”.
- 1.8 In September 2012 the District Auditor presented the Annual Governance Report to the Audit & Governance Committee outlining the findings of the audit of the Council's 2011/12 Financial Statements. The report indicated that the District Auditor had reviewed the effectiveness of management controls in place to reduce the risks of financial misreporting and fraud in income recognition concluding that testing did not find any material errors.
- 1.9 Following the Audit Committee in September 2012 the District Auditor issued an unqualified opinion on the Council's 2011/12 financial statements included in the Council's Statement of Accounts.
- 1.10 In January 2013 the Audit and Governance Committee considered a progress report on the preparation of the Statement of Accounts for 2012/13 and it was noted that the Annual Audit Letter (AAL) for 2011/12 reported that the Council has significantly improved its closure

of accounts process. The accounts presented for audit contained no material errors and far fewer other errors than in previous years. Supporting audit trails and working papers were also much better. The AAL also reported that the finance team had implemented the recommendations from the last two audits including important improvements to their quality assurance arrangements. This had all helped to reduce the number of errors identified during the audit and improve the overall quality of the accounts.

- 1.11 The finance team met with the auditors in October 2012 to discuss specific aspects of the closure of accounts process and also highlight new areas to consider for 2012/13. The clear message from the auditors was that the finance team now need to ensure that the improvements become embedded in its way of working.

- **identifying and responding to the risk of breaches of internal control**

- 1.12 Internal Audit plays a vital part in advising the Committee that risk management, control and corporate governance arrangements are in place and operating properly. The Committee receives and considers the annual internal audit opinion, which informs the Annual Governance Statement (AGS), and interim reports which provide assurance with regard to the adequacy of the Council's system of internal control and the action taken to ensure any shortcomings are rectified promptly.

- 1.13 The Internal Audit Plan for 2012/13 was designed to allow Internal Audit to offer such an opinion. The plan was developed using the following areas of audit activity:

- Supporting Corporate Governance
- Fundamental Financial Systems
- Shared Services
- Corporate Cross Cutting Services
- Key Service and Departmental Systems
- Partnerships
- Anti Fraud and Corruption
- Improvement and Compliance

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

- 1.14 A programme of audits has been carried out in accordance with the plan that was approved by the Audit & Governance Committee in March 2012. The work included 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 were

agreed with External Audit in order that they may rely on the work of Internal Audit.

1.15 Internal Audit has undertaken testing on the controls by examining whether the control operated effectively throughout 2012/13. In this way the Council can get reasonable assurance with regard to the potential for override of management controls or other inappropriate influence over the financial reporting process. The outcome of each audit assignment is reported to management in order to:

- give an opinion on the risk and controls of the area under review, building up to the annual opinion on the control environment
- prompt management to implement the agreed actions for change leading to improvement in the control environment and performance
- provide a formal record of points arising from the audit, and where appropriate, of the agreements reached with management, together with appropriate timescales

1.16 Interim reports on progress against and revisions to the 2012/13 Internal Audit Plan, together with a summary of work undertaken were received by the Audit and Governance Committee in September 2012 and January 2013. The reports provided the Committee with an overview of the Council's response to internal audit activity to ensure any shortcomings in the system of internal control are rectified promptly. In June 2013 the Audit and Governance Committee will receive Internal Audit's annual opinion on the overall adequacy and effectiveness of the Council's control environment for 2012/13.

1.17 The interim report to Committee in January 2013 included the following summary of the reports produced by Internal Audit in the first three quarters of 2012/13:

| Assurance Level | Audit Reports Issued 2012/13<br>Quarter 1-3 |
|-----------------|---|
| Good            | 0   |
| Satisfactory    | 13  |
| Limited         | 9   |
| No              | 1   |

1.18 The assurance levels reported in the table above include a combination of opinions at a broad level for the Council as a whole (macro-level opinion) and opinions on individual business processes (micro level). At the macro level, satisfactory assurance, with regard to the risks identified within the terms of reference, has been given in all cases, except the following which were given limited assurance, and were subject to further consideration within the report:

- Procurement
- Duplicate Payments
- Purchase Cards

- 1.19 The Council is required (Accounts and Audit Regulations) to prepare and publish an Annual Governance Statement (AGS). The purpose of the AGS is to ensure a continuous review of the Council's governance arrangements, to give assurance on the effectiveness of the arrangements and/or to address identified weaknesses.
- 1.20 The AGS is considered by the Corporate Management Team with the collection of evidence for, and the drafting of it being the responsibility of the Corporate Governance Group. The review of governance arrangements in place is informed by the work of Internal Audit and senior managers and also comments made by the External Auditors and other review agencies/inspectors. Sources of assurance include the Directors, Heads of Service and senior managers signing off on the adequacy of controls within their service areas/directorate via disclosure statements. The disclosures are made available to and considered by the Audit and Governance Committee in order that Members may discharge their duties with regard to approving the AGS.
- 1.21 During the year the Council's Contract Procedure Rules were amended and a revised procedure relating to non compliance was introduced. The revised procedure stipulates that the Chief Officer must complete a non-compliance form outlining the reasons for the non-compliance and the steps taken to prevent a re-occurrence. The Chief Officer is then required to submit the form for sign off to the s151 Officer and Monitoring Officer. A report is made to the Audit and Governance Committee, at least on a half yearly basis, setting out the number of non-compliance instances in the previous period, broken down by Service, and a description of exceptional instances.
- 1.22 In September 2012 the Committee received details of the operation of the recently introduced revised procedure for Delegated Decisions to waive Contract Procedure Rules and Non-Compliances with Contract Procedure Rules and an update of those decisions, in order to see whether procedures are being complied with. A Member/Officer working group of the Committee was also invited to consider specific examples of delegated decisions and non-compliance.
- **identifying and responding to risks of fraud in the Council.**
- 1.23 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 Strategy and the Whistleblowing Policy. Such policies, together with the Council's Constitution, prescribe the arrangements that ensure suspected cases of fraud and corruption are reported promptly to the appropriate person for further investigation.
- 1.24 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.

- 1.25 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.
- 1.26 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 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
- 1.27 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.
- 1.28 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.
- 1.29 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. 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.

- 1.30 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 has taken action to reduce the likelihood of re-occurrence.
- 1.31 The Internal Audit Reports to Committee include details of Counter Fraud Work undertaken in accordance with the plan. During 2012/13 the Committee has been updated on the arrangements relating to:
- The National Fraud Initiative
  - a draft Fraud Risk Assessment that is currently being shared with managers in order to identify any additional risks and also to document the controls in place to mitigate the risks of fraud
  - where Internal Audit has assisted management in carrying out a small number of investigations into potential financial irregularities
- 1.32 The Committee was also advised, in September 2012, of the outcomes of an Internal Audit review of the Council's anti-fraud and corruption arrangements against the National Fraud Authority (NFA) document 'Fighting Fraud Locally: The Local Government Fraud Strategy (FFL)' and work is currently ongoing to exploit improvement opportunities.
- 1.33 In March 2013 the Committee was provided with an update on the effectiveness of the Council's Whistleblowing Policy and a breakdown of the number of reports received during 2012/13.
- 1.34 The Audit and Governance Committee, 29 September 2011, agreed that individual Members would become more involved in specific areas of audit and governance work as a means of developing in-depth knowledge and expertise. Five groups were established covering Corporate Governance & AGS, Risk Management, Fraud Management, Financial Statements and Audit. Meetings of the groups are scheduled in accordance with the Committee timetable. The groups receive briefings on relevant agenda items, issues raised by internal and external auditors, the Corporate Governance Group and the Corporate Risk Management Group as well as training on the more complex matters put before the Committee and discussions
- 1.35 During 2012/13 the Fraud Group considered the Council's arrangements to counter fraud and corruption, proper practice, measures designed to prevent any attempted fraudulent or corrupt act and the steps taken if such an act occurs, as well as measures designed to encourage staff to raise concerns and the steps taken to investigate such concerns. Discussions included Benefit Fraud.
- 1.36 Cheshire East actively pursues those committing Benefit Fraud offences by issuing Cautions (verbal reprimand), Administrative Penalties (a financial penalty set at a level prescribed in legislation, 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 01/04/2012 to 31/3/2013 include 19 cautions, 25 Administrative Penalties and 31 prosecutions/convictions.

- 1.37 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.

- **communicating to employees its views on appropriate business practice and ethical behaviour**

- 1.38 Cheshire East 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 development of a Code of Corporate Governance, consistent with the principles and requirements of the CIPFA/SOLACE Framework *'Delivering Good Governance in Local Government'* helps to ensure proper arrangements are in place to meet that responsibility. Cheshire East Council adopted a Code of Corporate Governance in 2009 and this is subject to annual review, and update, where necessary
- 1.39 In September 2012 the Committee reviewed the Council's Code of Corporate Governance and also noted the ongoing work by the Corporate Governance Group in respect of the Council's Governance Framework.
- 1.40 The Council undertakes an annual review of its governance arrangements to ensure continuing compliance with best practice as set out in the Framework. The Annual Governance Statement (AGS) is that review. The Council is required to prepare and publish the AGS.
- 1.41 The Audit and Governance Committee is responsible for approving the Council's AGS at the same time as the statement of accounts is approved, i.e. by the end of September each year. In the interests of best practice and early engagement, the draft of the AGS is brought to the Committee for information and comment from Members in June of each year.



- 1.42 The six principles of Cheshire East Council's governance framework, as set out in the Authority's Code of Corporate Governance are outlined in the AGS, along with a brief description of arrangements and an assessment of the effectiveness of those arrangements during 2011/12. Principle 3 of the Council's Code of Corporate Governance is promoting the values of the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour. The following paragraphs summarise the arrangements.
- 1.43 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.
- 1.44 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.
- 1.45 The Anti Fraud & Corruption Strategy 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.
- 1.46 Employees must register any interests they may have in the departmental register recording Declarations of Interests.
- 1.47 All offers of gifts and hospitality, regardless of whether the offer was accepted or declined, must be recorded in the departmental register. Such registers should be reviewed by the appropriate departmental management team on a regular basis and a record kept of such review.

## **2.0 Actual, Suspected or Alleged Fraud**

- 2.1 From the work undertaken by Internal Audit during 2012/13, there is no evidence to suggest any material impact on the 2012/13 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.

**3.0 How the Audit and Governance Committee 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. Such arrangements are designed to provide reasonable assurance with regard to compliance rather than absolute certainty, because systems are susceptible to human error and poor judgement, and controls can be deliberately circumvented or overridden.
- 3.2 Reports provide a section for legal implications, and reports cannot go before Cabinet or Council without this being addressed. 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 Head of Paid Service
  - financial administration, probity and propriety – the Section 151 Officer
  - legality and administration – 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. The Committee, therefore, gains assurance that all relevant laws and regulations have been complied with via Internal Audit opinion and interim reports. Furthermore, as part of the AGS process the Directors, Heads of Service and Managers are required to sign off on the adequacy of controls within their service areas/directorate via disclosure statements. The disclosures are made available to and considered by the Audit and Governance Committee in order that Members may discharge their duties with regard to approving the AGS.
- 3.4 The Audit and Governance Committee also recognises that an important way for it to assess the efficacy of, and provide assurance on, its risk management, internal control and governance arrangements is to review adverse incidents that the Council has had to deal with, and provide public assurance that appropriate action has been taken to ensure that any shortcomings are rectified promptly, and are less likely to be repeated in future.
- 3.5 Consequently, the Committee on 31 January 2012 resolved that a thorough and robust investigation of all issues surrounding the expenditure incurred on a proposed waste transfer station in the North of the Borough be added to the work plan in order to identify any governance issues and whether all financial and contractual procedure rules were complied with.

- 3.6 The review indicated that whilst, in the main, appropriate Council procedures were in place to achieve compliance with Officer Delegations, Standing Orders, EU Procurement Rules and ensure effective reporting to Members, in this instance there was evidence that officers failed to comply with many of these arrangements.
- 3.7 A special meeting was held on 14 June 2012 where the Committee considered the findings of the review, recommendations and proposed management actions to prevent a reoccurrence of such issues in the future. The Committee resolved that progress reports against the identified actions in the Action Plan be submitted to the Committee on a quarterly basis.
- 3.8 Issues and Actions arising from the review is one of the significant governance issues identified in the Council's Annual Governance Statement (AGS) for 2011/12 together with awareness and compliance with Council processes/procedures and a data protection breach following an incident in May 2011.
- 3.9 Progress against the actions in the AGS Action Plan is monitored throughout the year by the Corporate Governance Group and reported to this Committee.
- 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 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 Corporate Governance Group of any significant control issues which may result in successful legal action against the Council as part of their annual disclosure statement.
- 5.0 How the Committee has satisfied itself that it is appropriate to adopt the going concern basis in preparing the financial statements.**
- 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 s151 Officer 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 s151 Officer 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.