

## **Governance and Ethics Committee**

**Tuesday, 17 December 2019 at 10:30**

**County Hall, West Bridgford, Nottingham, NG2 7QP**

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### **AGENDA**

- |    |  |           |
|----|--|-----------|
| 1  | Minutes of last meeting held on 6 November 2019  | 3 - 6     |
| 2  | Apologies for Absence  |           |
| 3  | Declarations of Interests by Members and Officers:- (see note below)<br>(a) Disclosable Pecuniary Interests<br>(b) Private Interests (pecuniary and non-pecuniary) |           |
| 4  | Local Government and Social Care Ombudsman Decisions - September to November 2019  | 7 - 78    |
| 5  | Whistleblowing Update  | 79 - 82   |
| 6  | Regulation of Investigatory Powers Act 2000 - Annual Report  | 83 - 86   |
| 7  | Counter Fraud Progress Report - December 2019  | 87 - 94   |
| 8  | External Audit Progress Report   | 95 - 110  |
| 9  | Response to Council Motion Regarding Transparency and Streaming of Meetings  | 111 - 120 |
| 10 | Member Communication and Engagement Programme Update   | 121 - 134 |
| 11 | Update on use of the Councillors' Divisional Fund  | 135 - 158 |

**Notes**

- (1) Councillors are advised to contact their Research Officer for details of any Group Meetings which are planned for this meeting.
- (2) Members of the public wishing to inspect "Background Papers" referred to in the reports on the agenda or Schedule 12A of the Local Government Act should contact:-

Customer Services Centre 0300 500 80 80

- (3) Persons making a declaration of interest should have regard to the Code of Conduct and the Council's Procedure Rules. Those declaring must indicate the nature of their interest and the reasons for the declaration.

Councillors or Officers requiring clarification on whether to make a declaration of interest are invited to contact Keith Ford (Tel. 0115 977 2590) or a colleague in Democratic Services prior to the meeting.

- (4) Councillors are reminded that Committee and Sub-Committee papers, with the exception of those which contain Exempt or Confidential Information, may be recycled.
- (5) This agenda and its associated reports are available to view online via an online calendar - <http://www.nottinghamshire.gov.uk/dms/Meetings.aspx>



Meeting **GOVERNANCE AND ETHICS COMMITTEE**

Date **Wednesday 6 November 2019 (commencing at 10.30 am)**

**membership**

Persons absent are marked with `A`

**COUNCILLORS**

Bruce Laughton (Chairman)  
Andy Sissons (Vice-Chairman)

Nicki Brooks

Steve Carr

Kate Foale

John Handley

Rachel Madden

Mike Pringle

Phil Rostance

Keith Walker

Jonathan Wheeler

**OTHER COUNCILLORS IN ATTENDANCE**

Mrs Kay Cutts MBE

Alan Rhodes

John Longdon

**OFFICERS IN ATTENDANCE**

Caroline Agnew

Sara Allmond

Heather Dickinson

Rob Disney

Keith Ford

Emma Hunter

Simon Smith

Nigel Stevenson

Marjorie Toward

Matthew Waller

Chief Executive's Department

Neil Gamble

Place Department

**OTHER ATTENDEES**

Ian Bayne

Rob White

Independent Person

Independent Person

**1. MINUTES**

The Minutes of the last meeting held on 11 September 2019, having been previously circulated, were confirmed and signed by the Chairman.

**2. APOLOGIES FOR ABSENCE**

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No apologies for absence were received.

### **3. DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS**

None

### **4. UPDATE ON LOCAL GOVERNMENT & SOCIAL CARE OMBUDSMAN (LGSCO) DECISIONS MAY 2019 – JUNE 2019**

Heather Dickinson, Group Manager, Legal, Democratic and Complaints, introduced the report which detailed the LGSCO decisions received in this latest monitoring period.

In response to a query from Members, Heather agreed to check whether, for the complaint about the sharing of inaccurate, personal information with the NHS, any General Data Protection Regulations (GDPR) had been considered by the Adult Social Care and Public Health Department and discussed with the Information Governance team.

#### **RESOLVED: 2019/063**

That officers clarify whether any GDPR implications arising from the complaint about the sharing of inaccurate personal information with the NHS had been considered by the Adult Social Care and Public Health Department and discussed with the Information Governance team.

### **5. INFORMATION GOVERNANCE ACTION PLAN 2019/20 – PROGRESS UPDATE**

Caroline Agnew, Data Protection Officer / Programme Manager, introduced the report which informed Committee of progress against the action plan.

In response to a query from Members, Caroline clarified the difference between anonymisation and pseudonymisation and agreed to send a guidance note around to Members about that issue.

#### **RESOLVED: 2019/064**

That a follow up update report be submitted to the Committee in March 2020.

### **6. CHANGES AND PROGRESS FOLLOWING AN AUDIT REPORT ON VACANT PROPERTY MANAGEMENT**

Neil Gamble, Group Manager Property and Asset Management, introduced the report which detailed progress against actions identified in the 2017 internal audit of the Council's vacant property management arrangements.

During discussions, Members asked for an update on the current situation with the former Highways Depot on the edge of Southwell, which had remained vacant for a number of years and was located in a much sought-after area. Councillor Kay Cutts MBE, as the lead Member for property, agreed to ensure that issue was addressed as part of the work to review the Council's property register.

**RESOLVED: 2019/065**

That the actions relating to the Council's management of vacant properties, as set out in the appendix to the report, be agreed.

**7. STRATEGIC INTERNAL AUDIT PLAN**

Rob Disney, Group Manager, Assurance, introduced the report which proposed the implementation of this Plan to develop a framework within which the service's termly plans would be devised and delivered.

**RESOLVED: 2019/066**

That the proposed Strategic Internal Audit Plan 2019-21 be approved.

**8. INTERNAL AUDIT 2019-20 TERM 1 REPORT & 2019-20 TERM 3 PLAN**

Rob Disney, Group Manager, Assurance, introduced the report which informed Members of the work carried out by Internal Audit in Term 1 of 2019/20 and requested their views on the need for any further follow-up reports and the planned actions in Term 3 of 2019/20.

**RESOLVED: 2019/067**

- 1) That no further actions or follow-up reports were required.
- 2) That it be agreed that the planned coverage of Internal Audit's work in Term 3 of 2019/20 would deliver assurance to the Committee in priority areas.

**9. ASSURANCE MAPPING UPDATE 2019/20**

Matthew Waller, Audit Manager, introduced the report which updated Members on the rollout of assurance mapping following the initial pilot stage.

**RESOLVED: 2019/068**

That the Committee receives further updates and annual reports on assurance mapping following completion of the two new areas (People and Assets), including recommendations for future development.

**10. REVIEW OF COUNCIL CONSTITUTION**

Marjorie Toward, Service Director for Customers, Governance and Employees / Monitoring Officer, introduced the report which proposed revisions to the procedure rules for meetings of Full Council and committee meetings.

With the consent of the Chairman, Councillor Alan Rhodes attended and addressed the meeting.

Councillor Mrs Kay Cutts MBE addressed the meeting as an ex-officio Member of the Committee.

During discussions, Councillors raised queries with a number of the proposed changes relating to:-

- the logistical arrangements including
  - clarification of agenda publication dates;
  - end times for the Full Council meetings;
  - section timings
  - voting
- the rules around Council Questions including
  - the order of questions;
  - supplementary questions
  - adjournment debates.

Following discussions about the timetable for undertaking the review, it was agreed that a meeting should be arranged to discuss the proposed changes further with relevant Members (with the Chairman of the Committee, each Group Business Manager and the non-aligned Councillors invited to attend).

**RESOLVED: 2019/069**

That the issues highlighted during discussions at the Committee, and any other issues raised by Councillors, be given further consideration at a meeting to which the Chairman of the Committee, each Group Business Manager and the non-aligned Councillors would be invited to attend.

**11. WORK PROGRAMME**

**RESOLVED: 2019/070**

That the work programme be agreed, with no further changes required.

The meeting closed at 12.13 pm.

CHAIRMAN

17 December 2019

Agenda Item: 4

## **REPORT OF THE SERVICE DIRECTOR FOR CUSTOMERS, GOVERNANCE AND EMPLOYEES**

### **LOCAL GOVERNMENT & SOCIAL CARE OMBUDSMAN DECISIONS SEPTEMBER TO NOVEMBER 2019**

#### **Purpose of the Report**

1. To inform the Committee about Local Government & Social Care Ombudsman's (LGSCO) decisions relating to the Council since the last report to Committee up to 14<sup>th</sup> November 2019.

#### **Information**

2. Members have asked to see the outcome of Ombudsman investigations regularly and promptly after the decision notice has been received. This report therefore gives details of all the decisions received since the last report to this Committee on 6<sup>th</sup> November 2019.
3. The LGSCO provides a free, independent and impartial service to members of the public. It looks at complaints about Councils and other organisations. It only looks at complaints when they have first been considered by the Council and the complainant remains dissatisfied. The LGSCO cannot question a Council's decision or action solely on the basis that someone does not agree with it. However, if the Ombudsman finds that something has gone wrong, such as poor service, a service failure, delay or bad advice and that a person has suffered as a result, the LGSCO aims to get the Council to put it right by recommending a suitable remedy.
4. The LGSCO publishes its decisions on its website ([www.lgo.org.uk/](http://www.lgo.org.uk/)). The decisions are anonymous, but the website can be searched by Council name or subject area.
5. A total of 14 decisions relating to the actions of this Council have been made by the Ombudsman in this period. Annex A to this report provides the details of each decision and Appendix 1 to the report summarises the decisions made in each case for ease of reference.
6. Following initial enquires into five complaints, the LGSCO decided not to continue with any further investigation. Two complaints were out of the Ombudsman's jurisdiction and in three cases the investigators had decided that it was unlikely they would find fault. Two of these cases concerned the change to Council's policy to increase the level of a service user's financial contribution towards their care.

7. Full investigations were undertaken in nine complaints. Appendix 1 provides a summary of the outcome of each investigation. Where fault was found, the table shows the reasons for the failures and the recommendations made. If a financial remedy was made the total amount paid or reimbursed is listed separately. (Reference and page numbers refer to the information in Annex A).
8. The first three adult social care complaints concerned the change to the policy to increase the level of service user's financial contribution towards the cost of their care. (Annex A p1, 12, 17 respectively). No fault was found in all three cases about the Council's decision to introduce the policy however in one complaint (page 1, ref: 18 016 318 ) fault was found about the lack of notice given to the service user about the changes and delay in responding in full to all issues. The remedy offered included a letter of apology, a further explanation about the financial assessment and a financial remedy totalling £1209.08 from the adult social care budget.
9. Fault was found in two further adult social care complaints causing distress and uncertainty. In one case, the department failed to provide information to the family about the care charges and took too long to carry out the financial assessment. (P22 ref 18 013 338). It is worth noting however that no fault was found in the substantive complaint which concerned the Council's decision to charge the complainant's mother for a period of residential care. The recommendations include a letter of apology and financial remedy of £300 for distress and uncertainty. In addition, staff guidance will be issued to ensure families are provided with the relevant financial information and a financial assessment within 28 working days.
10. Partial fault was found in a second adult social complaint due to delay in providing the outcome of a needs assessment causing distress and uncertainty. No fault was found in relation to the main elements of the complaint. A letter of apology and financial remedy of £200 for distress, time and trouble was recommended. The financial remedies for both complaints were made from the adult social care budget.
11. One complaint investigation found fault in the conduct of an independent school admission appeal relating to the sensitivity of the panel's questioning and its consideration of the specific grounds of the appeal. As the complainant's children are now settled in a different school, a letter of apology rather than a fresh hearing was recommended. In addition, the team advised that lessons learnt from the complaint would be discussed at already planned meetings and annual training with panel members and clerks.
12. Three investigations were undertaken into children's social care complaints. Two concerned the management of the Allegations Against a Professional process. The first of these is detailed on page 49 of annex A and concerned the level of financial remedy offered to the complainant following the 3<sup>rd</sup> stage of the complaints process. In this case the Ombudsman accepted the Council's reasons for refusing to offer a substantial financial remedy but did recommend a higher level of payment for distress. This totalled £4,073.58 which was paid from the children's social care budget.
13. The second complaint concerned a previous allegation against a professional which had been made in 2013 without the complainant's knowledge or involvement and had been considered through the safeguarding process (page 59). This event was referred to in a subsequent safeguarding process following a later allegation in 2018/19. The recommendations were accepted by children's social care and included a letter of apology and a financial payment of £700 for distress. In addition, the department agreed to offer the complainant an opportunity



to challenge the allegations from 2013 and to be advised if there were any similarities between both cases. Further recommendations included a review of the procedures by the Council to ensure people subject to LADO (Local Authority Designated Officer) investigations are provided with information at the earliest stage possible.

14. The third investigation found no fault in the Council's decision not to allow the complainants to progress to the second stage of the process to become adoptive parents. (Page 55 ref 18 016 699).

## **Statutory and Policy Implications**

15. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

## **Data Protection and Information Governance**

16. The decisions attached are anonymised and will be publicly available on the Ombudsman's website.

## **Financial Implications**

17. Financial remedies from the adult social care budget totalled £1709.08 and £4,773.58 was paid from the children's social care budget.

## **Implications for Service Users**

18. All of the complaints were made to the Ombudsman by service users, who have the right to approach the LGSCO once they have been through the Council's own complaint process.

## **RECOMMENDATION/S**

That members consider:-

1. Whether there are any actions they require in relation to the issues contained within the report.

**Marjorie Toward**

**Monitoring Officer and Service Director – Customers, Governance and Employees**

**For any enquiries about this report please contact:**

Laura Mulvany-Law, Temporary Team Manager – Complaints and Information Team

**Constitutional Comments (HD (Standing))**

Governance & Ethics Committee is the appropriate body to consider the content of this report. If the Committee resolves that any actions are required, it must be satisfied that such actions are within the Committee's terms of reference.

### **Financial Comments (RWK 25/11/2019)**

The decisions detailed in the report and the appendix have resulted in financial remedies totalling £6,482.66, £1,709.08 for adult social care cases and £4,773.58 for children's social care cases. These costs have been met from the respective social care budgets.

### **Background Papers and Published Documents**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- None

### **Electoral Division(s) and Member(s) Affected**

- All

## **The Ombudsman's final decision**

Summary: Mr X complains about the sudden increase in Mrs Y's contribution to care from zero to £198 per week and about the way the Council dealt with his complaints about this. He says it has caused much stress, anxiety and financial hardship. The Ombudsman finds the Council was not at fault in the change to its charging policy but was at fault in implementing it without adequate notice. He also finds the Council was at fault in the way it dealt with Mr X's complaint. The Council has agreed to apologise, reimburse six weeks of contribution in lieu of notice, pay Mr X and Mrs Y £250 each and take action to prevent similar faults in future.

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## **The complaint**

1. The complainant, whom I shall refer to as Mr X, complains on behalf of his wife, Mrs Y, that the Council:
  - Unexpectedly, and without explanation, increased the charge for Mrs Y's care from zero to £94 per week, and then, over around seven months, to £198.13 per week.
  - Failed to complete a review of Mrs Y's care, and
  - Dealt poorly with their complaint.
2. Mr X says this has caused them much stress and anxiety, and financial hardship.

## **The Ombudsman's role and powers**

3. We investigate complaints of injustice caused by 'maladministration' and 'service failure'. I have used the word 'fault' to refer to these. We cannot question whether a council's decision is right or wrong simply because the complainant disagrees with it. We must consider whether there was fault in the way the decision was reached. (*Local Government Act 1974, section 34(3), as amended*)
4. If we are satisfied with a council's actions or proposed actions, we can complete our investigation and issue a decision statement. (*Local Government Act 1974, section 30(1B) and 34H(i), as amended*)

## **How I considered this complaint**

5. I considered information from the Complainant and from the Council.

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6. I sent both parties a copy of my draft decision for comment and took account of the comments I received in response.

## **What I found**

### **Background**

#### **Financial assessment**

7. Councils have discretion to choose whether to charge for non-residential services. Where a council decides to charge it must do so in line with the Care and Support (Charging and Assessment of Resources) Regulations and have regard to the Care and Support Statutory Guidance (CSSG).
8. Where the council has decided to charge, it must carry out a financial assessment of what a person can afford to pay. It has no power to assess couples according to their joint resources: each person must be treated individually. The council must not charge more than the cost it incurs in meeting the assessed needs of the individual. It must regularly reassess a person's ability to meet the cost of their care to take account of any changes in their resources.
9. Councils must ensure that they do not reduce a person's income below a specified level (the minimum income guarantee) after charges have been deducted. The amounts are set out in the Care and Support (Charging and Assessment of Resources) Regulations. However, this is only a minimum and councils have discretion to set a higher level if they wish.
10. If a council takes a disability benefit into account when calculating how much a person should contribute towards the cost of their care, they must also assess disability-related expenditure (DRE) in the financial assessment. This is because the Care Act statutory guidance says councils must leave individuals with enough money to pay for necessary disability related expenditure to meet any needs not being met by the council. DRE are costs that arise from a disability or long-term health condition. Councils should always consider individual circumstances. Some councils disregard set amounts for DRE, but if the person's costs are higher than the set amount a full assessment of their costs should be made.

#### **Reviews**

11. Section 27 of the Care Act 2014 gives an expectation that local authorities should conduct a review of a care and support plan at least every 12 months. The authority should consider a light touch review six to eight weeks after agreement and signing off the plan and personal budget. It should carry out the review as quickly as is reasonably practicable in a timely manner proportionate to the needs to be met. Local authorities must conduct a review if the adult or a person acting on the adult's behalf asks for one.

#### **What happened**

12. For many years, Mrs Y lived with health conditions and disabilities which caused her significant difficulty with daily living. She received a personal budget via direct payment from the Council to employ support for ten hours daily. Mr X provided her support for the rest of the time.
13. In April 2017, the Council assessed the contribution Mrs Y had to pay towards her support as zero. Mrs Y had always previously been assessed as having to make no contribution.

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14. On 28 March 2018, the Council's policy committee considered a change to the charging policy and recommended it be approved. This followed a period of consultation from 6 November to 5 December 2017, and an extension on some elements to 22 January. The Council advises that 1,425 people responded of which 231 responded during the extended consultation. The changes included removing the option to assess a couple if this would be financially beneficial to the person. This meant the Council would only calculate a person's charge based on their own their own finances including 50% of any joint assets or liabilities.
  15. The following day, the Council wrote to advise people of the changes. It said the change to the way it charged would apply from April and said Mrs Y's contribution would now be £94.72 per week, due on 9 April. This meant it would reduce her direct payment by this amount. Council records note around 200 people were adversely affected by this change and were assessed to make increased contributions.
  16. Mrs Y did not see this advice until she returned from a break on 14 April.
  17. On 19 April, Mr X complained to the financial services team manager. He copied his complaint to the Chief Executive, the Corporate Director, the Head of service, the Head of complaints and the cabinet Member responsible for adult social care. He said there was no notice and no explanation of how Mrs Y should meet her costs as an employer with this significant reduction in the money she had available. He demanded a "full and detailed" response from each of those listed explaining "how everything has been forecast, calculated and assessed". He also asked for:
    - A detailed explanation of how and when the change was made and how it related to the previous situation.
    - The legal standing of the decision.
    - Which information it required as they did not recall a financial assessment.
    - What allowances could be made.
    - Why there had been no consultation, information or explanation about the change before it was implemented.
    - A meeting with Mrs Y's current, or newly allocated, social worker.
    - A meeting with the most senior officer responsible.
  18. The Council telephoned Mr X and Mrs Y on 24 April but they were not available. The following day it arranged a home visit. It also wrote to Mr X to advise that it had logged a formal complaint and passed it to the financial services team to investigate and review the financial assessment. It said the writer would be his central point of contact for his complaint.
  19. The Council visited Mrs Y and Mr X on 2 May and explained the changes. The officers gathered information and advised about DRE. They suggested Mr X provide further information about this. The officers updated the assessment based on the information given and increased the contribution to £118.18 per week. The officers asked whether the Council would waive Mrs Y's contribution for up to six months and whether it could increase her DRE allowance. Mr X asked for more information and the Council responded promptly with more details.
  20. On 29 May, Mr X contacted the Council as he had not heard anything more and wanted to query the direct payment amount which had reduced significantly. This

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was because Mrs Y's contribution had been deducted before payment which is the usual procedure.

21. On 22 June, the Council wrote to Mrs Y to advise the outcome of the review completed at the visit. It had now assessed her contribution as £132.28 per week.
22. On 27 June, Mr X wrote saying he and Mrs Y were "exasperated". He said it seemed the more questions they asked, the more the Council charged Mrs Y. He said this would cause Mrs Y considerable financial hardship and asked for answers to the questions he had asked. These were about:
  - the algorithm it had used to calculate how much money it needed to provide the ten hours of care.
  - how much income she could keep, and the rationale behind this.
  - what had changed since the Care Act implementation.
  - how to appeal the decision.
  - what might happen if circumstances changed.
23. On 6 July, the Council responded. It explained:
  - it had based the financial assessment on Mrs Y's income not Mr X's.
  - if circumstances changed, it would update the financial assessment and reassess Mrs Y's needs if necessary.
  - the Council decided not to implement the change at the time the Care Act was implemented and this was why Mrs Y had continued with no contribution.
  - the initial letter was based on out of date information so the calculation changed once they had up to date information.
  - there had been a consultation in November 2017.
  - if Mr X wanted to appeal the decision he should contact the complaints team.
  - it had looked at the household income and decided the contribution should not cause hardship. It asked for details of Mr Y's earnings for the last two years so it could reconsider.
  - it had disregarded the full council tax amount instead of 50% when it calculated the contribution of £118.18. Changing this to 50% caused the increase to £132.28 per week. The Council agreed to postpone this increase until 23 July 2018.
24. On 19 July 2018, a community care officer from the Council reviewed Mrs Y's care and support. The review noted changes and how her needs were being met. For example, it said her speech had deteriorated but that her carers had been with her a long time and could understand her well. The reviewer noted that if Mr X's working hours change in the future, "there would be an expectation that he would provide a little bit more support". It said Mrs Y might only need support for six hours a day, five days a week. This "little bit more support" would mean 20 more hours a week provided by Mr X.
25. On 1 November, the Council wrote to advise of a further change to the way it calculated contributions to care. This reduced the amount people could keep for daily living costs and increased the amount of benefits it could include in the calculation. Mrs Y's contribution increased to £198.13 per week from 12 November.

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26. On 10 November, the Council agreed to delay phase the implementation of these most recent changes to give people time to adjust. The policy was to be implemented in April 2019 and the changes introduced in two stages in April 2019 and November 2019. It agreed to ensure people had at least six weeks' notice of the new contribution.
  27. On 16 November, Mr X wrote to the Council again. He said he had not received a full response to his previous complaint and asked that the six people he had addressed it to, respond. He also asked for a copy of the financial assessment before April 2018 and copy of the most recent "social worker report". He also asked for information about the care assessment completed in July. He said they had not yet received anything about this. He asked for a comprehensive review of Mrs Y's needs by a social worker as her condition had "deteriorated dramatically" since the Council had awarded her ten hours a day.
  28. On 17 December, the Council wrote to advise that the changes would not be implemented until April and November 2019. Mrs Y's contribution reverted to £132.28 and the Council said she would be reimbursed.
  29. On 19 December, the team manager for the adult care financial services wrote to Mr X. She apologised that she hadn't responded previously but had thought the visit had addressed this. She explained the changes to the Council policy on charging and the reason why Mrs Y had not paid a contribution previously. She also set out detailed calculations of Mrs Y's contribution from April 2018 and from April 2019. She enclosed the financial assessment from April 2017.
  30. Mr X remained unhappy with this response and said the Council had not addressed the impact on them personally. He said it had not addressed his questions about hardship, how this is calculated, and how they could afford to find £10,000 per year like this.
  31. Officers from the Council met with Mr X to discuss his complaint on 23 January 2019; he handed officers a letter setting out his complaint.
  32. On 30 January, the Council wrote to Mrs Y and advised it had found no change in the support needed which would remain at 50 hours per week. Mr X would also get three hours per month respite.
  33. On 20 February, the Service Director wrote to Mr X about his complaint addressing each of his points.

**Was there fault which caused injustice?**

34. The Council was at fault for giving no notice of a significant change to Mrs Y's contribution in April 2018. The Council's was still considering its decision to change the policy less than two weeks before the first contribution was due. It should have been clear it could not implement this in time. It later decided that six weeks was a suitable notice period, but it did not allow this for the change applied in April 2018. I have concluded it should have allowed at least six weeks' notice and therefore should reimburse Mrs Y with the first six weeks contribution.
35. Having had such unwelcome news in April, the Council then advised Mrs Y of another significant increase in November, without notice. This was fault but fortunately, on this occasion, it swiftly reconsidered, deferred the increase and reimbursed Mrs Y. However, she had already been caused significant and avoidable stress and anxiety by the letter advising this was to happen without notice.



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36. The impact of these changes were significant in Mrs Y's case, but the Council was not at fault in the changes it made, only in the lack of notice. It was also at fault in firstly calculating Mrs Y's contribution based on out of date information, and secondly in allowing the full amount of council tax, not 50%. This added more significant and avoidable uncertainty, stress and anxiety for Mrs Y and Mr X.
37. The Council also considered whether the revised contribution would cause the household financial hardship and it decided that it would not. This is a discretionary decision. Although I could not say the Council was at fault here, it should consider whether it is appropriate to consider the household finances when the contribution is calculated on individual finances. It should also provide Mr X with information about how it considers hardship.
38. The Council did review Mrs Y's support in July 2018. I saw no evidence this was delayed and found the review considered the necessary information. However, I found the comment about reducing Mrs Y's support was unhelpful and somewhat threatening. This is not how support is decided and I found the Council at fault in this. The Council was also at fault for not sending a copy of the review document; it must do this as soon as it is completed.
39. Mr X's complaint was about the financial assessment. Although he asked to meet the social worker in his first complaint, the Council had no reason to consider this would be helpful. He did not say Mrs Y's needs had changed or that the support was not meeting her needs. The Council was justified in believing a meeting with officers from the finance team and a fresh assessment was the appropriate response to his complaint.
40. Mr X copied his complaint to the Chief Executive, the Corporate Director, the Head of service, the Head of complaints and the cabinet Member responsible for adult social care. Although he was understandably distressed by the circumstances, I do not consider it was necessary for all these people to be involved in dealing with his complaint. They were aware of the complaint and could follow up internally to ensure it had been dealt with. They did not need to each respond to Mr X and the Council had provided a single point of contact which is good practice. The Council did, for the most part, provide the relevant information but Mr X was expecting a response it could not give.
41. However, the Council should have provided a comprehensive written response sooner than it did. Although it had responded in writing to some degree in July and December 2018, it did not address all the issues and Mr X remained dissatisfied. The Service Director's response in February 2019 was the first comprehensive written response which clearly dealt with each point he had raised. The Council was therefore, to some degree, at fault in the way it dealt with Mr X's complaint and this added to the uncertainty, stress and anxiety.

### **Agreed action**

42. To remedy the injustice identified above, I recommended the Council:
- Apologise in writing to Mrs Y and Mr X, noting the fault identified above and detailing the actions it has taken, or will take, to prevent similar problems in future.
  - Reimburse Mrs Y with the first six weeks' contributions from April 2018.
  - Pay Mr X and Mrs Y £250 each for the uncertainty, distress and anxiety it caused.



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- Ensure it gives enough notice of changes to contributions in future.
  - Explain to Mr X and Mrs Y how it decides hardship.
  - Consider whether it should have included Mr X's finances when deciding hardship given Mrs Y is the person receiving services and the contribution is based only on her finances.
  - Complete these actions within two months of the final decision and submit evidence of this to the Ombudsman. Suitable evidence might include:
    - a) A copy of the letter of apology which will include information around how it decides hardship, the action it will take, and the reconsideration of hardship for Mrs Y.
    - b) Confirmation of the reimbursement and payments.

43. The Council has agreed to complete these actions.

### **Final decision**

44. I have completed my investigation and upheld Mr X's complaint that the Council:

- Unexpectedly, and without explanation, increased the charge for Mrs Y's care from zero to £94 per week, and then to £198.13 per week within six months.
- Dealt poorly with their complaint.

45. I have not upheld Mr X's complaint that the Council failed to complete a review of Mrs Y's care.

### **Investigator's decision on behalf of the Ombudsman**

## **The Ombudsman's final decision**

Summary: The Ombudsman will not investigate Mrs X's complaint about the state of the pavement near her home. This is because it is a highway maintenance matter which the courts are better placed to deal with.

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## **The complaint**

1. The complainant, Mrs X, complains lorries are driving over the pavement to reach the site of a new development and causing damage to the surface. Mrs X is concerned the pavement is a trip hazard and that the Council has not carried out proper inspections.

## **The Ombudsman's role and powers**

2. The law says we cannot normally investigate a complaint when someone could take the matter to court. However, we may decide to investigate if we consider it would be unreasonable to expect the person to go to court. (*Local Government Act 1974, section 26(6)(c), as amended*)

## **How I considered this complaint**

3. I reviewed Mrs X's complaint and the Council's final response. I shared my draft decision with Mrs X and invited her comments.

## **What I found**

4. Mrs X contacted the Council to report lorries crossing the pavement to access a new development near her home. The Council investigated but decided the issue resulted from issues with the driver(s) error and would resolve itself. Mrs X is not satisfied with its investigation and is concerned about damage to the pavement. She is concerned it has become a trip hazard and that the Council has not carried out proper health and safety checks to determine whether repairs are necessary.
5. The Ombudsman will not investigate this complaint. The Council's role as highway authority is to ensure the highway, including any publicly-maintainable roads and pavements, do not fall into disrepair. The Highways Act 1980 is not prescriptive about the measures a council must take or how and when the council must inspect the highway for defects.
6. The issue in this case is Mrs X's concern that members of the public may trip over the damaged pavement and fall, causing injury. But if Mrs X is concerned the pavement has fallen into disrepair and that the Council's inspections are not

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adequate as it has decided not to carry out repairs, she may take the matter to court. The procedure for this is set out at Section 56 of the Highways Act 1980 and it does not require legal representation. Mrs X would first need to serve notice on the Council and, if it accepts it is liable to maintain the road but does not act, Mrs X may apply to the court for an order requiring the Council to carry out repairs. The courts are better placed to determine whether the Council has fulfilled its duty to maintain the highway as we cannot interpret the law to say the Council should do more.

### **Final decision**

7. The Ombudsman will not investigate this complaint. This is because Mrs X's claimed injustice relates to the state of the public highway and it would be reasonable for her to raise this at court.

### **Investigator's decision on behalf of the Ombudsman**

## **The Ombudsman's draft decision**

Summary: The Ombudsman will not investigate Miss A's complaint that the Council has failed to disclose files relating to her involvement with Children's Services. This is because she may bring her concerns about the Council's response to her Subject Access Request to the attention of the Information Commissioner.

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## **The complaint**

1. The complainant, who I will refer to as Miss A, complains that the Council has failed to disclose files relating to her involvement with Children's Services.

## **The Ombudsman's role and powers**

2. We investigate complaints about 'maladministration' and 'service failure'. In this statement, I have used the word 'fault' to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. I refer to this as 'injustice'. We provide a free service, but must use public money carefully. We may decide not to start or continue with an investigation if we believe there is another body better placed to consider this complaint. (*Local Government Act 1974, section 24A(6), as amended*)
3. We normally expect someone to refer the matter to the Information Commissioner if they have a complaint about data protection. However, we may decide to investigate if we think there are good reasons. (*Local Government Act 1974, section 24A(6), as amended*)

## **How I considered this complaint**

4. I have considered what Miss A has said in support of her complaint.

## **What I found**

5. Miss A made a Subject Access Request to the Council. She says she and her son had contact with Children's Services in 2003 and 2004, and she wants to see the files from that period.
6. The Council responded to the Subject Access Request by saying it does not hold the requested information. Miss A does not accept the Council's response and wants the files retrieved.
7. The Ombudsman will not investigate Miss A's complaint. If Miss A is unhappy with the Council's response to the Subject Access Request, she may bring her

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concerns to the attention of the Information Commissioner, who is better placed than the Ombudsman to consider such complaints.

### **Final decision**

8. The Ombudsman will not investigate this complaint. This is because it would be reasonable for Miss A to bring her concerns to the attention of the Information Commissioner.

### **Investigator's final decision on behalf of the Ombudsman**

## **The Ombudsman's final decision**

Summary: Ms D complains the Council decided to reduce her homecare package, even though her needs have not reduced. As such, Ms D says she no longer has the amount of support she needs. The Ombudsman did not find fault with the way the Council reached its decision.

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## **The complaint**

1. The complainant, whom I shall call Ms D, complained the Council decided to reduce her care package from 24 to 17 hours, even though her needs have not reduced and the contents of her most recent needs assessment/review was virtually unchanged from her previous one.
2. Ms D says the reduced support package will not be enough to meet her needs and the Council failed to explain:
  - How the 17 hours will be enough to meet her needs, and
  - Why it believes her needs can now be met by 7 hours less than before.

## **The Ombudsman's role and powers**

3. We investigate complaints about 'maladministration' and 'service failure'. In this statement, I have used the word 'fault' to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. I refer to this as 'injustice'. If there has been fault which has caused an injustice, we may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1), as amended*)
4. We cannot question whether a council's decision is right or wrong simply because the complainant disagrees with it. We must consider whether there was fault in the way the decision was reached. (*Local Government Act 1974, section 34(3), as amended*)
5. If we are satisfied with a council's actions or proposed actions, we can complete our investigation and issue a decision statement. (*Local Government Act 1974, section 30(1B) and 34H(i), as amended*)

## **How I considered this complaint**

6. I considered the information Ms D and the Council provided to me. I also interviewed two officers from the Council who have been involved in this case. I shared a copy of my draft decision statement with Ms D and the Council and considered any comments I received before I made my final decision.

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## What I found

7. Ms D's needs assessment said she has to pace herself each day, as relatively small activities can leave her very tired. Ms D has limited mobility and is unable to stand for long. Ms D has specific dietary needs, which means she has to eat fresh foods. She lives at home with her husband and three children, who are in their teens. Ms D does not have to pay a contribution towards her care package and receives DLA (Low Care and High mobility). Ms D uses this for buying dietary supplements; a vehicle loan and wheelchair maintenance. Ms D receives support from a personal assistant (PA) from Monday to Friday.
8. The Council told me it arranged a care review in October 2018, following an alert that more than £6,000 had accumulated in her direct payments account between February 2017 and March 2018. It said that this indicated that Ms D was not using all her available support hours.
9. However, Ms D told me this amount had accrued due to difficulties with recruiting and retaining staff, and had accumulated over a three-year period. She said she only accrued £1,682 during the above 12 months period and was using all the 24 hours of PA support in October 2018 when the assessment took place.
10. The care review included a review by an OT. The care review said, amongst others, that:
  - Personal care: A PA provides support to Ms D with personal care, bathing and dressing.
  - Domestic tasks: Ms D is unable to complete domestic tasks independently. Ms D's PA makes a packed lunch for the children in the evening and supports Ms D to cook the family meal at night. The PA helps Ms D with cleaning and Hoovering, and with laundry when she cannot do this herself. Her husband also does some laundry at weekends.
  - Accessing the community: Ms D does not go out alone as she does not feel safe crossing roads and managing any risks. As Ms D relies on others to accompany her, she can often feel very isolated, spending much of the time during the day on her own. If needed, Ms D will access the local shops with her PA to get fresh groceries. The PA also supports with (hospital) appointments for her and/or her children, if needed. The records indicate that Ms D often feels too tired to be able to attend local groups or activities in the community.
  - Being a Parent. *"I need support to look after my children 1 – 2 times a week"*. Assistance with parenting is provided through domestic assistance and community hours as available. One of her children has severe asthma and his bedroom and living areas have to be dusted and hoovered daily to prevent an attack.
  - Ms D's husband works full time and has his own health conditions. He returns around 6pm and Ms D said he is often exhausted by the time he returns home.
11. Following the care review in October 2018, the Council made the following changes to Ms D's support package:
  - Personal care: The Council has continued to allocate one hour each morning, for support with personal care.
  - Domestic support: The Council has reduced this from 45 minutes per day (3.75 hours a week) to one hour per week. The Council says that:

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1. The Care Act Guidance (6.106f) says (maintaining a habitable home): *“councils should consider whether the condition of the adult’s home is sufficiently clean and maintained to be safe”*. At times, the Council has provided more support with this as needed. It only needs to provide support to ensure the person is safe. This support is therefore to do a thorough clean of the bathroom and kitchen once a week to keep them to a habitable standard. Furthermore, PAs have to clean up as they carry out support with personal care etc.
  2. It is not unreasonable to expect the husband and the three teenage children to provide some support with keeping their own house clean, such as cleaning, hoovering and laundry.
  - Support with meal preparation:
    1. Ms D continues to receive 30 minutes support at lunch time, to prepare her lunch using fresh ingredients and provide some other assistance.
    2. The support plan used to include 1.5 hour/day support with family meal preparations. This has now been reduced to 30 minutes per day. The Council says that:
      - a. Thirty minutes is sufficient to assist Ms D with preparing dinner. If needed, Ms D’s husband will only need to serve the food when he returns from work.
      - b. The support plan will no longer include support with preparing a packed lunch. The Council believes that although Ms D says two of her children have issues with food, her children should be able to prepare their own school lunch with support from their parents. The Group Manager has also signposted Ms D to the Council’s Children’s Services, if she considered they need support in their own right. However, Ms D has turned down this offer.
    3. Access to the local community. This has changed from 45 minutes per day (3.75 hours per week) to 6 hours per week. This will include support with attending (medical) appointments for Ms D or her children. Mr D has said his wife is not entitled to free hospital transport.
  12. Furthermore, the Council has said that:
    - Ms D’s condition varies from day to day. She does not have to use her personal budget in the above manner; she can use it flexibly. For instance, Ms D could move her hours around if needed or could access the ‘meals at home’ service and use the 30 minutes saved to meet alternative needs.
    - Ms D can keep a six weeks surplus of her Direct Payments in her Direct Payment Account, should she need this for contingency hours.
    - With regards to all the needs put forward in relation to the children (asthma, eating disorder etc), the Council proposed a referral to children service so they can assess the children’s needs and identify any support they could provide to assist with the situation.
  13. Ms D is very unhappy with the seven hours reduction in her care plan. She says that:
    - Her needs have not reduced and the contents of the 2018 assessment was very similar to the one in 2017.



- Her husband is unable to provide an extra two hours a week of support to do domestic tasks. Her husband suffers from stress, anxiety, depression, Irritable Bowel Syndrome, and joint pain in his knees, back and shoulder. He works from 7am till 6pm and also provides care support to her when he is at home.
  - The Council has failed to appreciate that her children have their own health care needs and are therefore not capable of doing as many basic domestic tasks as healthy children of the same age.
  - She cannot prepare her children's school lunch, in the morning. Two of her children have issues/problems with regards to food and they are therefore unable to make their own lunches, while being supervised by her. As such, Ms D told the Council that she needs PA support with this aspect of her role as a parent.
14. The Council offered to carry out a carer assessment. However, Mr D initially turned down this offer. Since then, Mr D completed a carer assessment in May 2019, which resulted in a one of payment of £150. Furthermore: Mr D is eligible for respite care funding to offer him a break from his role as Ms D's carer, if he would want this. The assessment highlighted a request from Mr D to have support for his wife at the weekend, to enable him to leave the house and do more things with his children or for himself. As such, Mr D should explore this further with the Council, for instance a sitting service at the weekend.
15. The Council told me it aims to maximise the independence of its clients. As such, it referred Ms D to its Reablement Service to look at ways of promoting her independence in terms of accessing the community (for instance by bus), cooking and pacing herself. The service called Ms D in January 2019. However, Ms D said she did not feel the service was suitable for her:
- Ms D said she declined the offer, because she did not believe that she would be able to achieve more independence. She told me she participated in a rehabilitation course in 2014, which did not help her but increased her symptoms. She is already aware and uses equipment that can help her. Ms D also told me her physiotherapist said that *"her global pain and fatigue severely limit her ability to carry out household tasks"* and that she has *"limitations in her standing tolerance"*. Ms D said she discussed this with the reablement team, who agreed it would not be suitable for her.
  - However, the Council said at interview, that it does not have any record that said the reablement team agreed with Ms D's view. While it accepts that Ms D has limitations, they do not accept that 12 weeks of reablement support would not be able to identify areas, further equipment and ways of doing things that would have benefits for her.
16. The Council also offered a reassessment in February 2019. However, Ms D declined this because she was satisfied the assessment document accurately reflected her situation. She could therefore not see a reason to complete a further assessment.
17. The Council confirmed to me that, where there is a disagreement with clients about a reduction in care package, the Council will carry out a review after three to six weeks to assess how the reduced package is working.

### **Assessment**

18. This is a decision for the Council to take on the merits of the case. The Ombudsman cannot substitute his judgement on what would be right for what a

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council has decided. He must consider whether there was fault in the way the Council reached its decision. I found that the Council carried out an assessment that captured Ms D's needs. It considered the information and arguments Ms D provided, and used relevant guidance to come to a view as to how Ms D's eligible needs should be met.

19. As such, I found there was no fault in the way through which the Council made its decision. Without fault, I will not question the merits of that decision (see paragraph 4 above).
20. The Council has said it will review with Ms D how her revised care package is working.

### **Final decision**

21. For reasons explained above, I decided not to uphold Ms D's complaint.

### **Investigator's decision on behalf of the Ombudsman**

## **The Ombudsman's final decision**

Summary: Mrs X complained the Council's new policy on making contributions to the costs of home care is unfair and has caused her daughter financial hardship. There was no fault in the Council's actions.

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## **The complaint**

1. Mrs X complained the Council's new policy on making contributions to the costs of home care is unfair. In particular, she complained the Council was wrong to allow pensioners a greater weekly income than people under the pension age.
2. Mrs X also complained the Council's decision to approve the new policy was flawed.
3. Mrs X says the policy changes have caused her daughter financial hardship.

## **The Ombudsman's role and powers**

4. We investigate complaints of injustice caused by 'maladministration' and 'service failure'. I have used the word 'fault' to refer to these. We cannot question whether a council's decision is right or wrong simply because the complainant disagrees with it. We must consider whether there was fault in the way the decision was reached. (*Local Government Act 1974, section 34(3), as amended*)
5. If we are satisfied with a council's actions or proposed actions, we can complete our investigation and issue a decision statement. (*Local Government Act 1974, section 30(1B) and 34H(i), as amended*)

## **How I considered this complaint**

6. I spoke to Mrs X and considered her view of her complaint.
7. I made enquiries of the Council and considered the information it provided. This included Mrs X's daughter's financial assessments, the report to the Council's Policy Committee on how it calculated individual contributions to care and the complaints correspondence.
8. I wrote to Mrs X and the Council with my draft decision and considered their comments before I made my final decision.

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## What I found

### Legal background and Council policy

9. The Care Act 2014 is the overarching legislation which sets out what councils can charge people who have an assessed need for care.
10. The Care and Support Statutory Guidance sets out in detail how councils must apply the requirements of the Care Act.
11. Councils have discretion to choose whether or not to charge for non-residential services. Where a council decides to charge it must do so in line with the Care and Support (Charging and Assessment of Resources) Regulations and have regard to the Care and Support Statutory Guidance.
12. Where the council has decided to charge, it must carry out a financial assessment of what a person can afford to pay.
13. Councils can take most benefits into account including employment and support allowance (ESA), attendance allowance and some components of disability living allowance.
14. Councils may exercise discretion to disregard some sources of income even if the law says they are allowed to take them into account when calculating a person's contribution to their care.
15. Councils must ensure that a person's income is not reduced below a specified level after charges have been deducted. This is called the minimum income guarantee (MIG). The amounts are set out in the Care and Support (Charging and Assessment of Resources) Regulations. However, this is only a minimum and councils have discretion to set a higher level if they wish.
16. During the time period of this complaint the Council's weekly MIGs were higher than the national guidance figures and were as follows:
  - people aged 18 – 24 years old = £132.45;
  - people from 25 years to under pensionable age = £151.45; and
  - pensionable age and over = £189.

### The Council's Constitution

17. All councils have a constitution which sets out how they are governed and how decisions are made.
18. This Council's Constitution states the Policy Committee has responsibility for policy development and approval on all matters other than those that must be decided by a meeting of the full Council. This means the Policy Committee has the authority to approve changes to the Council's policy relating to how it calculates the contribution a person must make to the cost of their care.

### Background

19. Prior to November 2018, the Council's policy on calculating the contribution to a person's care included the following:
  - if a person received disability living allowance (around £85 a week), it disregarded £28.30 of this as income; and
  - all people, regardless of their age, had a MIG of £189.
20. In July 2018 the Council's Adult Social Care and Public Health Committee recommended proposals to change the Council's policy so that it would:

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- include the full amount of a person's disability living allowance as income; and
  - reduce the MIG for people under pension age to £170.23 from April 2019 with a further reduction to £151.45 from November 2019.
21. These changes were designed to bring the Council's policy more into line with national guidance.
  22. The Council held an eight week public consultation on the proposals.
  23. It sent letters about the consultation to all people who received adult social care from the Council. The Council also set up an online survey on its website and shared the link with relevant local groups and placed copies of the consultation in its libraries.
  24. The consultation finished at the end of September 2018. 1,425 people responded. The majority of people who responded were not in favour of the changes.
  25. On 8 October, the Adult Social Care and Public Health Committee considered the results of the consultation. It recommended the Council's Policy Committee approve its recommendation that the Council introduce the new proposals.
  26. Later in October 2018, the Adult Social Care and Public Health Committee brought its report and recommendation to the Council's Policy Committee.
  27. The report included details of the proposals, the reasons for introducing them, the consultation and its results, comments made by consultees, the number of people affected and the increased contributions some would have to pay.
  28. The Policy Committee recommended the proposals were adopted by the Council.
  29. In February 2019, the Policy Committee considered the matter further and gave its approval to implement the changes in two stages:
    - from April 2019, a partial decrease in the MIG would be introduced so that people between the ages of 18 and pensionable age would have a MIG of £170.23; and
    - from November 2019, people between 18 and pensionable age would have a MIG of £151.45.

### **What happened**

30. Mrs X's daughter, Ms D, is in her 50s and is disabled. She receives care at home.
31. Ms D receives ESA and disability living allowance.
32. Prior to the introduction of the new policy changes, the Council's financial assessment of Ms D showed it classed all of her ESA and £28.30 of her disability living allowance as income. It allowed her a MIG of £189. As a result, Ms D contributed £39.75 a week towards the costs of her care.
33. Following the implementation of the new proposals, the Council's financial assessment of Ms D showed her contributions increased to £91.72 a week. This was because the Council classed the full amount of her disability living allowance as income and decreased her MIG to £170.23.
34. Mrs X was unhappy with these changes and in March 2019 she complained to the Council. She said it was unfair that pensioners were allowed a MIG of £189 when the MIG for younger people was lower than this. Mrs X said this was particularly unfair for Ms D as she would not live to pensionable age.
35. The Council responded at the end of March 2019. It said that it would not consider her complaint under its corporate complaints policy because it had no

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power to overturn the Policy Committee's decision to introduce the changes. The Council explained the consultation process it had carried out. It recommended Ms D complete an income and expenditure form so the Council could carry out another review of her finances to ensure her contribution was correct.

36. Mrs X remained unhappy and complained to the Ombudsman.

### **My findings**

37. The Ombudsman is not an appeal body. We cannot review the merits of a council policy nor propose a change or amendment to it when it complies with national guidance and any policy changes were made without fault.
38. The Council followed the correct procedures when it made changes to its policy. The consultation was not a binding referendum and the Council had no duty to act in line with the majority who opposed the changes. The relevant Council committee submitted a report which contained appropriate information to the Policy Committee for its consideration and subsequent approval. This was in line with the Council's Constitution. And the proposals are in line with the national Regulations. There was no fault in the Council's actions.
39. The result of these changes is that Ms D must now contribute more towards the cost of her care. However, there is no fault in the way the Council has assessed her finances and calculated her contribution.
40. Mrs X says it is unfair that people under pensionable age have a lower MIG than people who receive a pension. However, this is what the law says and the Ombudsman has no power to intervene. Therefore, I will not investigate this matter further.

### **Final decision**

41. There was no fault in the Council's actions. Therefore, I have completed my investigation.

### **Investigator's decision on behalf of the Ombudsman**

## **The Ombudsman's final decision**

Summary: The Ombudsman will not investigate this complaint that the Council will not remove a tree from outside the complainant's home. It is unlikely he would find evidence of fault by the Council.

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## **The complaint**

1. The complainant, who I refer to here as Mr B, has complained about debris falling from a Council-owned tree in front of his house. He believes the Council should remove it as the debris gets into his house and it makes his car dirty.

## **The Ombudsman's role and powers**

2. We investigate complaints about 'maladministration' and 'service failure'. In this statement, I have used the word 'fault' to refer to these. We provide a free service but must use public money carefully. We may decide not to start an investigation if, for example, we believe it is unlikely we would find fault. (*Local Government Act 1974, section 24A(6), as amended*)

## **How I considered this complaint**

3. I have considered what Mr B said in his complaint and the Council's replies to him.

## **What I found**

4. The Council has no legal liability to clear leaves, flowers or pollen etc falling from a tree; that responsibility lies with the owner of the land on which they fall.
5. The Council's policy is to not to remove a healthy tree to mitigate the effect of leaves etc falling from it.
6. The Council has inspected the tree outside Mr B's home and considers it is healthy. It has explained to Mr B it will not remove the tree as this would be against its policy.

## **Final decision**

7. I have decided we will not investigate this complaint because we are unlikely to find evidence of fault by the Council.

## **Investigator's decision on behalf of the Ombudsman**

## **The Ombudsman's final decision**

Summary: Mr B complains the Council did not tell him about care charges when his mother entered a care home and wrongly charged him for her stay. The Ombudsman found fault with the Council causing injustice. The Council failed to provide important information and took too long to carry out a financial assessment. The Council has agreed to take action to remedy the injustice caused.

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## **The complaint**

1. Mr B complains the Council did not tell him about care charges when his mother entered a care home and wrongly charged him for her stay. I have referred to Mr B's mother as Mrs C.

## **The Ombudsman's role and powers**

2. We investigate complaints about 'maladministration' and 'service failure'. In this statement, I have used the word fault to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. I refer to this as 'injustice'. If there has been fault which has caused an injustice, we may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1), as amended*)
3. Under our information sharing agreement, we will share this decision with the Care Quality Commission (CQC).

## **How I considered this complaint**

4. I considered:
  - Mr B's complaint and the information he provided;
  - documents supplied by the Council;
  - relevant legislation and guidelines; and
  - the Council's policies and procedures.
- The Council and Mr B comments on a draft decision.



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## What I found

### Legislation and statutory guidance

5. The Care Act 2014 provides a single legal framework for adult care and support; it is accompanied by statutory guidance.

### Charging

6. Where a council is meeting needs by arranging a care home, it is responsible for contracting with the provider. It is responsible for making sure the provider's invoices are paid.
7. Usually, the council must recover the full cost of providing residential care to a person with enough capital. People in residential care must contribute all their income less the personal expenses allowance (*Charging and Assessment of Resources Regulations 2014*).
8. A council must regularly reassess a person's ability to meet the cost of any charges to take account of any changes to their resources. This should take place if there is a change in circumstance (such as a person entering residential care) or at the request of the person.
9. Care and support planning will identify how best to meet a person's needs. As part of that, the council must provide the person with a personal budget, except in cases or circumstances set out in the Care Act (Personal Budget) Regulations.
10. The personal budget gives everyone clear information about the costs of their care and support, and the amount the council will pay. This will help people to make more informed decisions.
11. The Council should identify a personal budget in a timely manner, proportionate to the needs to be met. The Council should tell the person where they are in the care planning process, what will happen next and the likely time frames.

### Debt recovery

12. Councils should clearly discuss with the person or their representative at the outset that care and support is a chargeable service and where the person has been assessed as being able to afford to do so, they will be required to contribute to the cost of that care. It should also be explained that this means there will be invoices and that an agreement should be reached as to whom the invoices are sent, and if the person wishes, that their agreement and authority is obtained for the use of an agent.

### NHS Funding

13. A decision support tool (DST) is used in continuing health care funding decisions. It is a document which records evidence of an individual's care needs to determine if they qualify for continuing healthcare funding.
14. NHS continuing healthcare (CHC) is a package of care arranged and funded solely by the NHS for individuals who are not in hospital and have been assessed as having a "primary health need".
15. NHS funded nursing (FNC) care is a contribution from the NHS to meet the nursing element of a person's care if their needs are such they must be met in a nursing home, but do not trigger full NHS funding.

### What happened

16. This chronology includes key events in this case and does not cover everything that happened.

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17. In January 2018, Mr B's mother, Mrs C, moved into care home 1.
  18. A week later, Mrs C was admitted to hospital. The Council stopped the funding for care home 1. It closed Mrs C's case because it did not know when she would be discharged from hospital. The Council told the hospital to tell it when Mrs C would be discharged so a care and support assessment could be undertaken and funding agreed.
  19. Mrs C was ready for discharge from hospital at the end of January 2018. The hospital arranged for Mrs C to return to care home 1 but did not tell the Council.
  20. Two days after Mrs C returned to care home 1, the care home phoned the Council and said it had readmitted Mrs C. The Council told the care home a new care and support assessment should have been undertaken before Mrs C was discharged from hospital. The Council updated Mrs C's care and support plan and said it would commission short-term care for Mrs C at care home 1.
  21. In February 2018, the Council carried out a care and support assessment. The assessment recommended Mrs C was provided with long-term care at a home with nursing and care provision. Mrs C said she would like to move to care home 2.
  22. The Council completed a CHC checklist and asked for a DST meeting.
  23. Care home 1 sent Mr B an invoice for £6,000. This was the total cost of Mrs C's care. The care home told Mr B if he did not pay, he would incur interest. Mr B said the Council was liable for the debt. The care home advised him to pay the fees and claim them back from the Council. Mr B paid almost £1,000. Mr B asked the Council to pay the balance of the invoice and repay him the money he had paid.
  24. The Council wrote to the hospital. The Council explained the hospital should have sent an assessment notification when Mrs C was ready for discharge. The Council said it did not assess Mrs C or agree to her being placed at care home 1. The Council told the hospital it accepted no liability for the debt.
  25. The Council wrote to care home 1 and said it should not have accepted Mrs C without a funding agreement. Care home 1 asked the Council to assess Mrs C for funding retrospectively. The Council said it could not apply for funding to cover the period of the invoice sent to Mr B. This was because social care had not placed Mrs C at care home 1.
  26. In March 2018, a DST meeting was held, and Mrs C was considered eligible for FNC funding.
  27. In April 2018, Mrs C moved to care home 2 to receive nursing care provision. The Council updated Mrs C's care and support plan.
  28. The Council arranged to visit Mrs C to carry out a financial assessment in June 2018. This assessment was for the period February to April 2018. Mr B told the Council Mrs C had been admitted to hospital and the planned visit could not go ahead. Mrs C passed away in June 2018.
  29. The Council carried out a benefit check for Mrs C and used a financial assessment completed in March 2017 to assess the amount she needed to contribute to her care costs between February and April 2018. In June 2018, the Council wrote to Mr B to tell him his mother's contribution to her care was £144 a week. But in the financial assessment the Council used the wrong income values and care home costs.

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30. In August 2018, the Council told Mr B it would pay care home 1's fees and invoice him for Mrs C's assessed contribution. It said care home 1 would refund him the money he had paid. Mr B agreed to pay Mrs C's assessed contribution for care home 1 as he had for care home 2.
31. In September 2018, the Council wrote to Mr B with a recalculation of Mrs C's contribution to her care; this was £125 a week.
32. Care home 1 refunded the money Mr B had paid.
33. In October 2018, the Council sent Mr B an invoice for £1200. The Council explained this invoice was Mrs C's assessed contribution towards her care from February 2018 to April 2018. The Council said this period was short-term care while it completed assessments and considered to long-term care options for Mrs C.

### **Analysis**

34. I have not found any evidence the Council gave Mr B or Mrs C information about her residential care status either orally or in writing. There is no evidence the Council told Mr B or Mrs C that her stay in care home 1 was short-term or that depending on the result of a financial assessment, Mrs C would have to contribute to the cost of her care. This is fault.
35. I have also found no evidence the Council gave Mr B or Mrs C information about her personal budget for her residential placement at either care home 1 or care home 2. This is fault.
36. The Council says it gave financial information orally to Mr B and Mrs C. But the Council did not record this in its case notes, which is fault. Even if the Council did provide information orally, it is not reasonable to expect Mr B and Mrs C to remember what they were told as it was a stressful time. The Council should have provided information in writing and not doing so is fault.
37. Financial assessments do not have to take place before a person receives care. If they did, people would be waiting for care – pending the assessment. But the Council took six months to carry out a financial assessment. This is too long and is fault. The fault was compounded by the Council not having properly advised Mr B or Mrs C at the start of the process about contributing to the cost of care. As I set out in paragraph 29, when the Council finally calculated Mrs C's contribution to the cost of her care, its calculations were wrong.
38. The Council also initially refused to pay Mrs C's care home costs from the end of January to April 2018. Although the Council argued the hospital should have told it Mrs C was going to be discharged, it was only two days before care home 1 told the Council Mrs C had returned. At this point, the Council should have undertaken an assessment, arranged suitable care, and arranged funding for Mrs C. Instead, it took the Council six months to resolve the issue during which Mr B was liable for all of care home 1's cost. This is fault.
39. The faults identified caused Mr B injustice. There was uncertainty about the amount Mrs C owed in care costs and the Council initially refusal to contribute to her care costs between January and April 2018, causing avoidable distress.

### **Agreed action**

40. Within one month the Council will:

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- Apologise to Mr B and pay him £300 for the distress and uncertainty caused by the Council's faults.
41. And, provide guidance to the Older Adults Community Assessment Team about:
- what to record in their case records;
  - providing fees and charging information to families during the assessment process; and
  - aiming to complete a full financial assessment within 28 working days.
42. The Council should provide the Ombudsman with evidence that the above recommendations have been completed.

### **Final decision**

43. I have completed my investigation and uphold Mr B's complaint. Mr B has been caused an injustice by the actions of the Council. The Council has agreed to take action to remedy that injustice.

### **Investigator's final decision on behalf of the Ombudsman**

## **The Ombudsman's final decision**

Summary: On behalf of Mr B, Ms X complains about the amount of money the Council leaves Mr B to live on given his weekly expenses due to his disability. The Ombudsman will not investigate the complaint because there is no evidence of fault by the Council and an investigation by the Ombudsman would not lead to a different outcome.

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## **The complaint**

1. Ms X complains on behalf of her son, Mr B, that the Council's assessment of Mr B's level of contribution towards his care costs does not properly take into account his expenses and leaves him with insufficient funds.

## **The Ombudsman's role and powers**

2. We investigate complaints about 'maladministration' and 'service failure'. In this statement, I have used the word 'fault' to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. I refer to this as 'injustice'. We provide a free service but must use public money carefully. We may decide not to start or continue with an investigation if we believe:
  - it is unlikely we would find fault, or
  - it is unlikely we could add to any previous investigation by the Council, or
  - it is unlikely further investigation will lead to a different outcome, or
  - we cannot achieve the outcome someone wants. (*Local Government Act 1974, section 24A(6), as amended*)

## **How I considered this complaint**

3. In considering the complaint I reviewed the information Ms X provided, including the Council's letter sent following its review of Mr B's income and expenditure. I gave Ms X the opportunity to comment on my draft decision and considered the comments provided.

## **What I found**

4. Mr B is disabled and receives benefits. His income is taken into account by the Council in determining his contribution to the care package he receives.

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5. In deciding what a person's contribution will be, councils must ensure that a person's income is not reduced below a specified level after charges have been deducted. This is called the Minimum Income Guarantee (MIG). The amounts are set out by national government in the Care and Support (Charging and Assessment of Resources) Regulations but they are a minimum and councils have discretion to set a higher level if they wish.
  6. Previously the Council had set higher MIG figures than the national guidance figures. However, in 2018 it decided to change its policy which brought it more in line with the national guidance and other local councils and this has resulted in an increase in the contributions people receiving care have to pay.
  7. Mr B's contribution increased because of the change in the Council's policy. Ms X complained to the Council because she felt he had not been left with sufficient funds. The Council carried out a review of Mr B's income and expenditure but concluded that in its view Mr B has sufficient income to be able to pay the new contribution amount. It explained to Ms X that its complaints procedure could not override or change a policy decision made by Council Committee.

## **Assessment**

8. As a result of the Council's change in policy, Mr B must now contribute more towards the cost of his care than he did before. However, while Ms X is concerned about the lower amount of money he now has to live on, there is no evidence of fault in the way the Council has assessed his finances and calculated his contribution.
9. Ms X says Mr B has higher expenses, like electricity, because he lives alone and does not share his accommodation. However, the income and expenditure form asks for the figure that Mr B actually pays so living alone would not affect this figure. Ms X also said that Mr B now has life assurance premiums to pay. This cost had been noted as "not applicable" on the form but if the situation has now changed Ms X should inform the Council of this, and any other new expenses Mr B has.

## **Final decision**

10. The Ombudsman will not investigate this complaint. This is because there is no evidence of fault by the Council and an investigation by the Ombudsman would not lead to a different outcome.

## **Investigator's decision on behalf of the Ombudsman**

## **The Ombudsman's final decision**

Summary: Mrs C says the Council delayed in assessing her husband's care needs, underestimated the severity of those needs and failed to provide him with suitable accommodation. She also says officers have been rude and unprofessional. She says this has caused her and her husband distress. There is insufficient evidence to decide on officers' behaviour. The Council assessed Mr C as eligible for care without undue delay and found him suitable, though temporary accommodation. However, thereafter, it delayed in providing Mr C with a typed-up version of a completed needs assessment. This was fault which caused Mr and Mrs C some distress. The council has agreed to pay them £100 each and apologise.

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## **The complaint**

1. The complainant, Mr C, is represented by his wife, Mrs C. She says the Council was at fault for:
  - a) failures in assessment and provision of care:
    1. A failure to take action to safeguard Mrs C from Mr C;
    2. Delay in assessing Mr C's eligibility for care;
    3. Errors in the assessment of Mr C's eligibility for care;
    4. Delay in providing Mr C with a suitable care placement;
    5. Delay in carrying out a full needs assessment; and
  - b) Failures of professional standards by social workers:
    1. Abusive treatment by an officer during a residential care assessment;
    2. Excluding Mrs C from a meeting in November 2018 during which inappropriate pressure was put on Mr C to divorce Mrs C;
    3. Putting inappropriate pressure on Mr and Mrs C to accept accommodation for Mr C at one facility which would have made it less likely he would get a place at another facility.



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## The Ombudsman's role and powers

2. We investigate complaints of injustice caused by 'maladministration' and 'service failure'. I have used the word 'fault' to refer to these. We cannot question whether a council's decision is right or wrong simply because the complainant disagrees with it. We must consider whether there was fault in the way the decision was reached. (*Local Government Act 1974, section 34(3), as amended*)
3. We must also consider whether any fault has had an adverse impact on the person making the complaint. I refer to this as 'injustice'. If there has been fault which has caused an injustice, we may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1), as amended*)
4. If we are satisfied with a council's actions or proposed actions, we can complete our investigation and issue a decision statement. (*Local Government Act 1974, section 30(1B) and 34H(i), as amended*)

## How I considered this complaint

5. I spoke to Mrs C. I considered the documents that she sent to the Ombudsman. I wrote an enquiry letter to the Council. I considered all the documents I received from Mrs C and the Council, weighing the evidence and applied the appropriate legal framework before reaching my decision.
6. I sent my draft decision to Mrs C and the Council and invited their comments.

## What I found

### What should happen

#### Care Act

7. The Care Act 2014 introduced a requirement for local authorities to promote 'wellbeing'. This '*signifies a shift from existing duties on local authorities to provide particular services, to the concept of 'meeting needs'.... The concept of meeting needs recognises that everyone's needs are different and personal to them. Local authorities must consider how to meet each person's specific needs rather than simply considering what service they will fit into*'. (*Care and Support Statutory Guidance, Ch 1*)
8. Councils must also consider the importance of preventing or delaying the development of needs for care and support among carers. Statutory guidance recommends 'tertiary prevention' methods such as respite care. (*Care and Support Statutory Guidance 2.10*)

#### Needs assessment

9. A council must carry out an assessment of any adult who seems to need care and support. It must also involve the individual and where appropriate their carer or any other person they might want involved. (*Care Act 2014, section 9*)
10. Having identified eligible needs through a needs assessment, the Council has a duty to meet those needs. (*Care Act 2014, section 18*)
11. The Care Act sets out examples of different ways a council can meet eligible needs. Examples include accommodation in a care home, care and support at home, counselling and social work, and information, advice and advocacy. (*Care Act 2014, s 8*)



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12. If a council decides a person is eligible for care, it must prepare a care and support plan. This must set out the needs identified in the assessment. It must say whether, and to what extent, the needs meet the eligibility criteria. It must specify the needs the council intends to meet and how it intends to meet them. (Care Act 2014, ss 24 and 25)
  13. A council should revise a care and support plan where circumstances have changed in a way that affects the care and support plan needs. Where there is a proposal to change how to meet eligible needs, a council should take all reasonable steps to reach agreement with the adult concerned about how to meet those needs. (Care Act 2014, s27(4) and (5))
  14. The care and support plan must set out a personal budget which specifies the cost to the local authority of meeting eligible needs, the amount a person must contribute and the amount the council must contribute. (Care Act 2014, s 26)
  15. The High Court has confirmed an individual's wishes are not the same as their needs and their wishes are not the paramount consideration. A council must have 'due regard' to an adult's wishes as a starting point, but social workers are entitled to exercise their professional skills and judgement in deciding how to meet eligible needs. (R (Davey) v Oxfordshire County Council [2017] EWHC 354 (Admin))
  16. A person with eligible care needs can have a council arrange their care. Or, if they wish, they can arrange their own using a direct payment. (Care Act 2014, s 31)

### **Carers**

17. A council must consider whether to carry out a carer's assessment if it appears the carer has need for support. It must assess the carer's ability and willingness to continue in the caring role. It must also consider the results the carer wishes to achieve in daily life and whether support could contribute to achieving those results (Care Act 2014, s10)
18. The Act says the local authority can meet the carer's needs by providing a service directly. In these cases, the carer must still receive a support plan which covers their needs, and how they will be met. (Care Act 2014, s 25)
19. The Council can also provide a carer's personal budget, which must be sufficient to enable the carer to continue to fulfil their caring role. The Council should consider the carer's wishes for their day-to-day life. The Council should try to agree the personal budget and its use during the planning process. (Care and Support Statutory Guidance 2014)
20. Councils are entitled to recoup the costs of care, or a proportion of those costs, from those who can afford to pay. Before doing so, they must carry out a financial assessment of service users. If a service user fails to complete the financial assessment, they will be charged the full rate.

### **Safeguarding**

21. The Care Act 2014 requires councils to protect those who:
  - Have care and support needs
  - are experiencing or are at risk of abuse or neglect and
  - because of their care and support needs cannot protect themselves against actual or potential abuse or neglect.
22. On receiving a safeguarding notification, councils should consider how to respond. There is no requirement to formally investigate every allegation.

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### **Mental Capacity Act**

24. The Mental Capacity Act 2005 governs the assessment of adults' capacity to make decisions. The Act is based on five underlying principles:
- a) A presumption of capacity: every adult must be assumed to have capacity to make decisions unless proven otherwise;
  - b) Individuals must be supported in making their own decisions;
  - c) Even if an individual makes unwise decisions, that might be considered unwise or eccentric, this does not mean they lack capacity;
  - d) Anything done on behalf of someone who lacks capacity must be in their best interests; and
  - e) When making decisions on behalf of someone who lacks capacity, the least restrictive option is preferable.

### **Responsibility for housing in the Council's area**

25. The Council as a county council, has responsibility for adult social care but does not have responsibility for housing which rests with the district authorities which make up the county. The Council did not have its own housing stock and was, to some extent, reliant on the district council.

### **Background**

26. Mr C is in his early sixties. He has Parkinson's Disease. This affects his mobility, cognitive ability and judgment. It makes him prone to making rash decisions and to inappropriate, impulsive behaviour, which Mrs C found distressing. Their relationship was under considerable stress.
27. Mr and Mrs C had assets and were therefore liable to pay for, or pay a contribution towards, any residential care Mr C received. When the Council sent them financial assessment forms, they did not return them.
28. There was an incident in early April 2018 at Mr and Mrs C's home after which Mrs C called the police. Soon thereafter, she approached the Council and asked it to safeguard her and to find a residential care placement for Mr C.

### **April 2018**

29. The Council arranged for Officer O, a social worker, to conduct Mr C's case. He made enquiries of medical professionals and others with knowledge of Mr C's condition but had difficulties in making contact with Mr C's consultant, Dr D. These problems may have been exacerbated by the fact that both Mr C and Dr D worked part time. Officer O was also asked to look into Mrs C's needs as a carer.
30. Officer O attended Mr and Mrs C's house on 19 April 2018 and met Mr and Mrs C. He asked them whether they wished to live together or apart in future because of stresses in their marriage. Mrs C said she could continue to look after Mr C if she had breaks when Mr C had respite care. Her preferred solution would be for Mr C to live elsewhere for two to three days per week.
31. Officer O had not, by this stage, met Dr D which concerned Mrs C. He completed a continuing healthcare (CHC) checklist to see if Mr C was eligible for NHS funding because of ongoing medical needs. On 18 May 2018, the CHC rejected the application saying Mr C's needs were not great enough to qualify.
32. Officer O continued to investigate the case. He looked into the possibility of arranging a residential care placement under the Council's Shared Lives programme where service users live with carers. No suitable carer was available.

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33. On the same day, Officer O went to Mr and Mrs C's house. He told them that, due to the lack of a suitable carer, Shared Lives could not help. The notes show Officer O felt tensions between Mr and Mrs C at their meetings and believed their wishes were not always aligned. He therefore recommended Mr C should have an independent advocate to represent him.
  34. Mrs C said Mr C lacked capacity. She told Officer O that Dr D had told her this some years earlier and said the police had recently agreed. Officer O said capacity was 'decision specific' and that he had to treat Mr C as having capacity in the absence of a capacity assessment.
  35. Mrs C became frustrated that Officer O was not supporting her. She contacted the Council and spoke to a senior officer, Officer P, who explained that, as Mr C was the one with the eligible needs, Officer O's role was to support him.
  36. Officer P agreed to arrange a carer's assessment for Mrs C. During this phone call, records show, Mrs C expressed extreme frustration with her situation leading the officer to suggest she contacted a solicitor about divorce. Officer P also recommended Mrs C should look into two residential care options for Mr C.
  37. The Council arranged for Mrs C to have a carer's assessment. This took place in July 2018. The social worker responsible referred to the assessment as '*particularly difficult*' because of Mrs C's distress. The Council awarded Mrs C a £200 per year carer's allowance from July 2018 onwards, referred her to the carers trust for support and suggested support for her in her caring role.
  38. Mrs C wrote back saying that the assessment assumed she would continue to care for Mr C which was not necessarily the case as Dr D had told her she ought to '*step away from this role*'.
  39. Officer O located a residential care home which, he thought, would be able to provide respite care and, in the longer term, residential care for Mr C. He provided a cost estimate for the care of around £450 a week. Mrs C phoned back saying she did not think this would be a viable option for respite care due to the cost.
  40. The next time Mrs C spoke with Officer O, she said she had not realised he was not there to help her. She questioned the need for an independent advocate as she knew Mr C best. She suggested Officer P should take over the case. She said she had looked into Officer P's residential care suggestions but found one had no vacancies. Officer O said he would find out if they were suitable.
  41. Officer O continued to investigate Mr C's condition. Mr C worked at a charity shop. He spoke to the manager who said his condition had recently worsened. He continued to chase Dr D who proved very difficult to contact.
  42. Officer O finally spoke to Dr D in early June 2018. Dr D said that Mr C's mental capacity may have been compromised by the Parkinson's medication he had been taking a few years earlier but he now took a less debilitating alternative.
  43. Mrs C contacted Officer O a week later saying Mr C's condition had worsened; he fell regularly and might need to go into residential care. Officer O said he would need to complete the assessment but felt residential care might not be suitable for Mr C. Mrs C said Mr C should go into a residential home for assessment.
  44. Mrs C continued to try to persuade Officer O that Mr C did not have capacity to make decisions. Officer O said he had to assume Mr C had capacity.
  45. Officer O continued to investigate options for Mr C but found the available alternatives had waiting lists and required applicants to live locally. He also found

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the costs were high; most over £500 a week with additional hourly care fees which was a problem as Mr C had to pay for it.

### **Needs assessment June 2018**

46. At the end of June, Officer O went to Mr and Mrs C's house with the independent advocate to complete the needs assessment. Officer O found:
  - a) He had no concerns about Mr C's capacity to make his own decisions; and
  - b) Because of his needs, the Council had a duty to care for him under the Care Act 2014.
47. Officer O investigated options for Mr C's care. These were, essentially, residential care, care at home or care in alternative accommodation.
48. Mrs C continued to press for Mr C to be taken into care. It is clear she found living with Mr C very stressful. She phoned Officer O and claimed he had promised to get Mr C into one of two care facilities; one in her hometown, Home 1 the other, Home 2, in a nearby town (a similar facility to Home 1 but with fewer facilities and care options) for assessment. Officer O's notes show that he was concerned that this was not true. He felt Mrs C was pressuring him unfairly.
49. Officer O says he told Mrs C that, because Mr C was a homeowner and therefore would have to provide some of the funding for some of the Council's residential care options himself, and because of demand for the available places, the quickest option to move Mr C out of the home would be for Mr C to go into private rented accommodation at which the Council could arrange ancillary care.
50. Mrs C continued to press for Mr C to go into Home 1 or Home 2. These were not care homes as such, they were rather assisted living developments where aged residents including those with extra care needs could live as a community with some support on hand.
51. Home 1 catered more for those with higher needs. It had a 'hub' in which residents could meet, eat and socialise and residential carers onsite who looked after those residents with extra care needs for whom several flats were earmarked. Home 2 had fewer community functions and was more like a gated community with a communal area included.
52. The Council was able to nominate service users for both facilities as was the district council. There was an assessment flat at Home 1 where potential residents could be assessed to see if the facilities were suitable.

### **Safeguarding complaint**

53. In late June 2018, Mrs C, feeling there had been delay in her case, made a formal complaint to the Council saying it had failed to safeguard her from Mr C and to carry out a proper assessment of him.
54. The Council responded in late July 2018. Officer O's manager dismissed the complaint saying:
  - a) She was happy with the way Officer O and others were handling the case; and
  - b) The Council had no duty to safeguard Mrs C as she was not a vulnerable person.
55. Mrs C continued to press for the Council to find a place for Mr C. At a meeting at the family home in early August 2018, Officer O explained Mr C would be unlikely to qualify for a place at either facility because he was a home-owner and not sufficiently local to Home 1 and Home 2. However, because of Mrs C's distress, he

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- would press for a respite break at another home, Home 3. They also explored other options further afield but Mr C did not appear to want to go far from home.
56. Officer O arranged a week's respite break at Home 3 with funding from the NHS. It took place in mid-August 2018. Officer O visited Mr C there. His notes say Mrs C said she disagreed with the care assessment. She also said she had recently taken a short holiday and realised the marriage was over and she was no longer prepared to look after Mr C.
57. Officer O says he told her the existing assessment would now need to be rewritten because Mrs C had previously said she would provide care so Mr C's care needs had changed.
58. The next day, Mrs C complained to her MP. She said she was concerned that, in the assessment, Officer O:
- a) Had not taken account of Mr C's cognitive and behavioural decline; and
  - b) Had not considered her welfare or safety;
59. She said she was prepared to care for Mr C until the end of September if the Council could put him into residential care by then.
60. Officer C arranged for a home visit with his manager on 30 August 2018. On 22 August, he sent application forms for Mr C to be considered for entry into Homes 1 and 2 to Officer Q, an advanced practitioner and best interests assessor who was responsible for applications to these homes.
61. The home visit took place in early September. Officer O and his manager attended. Officer O asked Mrs C what she had meant when she said the marriage was over at the previous meeting. She said she thought they should live separately but not divorce. She said she was concerned that Mr C was a criminal and his behaviour put her at risk.
62. She said no one was listening to her. She was doing all the work. She said Mr C should be seen as a special case. She said she felt Mr C should be dealt with by the older persons team which would improve his chances of being housed.
63. Officer O's manager said the Council was limited in what it could do. Mr C was low priority for Homes 1 and 2. She suggested commissioning an occupational therapist's report which might persuade the housing department to house him. There, he could get additional support.
64. Mrs C objected to an OT who might recommend putting equipment to help Mr C into her home. The manager explained that it might help get Mr C housed. Mrs C asked why it had not been done before.
65. Both Mr and Mrs C asked for a new social worker. They said they had no confidence in Officer O or the report he had prepared. They were told that this would be likely to cause some delay but continued to request a change. Therefore, the Council removed Officer O from the case and shelved his report.
66. After the meeting, Officer O continued to work on the case until a new officer took over. In mid-September 2018, Officer P took over as the officer in charge of the case and, the Council says, began work on the new assessment. She did not complete this until February 2019.
67. Another officer met Mrs C's MP to discuss her concerns. The next day, Officer O telephoned Mrs C and told her Mr C was now in band 1, the district council's highest band, for housing and had been since 15 August 2018. They could now bid for sheltered housing accommodation at Home 1 and Home 2 and elsewhere.



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68. Mr C moved into Home 1 for a three-week assessment on 18 September 2018. The records show both Mr and Mrs C found the move a relief. The assessment was meant to take three weeks. In fact, Mr C was there for nearly six months and, Mrs C says, no full care and support assessment was ever carried out.
69. Mrs C says that, for the first five weeks Mr C was there, staff told her of the severity of Mr C's needs and disability. She says she was led to believe Mr C would be accommodated at Home 1 once assessed.
70. At the end of the three-week period, the manager of Home 1 said, in a note, the evidence indicated Mr C would require supported living and extra care support. Both Mr and Mrs C seemed much happier and Mr C said he did not want to return home. The manager also identified some concerns with Mr C's mental health.
71. A new social worker visited Mr C and asked him about his wishes and needs. He said he wanted to live independently because his needs were increasing and it was less stressful. The social worker told him he would have to complete a financial assessment.
72. The officer began looking for suitable accommodation. One shared living house was identified in Mr and Mrs C's town and the officer arranged a viewing but this was cancelled because the Council's funding panel had not yet approved funding.
73. In late October 2019, Officer Q assessed Mr C. He said he wanted to stay at Home 1 because it had extra care and he had made friends there. Officer Q, though, felt his needs could be met in the community and he could travel to the hub daily by public transport.
74. Officer Q said, in a note, Mr C's current needs were not sufficient to justify putting him in an extra care flat. She said, if *'the extra care units [were] used for people that could be supported elsewhere [this would], reduce the abilities [to care] for people with extra care needs and impact on the use of long term care'...* *'the care and support needs evidenced in the care plan doesn't evidence that extra care is needed at this time'*. She said that, even though Mr C's needs would deteriorate, that could not be a consideration as this was true of many service users.
75. Mr and Mrs C were particularly upset at the way Officer Q spoke to Mr C and because she overrode other social workers who believed that Mr C's condition did merit a place in an extra care flat at Home 1.
76. Mrs C says Officer Q 'grilled' Mr C about his care needs and ability to afford the care. She says Mr C was distressed by this meeting and said Officer Q asked him questions he did not understand. She said she intended to complain to her MP again because no one was listening to her or Mr C. Officer Q told her she should wait until a planned meeting on 9 November 2018 when she could put her case.
77. Mrs C attended. She believed the meeting was due to start at 2pm. She was annoyed to find when she arrived that a meeting between Mr C, his advocate, Officer P and others had started at 1pm. She says Officer P applied inappropriate pressure on Mr C to divorce her during this meeting.
78. Shortly thereafter, Mrs C made a further complaint to the Council via her MP. She repeated her earlier complaint and said the Council had gone back on a previous agreement to house Mr C at Home 1 when his assessment was complete.
79. A senior officer responded in early November 2018 saying:
- a) It had been appropriate for Officer Q to assess Mr C who had not objected;

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- b) Officer Q had found Mr C was not eligible for extra care. He could not, therefore, have an extra care flat. Other flats were limited in number, he could not take one of the extra care flats which would limit availability.
- c) However, he was eligible to apply for one of the other flats the Council had at Home 1 and Officer Q was supporting Mr C in an application for one such flat.
80. In the event, Mr C rejected the flat as it was too far from the hub and too big. The notes show that, in January 2019, the district council offered Mr C a flat at another similar facility, Home 4. Home 4 was another residential facility with some community functions on site. Unfortunately, this was on the second floor and therefore, all parties agreed, unsuitable for Mr C who could not take the stairs in the event of a fire.
81. Both the Council and the district council had use of several flats at Home 4 and could nominate people to live there. The district council had no flats left on the ground floor whereas the Council had some. The district council manager wrote to the Council and suggested it could nominate Mr C for a place there itself.
82. The Council initially refused. It said that its policy was that *'an individual who has more than £23,250 in assets (excluding the value of their home or land) will not usually be placed within the Council's nominated units of Extra Care accommodation. Instead, such an individual can opt to apply to the housing provider to live within one of the other general needs housing units on the scheme and buy in their own care support'*.
83. After internal discussions, the Council decided to use its discretion to override its policy in this case. However, in late January 2019, Mr C spoke to Officer P and said he did not want to go there because there was no hub there which, he felt, would place him at risk.
84. Mrs C says Officer P placed inappropriate pressure on Mr C to take a place at Home 4 or lose his priority place at Home 1. She says management at Home 1 told her exactly the opposite.
85. At a meeting on 31 January 2019, Mr C said again that he wanted to stay at Home 1 with extra care as he felt this would give him the support and the independence he wanted.
86. In February, Officer P completed a further care assessment. By this time, there were concerns that Mr C had begun to fall at night.
87. At around this time, Mrs C phoned the Council again to say that there were three empty properties at Home 1 and to insist that Mr C should have one of them. At around this time, a place became available in a residential care home, Home 5. Mr C moved in there and has remained there since.
88. Mrs C says it is safe and the care provided is good though she has said it is not suitable as the residents are older than Mr C who requires mental stimulation,
89. Mrs C also says she confronted Officer P and asked to see Mr C's completed needs assessment in February 2019, eight months after Officer O's initial report. She was told that it had not been completed. Officer P completed an assessment in February 2019.

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## Was there fault causing injustice?

### Safeguarding

90. Mrs C says the Council failed in its duty to safeguard her. I do not accept this. Mrs C does not have care needs of her own, independent of her need for support as a carer for Mr C. There the Council does not owe her a safeguarding duty.

### Delay in assessing Mr C's eligibility for care

91. Officer O first visited Mr and Mrs C in April 2018. The records show he was diligent in dealing with this case. The notes show he made numerous efforts to progress the assessment. For example:
- a) He visited Mr and Mrs C at their home twice;
  - b) Made numerous phone calls and sent numerous emails to Dr D;
  - c) Appointed an independent advocate to represent Mr C.
92. He also made diligent efforts to find solutions to Mr and Mrs C's problems sending a continuing healthcare checklist to the local NHS care commissioning group and trying to find residential care and respite placements for Mr C.
93. He produced his first draft assessment in June 2018. Mr and Mrs C did not agree with it but it did find that Mr C was eligible for care. There was delay in finding care for Mr C but that was not Officer O or the Council's fault. This was a difficult case where Mr C's specific needs and the dynamics of Mr and Mrs C's relationship made it difficult to find a solution that was acceptable to them.
94. In August 2018, when Mrs C told him she would not care for Mr C in future, he told her he would have to carry out a new assessment. Shortly thereafter, Mr and Mrs C asked for him to be replaced.
95. I do not find any fault with the way Officer O conducted his assessment.

### Errors in eligibility assessment

96. Mrs C says Officer O's initial assessment understated Mr C's disability. She says Officer O understated Mr C's cognitive impairment and wrongly concluded he had greater capacity to decide on his own behalf than was the case. She also says he understated the severity of his need.
97. I cannot uphold this part of the complaint. Officer O and other Council officers have met Mr C repeatedly and have experience in assessment of social care need. I cannot find fault with their decision because Mrs C disagrees with it. There must be fault with the way the decision was reached.
98. The records show that, over the period covered by this complaint, Mr C's condition deteriorated markedly. In April 2018, he was working in a charity shop and able to function without support, if taking his medication. Therefore, on the evidence, it does seem that Officer O's conclusions were fair.
99. In summary, Officer O made an evidence-based decision after making the proper enquiries. I do not find fault.

### Delay in providing Mr C with a suitable care placement

100. The Council says, *'the implementation of a care and support plan cannot take place until the assessment has been completed and the determination of eligibility been made. However, under section 19(3) of the Care Act 2014 the local authority does have powers to provide immediate support where there appears to be urgent need and prior to completion of the assessment function. This support*



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*was offered to both Mr and Mrs C at numerous points between April and August 2018, but was not accepted, as Mrs C was focussed wanting a more permanent solution being quickly arrived at without due process being followed'.*

101. Officer O investigated various options for Mr C's care. In April 2018, Mr C's level of need, was not as great as it later became and did not justify residential care which Mr C would did not, in fact, want as he was relatively young: residential care homes catered for people who were up to 30 years older than him.
102. Officer O told Mrs C that, given Mr C's level of need, it would probably be quickest if he found a flat at which the Council could provide care. However, he also looked for respite care, assisted living placements such as in Home 1 and Home 2 and other options to alleviate the problems Mr and Mrs C were facing.
103. Officer O also looked at using the Council's Shared Lives service where Mr C would have moved in with a suitable carer but there were no suitable carers available.
104. He also investigated residential care options. However, the notes show that Mr and Mrs C, who, as property owners, were required to pay a contribution towards such care, did not wish to pay. Officer O cannot be at fault for this.
105. Officer O also looked at Homes 1 and 2. The notes show that Officer O found that both had waiting lists. Also, priority was given to applicants whose applications were placed in a high priority band. The highest band was Band 1. The lowest was Band 5. As a householder, Mr C was in Band 5. This made it very unlikely he would be housed soon. Officer O approached the district council and managed to get Mr C's priority changed from Band 5 to Band 1 in August 2018.
106. Further some of the flats were earmarked for those requiring extra care. In the end, Officer O and the Council got Mr C moved into Home 1 into the assessment flat to see if he would qualify for an extra care flat.
107. While some staff at Home 1 believed Mr C would qualify, Officer Q, a senior officer, did not believe he did. This was a professional judgment made on the facts. The Ombudsman does not usually find fault with such judgments. Officer Q has the training and the experience to make such a judgment and had observed Mr C at close hand for a month. The Ombudsman is not, therefore, in a position to question that judgment even if, as is clear from the notes, others did not agree.
108. Mrs C believes this was a financially-motivated decision. The care notes do not support this view.
109. Mrs C says officers had made it clear to her that Mr C would get a flat at Home 1 after assessment. I cannot comment on whether any officer said such a thing. The available evidence does not support her claim. As we make our decisions on the evidence, I cannot find that they did.
110. Thereafter, the Council offered Mr C a place in Home 1 and another in Home 4, both of which he rejected for entirely understandable reasons. The Council also overrode its own guidance and was preparing to offer Mr C a place on the ground floor at Home 4 in January 2019 but Mr C said he did not want to go there.
111. In deciding whether the Council is at fault, particularly in a case where the service user has highly complex needs, I cannot find fault if, as in this case, a council made diligent efforts to meet those needs.

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112. Both Mr and Mrs C believe Mr C should have been given a flat on the ground floor near the hub in Home 1. However, case law is clear that wishes are not the same as needs. I do not find fault.

#### **Delay in Officer P's assessment**

113. Officer P replaced Officer O in September 2018 and was tasked with carrying out an assessment of Mr C's needs. There is no set timeframe within which a needs assessment must be completed but our guidance says they must be completed in a 'reasonable' period.
114. The Council says Officer P completed this assessment within a reasonable time but accepts it was not typed up until February 2019. I have accepted this and, on that basis, I have found the Council at fault. The Council has accepted this finding but says there were ongoing difficulties and differing opinions between the Council and Mrs C, and this caused some of the delay. The Ombudsman accepts this. Nonetheless, the delay was fault.
115. This fault caused Mr and Mrs C some injustice in that it led to continuing uncertainty in their case and caused some distress, anxiety and a need for Mrs C to spend further time pursuing the Council on Mr C's behalf.
116. However, from September 2018 onwards, until he moved to Home 5, Mr C lived in the assessment flat at Home 1 where he was happy. Mrs C lived at home and received a carer's allowance. Therefore, the injustice to both was limited to anxiety and distress, and time and trouble. The Council was meeting their needs.

#### **Abusive treatment by Officer Q during Home 1 assessment**

117. Mr and Mrs C say Officer Q was abusive during a meeting with Mr C in October 2018. However, Officer Q denies she was. In the absence of independent evidence, I cannot make a valid decision. I do not, therefore, find fault.

#### **Excluding Mrs C from November 2018 meeting and divorce pressure**

118. Mrs C says she was excluded from a meeting at Home 1 during which inappropriate pressure was put on Mr C to divorce her. I have seen no evidence of this. The Council says it was obliged by the law and guidance to ensure that the views of Mr C, the individual receiving care, were explored and respected.
119. The Council says Mrs C's presence might have prevented Mr C from being heard. Officer P therefore split the meeting into two halves with Mrs C invited to the second part at 2pm. This was a professional decision she was entitled to make though I understand that Mrs C found it insulting. I do not find fault.
120. With regard to the suggestion that Officer P pressured Mr C to divorce Mrs C, The Council says that Officer P says, *'Mr C is able, with the support of his independent advocate, to express his viewpoint. Mr C was clear that he wanted his support plan to be one based around living independently of yourself and in fact this was part of the discussions that were held before he went into [Home 1] for an assessment period and which [Mrs C was] party to'*.
121. I am not in a position to judge whether divorce was discussed but, if it was, that is not a matter for the Ombudsman. I do not find fault.

#### **Pressure to accept Home 4 accommodation**

122. Mrs C says the Council pressed Mr C to take accommodation at Home 4 when this would have reduced his chances of being accommodated at Home 1.
123. The Council says this is not a fair interpretation of what happened. It says Officer P wanted Mr C to realise that, as he was now in Band 1 for housing by the district

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council, 'she was unsure what would happen if Mr C refused appropriate accommodation which was not part of [Home 1 or home 4] .... should he refuse to accept accommodation which was deemed to be appropriate to him, this may incur some kind of consequence'....At no point did Officer P suggest that if Mr C did not take a place at Home 4, he would lose his place in the queue at Home 1'.

124. There is a conflict of evidence. I cannot, therefore, find the Council at fault.

### **Agreed action**

125. Within one month, the Council has agreed to write to Mr C and:
- a) Apologise for the delay in giving them Officer O's needs assessment;
  - b) Pay Mr and Mrs C £100 each in recognition of the distress caused and time and trouble spent in dealing with this matter.

### **Final decision**

126. I have decided the Council was at fault. The Council have accepted this finding and agreed to my proposed remedy. I have closed my investigation.

### **Investigator's decision on behalf of the Ombudsman**

## **The Ombudsman's final decision**

Summary: On behalf of Mr B, Ms X complains about the amount of money the Council leaves Mr B to live on given his weekly expenses due to his disability. The Ombudsman will not investigate the complaint because there is no evidence of fault by the Council and an investigation by the Ombudsman will not lead to a different outcome.

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## **The complaint**

1. Ms X complains on behalf of her son, Mr B, that the Council's assessment of Mr B's level of contribution towards his care costs does not properly take into account his expenses and leaves him with insufficient funds.

## **The Ombudsman's role and powers**

2. We investigate complaints about 'maladministration' and 'service failure'. In this statement, I have used the word 'fault' to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. I refer to this as 'injustice'. We provide a free service but must use public money carefully. We may decide not to start or continue with an investigation if we believe:
  - it is unlikely we would find fault, or
  - it is unlikely we could add to any previous investigation by the Council, or
  - it is unlikely further investigation will lead to a different outcome, or
  - we cannot achieve the outcome someone wants. (*Local Government Act 1974, section 24A(6), as amended*)

## **How I considered this complaint**

3. In considering the complaint I reviewed the information Ms X provided, including the Council's letters sent following its review of Mr B's income and expenditure. I gave Ms X the opportunity to comment on my draft decision and considered what she said.

## **What I found**

4. Mr B is disabled and receives benefits. His income is taken into account by the Council in determining his contribution to the care package he receives.

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5. In deciding what a person's contribution will be, councils must ensure that a person's income is not reduced below a specified level after charges have been deducted. This is called the Minimum Income Guarantee (MIG). The amounts are set out by national government in the Care and Support (Charging and Assessment of Resources) Regulations but they are a minimum and councils have discretion to set a higher level if they wish.
  6. Previously the Council had set higher Minimum Income Guarantee (MIG) figures than the national guidance figures. However, in 2018 it decided to change its policy which brought it more in line with the national guidance and other local councils and this has resulted in an increase in the contributions people receiving care have to pay.
  7. Mr B's contribution increased because of the change in the Council's policy. The Council agreed a temporary waiver of Mr B's increased contribution until August 2019 but it has now advised Ms X the new amount has to be paid.
  8. Ms X complained to the Council because she feels Mr B has not been left with sufficient funds. The Council carried out a review of Mr B's income and expenditure but concluded that in its view Mr B has sufficient income and savings to be able to pay the new contribution amount. It explained to Ms X that its complaints procedure could not override or change a policy decision made by Council Committee.

### **Assessment**

9. As a result of the Council's change in policy, Mr B must now contribute more towards the cost of his care than he did before. However, while Ms X is concerned about the lower amount of money he now has to live on, there is no evidence of fault in the way the Council assessed his finances and calculated his contribution.

### **Final decision**

10. The Ombudsman will not investigate this complaint. This is because there is no evidence of fault by the Council and an investigation by the Ombudsman will not lead to a different outcome.

### **Investigator's decision on behalf of the Ombudsman**

## **The Ombudsman's final decision**

Summary: Mrs C complains about the conduct of an independent school admission appeal panel hearing. We uphold the complaint finding the panel did not properly engage with the grounds of Mrs C's appeal. This causes uncertainty as Mrs C does not know if the outcome of the appeal may have been different but for the fault. The Council has agreed to apologise to Mrs C in recognition of this injustice. It will also brief clerks and panel members on the lessons to be learnt from the complaint.

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## **The complaint**

1. I have called the complainant 'Mrs C'. She complains that an independent school admission appeal did not properly consider an appeal for her child 'D' to attend a local primary school.
2. Mrs C says as a result she faced the difficulty of transporting her two children to different schools. While Mrs C has now resolved this by arranging for the children to attend a different school, she remains unhappy with how the appeal panel conducted her appeal, saying it caused distress.

## **The Ombudsman's role and powers**

3. We investigate complaints about 'maladministration' and 'service failure'. In this statement, I have used the word 'fault' to refer to these. We cannot question whether an independent school admissions appeals panel's decision is right or wrong simply because the complainant disagrees with it. We must consider if there was fault in the way the decision was reached. If we find fault, which calls into question the panel's decision, we may ask for a new appeal hearing. (*Local Government Act 1974, section 34(3), as amended*)
4. If we are satisfied with a council's actions or proposed actions, we can complete our investigation and issue a decision statement. (*Local Government Act 1974, section 30(1B) and 34H(i), as amended*)

## **How I considered this complaint**

5. Before issuing this decision statement I considered:
  - Mrs C's written complaint to the Ombudsman and any supporting information she provided. This included information Mrs C provided to me in a telephone conversation.

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- Background papers provided by the Council. These included details of Mrs C's application for D to attend her preferred primary school and her written case to the appeal panel. I also considered the case made by the Council to the appeal panel and the minutes kept by the panel Clerk of the panel hearing and discussion. Finally, I considered the letter sent to Mrs C of the panel's decision.
  - Relevant government guidance referred to in the text below.
6. I also sent both Mrs C and the Council a draft decision statement which set out my proposed findings in this case. The Council accepted my draft findings and agreed to remedy the complaint as I suggested, while Mrs C did not comment further.

## What I found

### Relevant law and guidance

7. Local authorities must ensure that primary and secondary education is available to meet the needs of the population in their area. (**Education Act 1996, section 13**). While parents have a duty to ensure that their child of compulsory school age receives suitable full-time education either at school or otherwise. (**Education Act 1996, section 7**)
8. Parents may apply for their child to switch schools during their primary education. They can do so with a view to transfer at the end of the school year, or during the school year (for example when moving into the local authority area). The admission authority must usually comply with any preference expressed by a parent. But it can make exception where to do so "*would prejudice the provision of efficient education or the efficient use of resources*". (**School Standards and Framework Act 1998, section 86**).
9. So, when a council receives an application for a child to transfer schools it should provide a place at the preferred school if there is a vacancy. If there is no vacancy at the school(s) applied for the council should write to the parent refusing the application and informing them of the right of appeal.
10. If a parent appeals a decision not to provide a place, then any appeal must go to an independent appeal panel. They must follow law and statutory guidance which sets out how an appeal will be heard (**School Admissions Code 2014**).
11. The panel must consider whether:
- The admission arrangements comply with the law.
  - The admission arrangements were properly applied to the case.
  - Whether admitting another child would prejudice the education of others.
12. If the panel finds there would be prejudice it must then consider the appellant's individual arguments. If the panel decides the appellant's case outweighs the prejudice to the school, it must uphold the appeal.

### The key facts – background

13. Mrs C lives in an urban location within the Council's area. She has two children I will call 'D' and 'E'. In December 2018 Mrs C applied for D to transfer from 'School W' to 'School X'. D was in Year 2 of her education and the application was for September 2019 admission, meaning D would join the school at the start of Year Three. This would coincide when D's younger sibling, 'E', began school in the



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Reception Class. The Council had offered E a place in the reception class at School X. Mrs C wanted to send both her children to the same school.

14. D has mild learning difficulties and attention deficit hyperactivity disorder (ADHD). This means she has special educational needs (SEN) and received support for this from School W.
15. The Council's school admission service refused D a place at School X. Instead it offered D a place at 'School Y' which Mrs C put as a second preference if D could not have a place at School X.
16. Mrs C does not live within the catchment area for School X which is around 0.7 miles from her home address to the east. School Y lies between 1.1 and 1.5 miles from the home address to the north west. The distance between the two schools is around two miles. School Y is located close to School W.
17. Mrs C has a closer primary school to all those mentioned above, 'School Z' and her address is in the catchment area for that. Mrs C did not initially want her children to attend that school.

### **The appeal**

18. Mrs C appealed the refusal of D's application to join School X to the Council's Education Appeals Team which is separate to and independent of its Admissions Team. She appealed in writing and attended an appeal hearing in person in late June 2019. I summarise Mrs C's grounds of appeal as follows:
  - That she would find it 'impossible' to take D and E to different schools so far apart. Mrs C does not drive.
  - That School X could cater better than other schools for D's SEN. School W provided a letter of support for Mrs C.
19. The Council, which acts as admission authority, argued that it could not provide a place for D at School X without prejudicing the education of other pupils. It said the school had a planned admission number of 90 pupils in the Year 3 group and this is how many pupils it had on the school roll. It said that admitting more pupils would create problems with overcrowding in places such as the assembly hall or corridors. It said there would be less teaching time for other pupils and fewer financial resources per pupils. It explained the School had other pupils with SEN and this also placed pressure on existing resources.
20. I noted the Panel asked various questions of the Council about its case. For example, it asked about the school structure and teaching arrangements. It decided unanimously that to admit more pupils would cause prejudice. The minutes of the panel discussion show the panel members put particular weight on the number of existing pupils at the school with SEN.
21. The Panel therefore went on to consider Mrs C's grounds of appeal as summarised in paragraph 18. The minutes record the Panel asking questions about whether Mrs C had support in taking her children to school. For example, did she receive support from friends or family, including the children's father. It also asked a question about how Mrs C managed currently, taking D to School W. Mrs C says these questions were unduly personal in nature. For example, asking if the children's father "*was still in their lives*", although this level of detail is not contained in the Clerk's notes. I note also the Panel asked questions about D's SEN and Mrs C's plans if her appeal failed.
22. The Panel agreed by a majority to refuse Mrs C's appeal. The Clerk's notes of the discussion show the two panel members who refused Mrs C's appeal, both



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believed School X was not the only school which could meet D's SEN. The Clerk noted one panel member saying the appeal "*was all about the travel arrangements*". But there is no note of any discussion of Mrs C's concerns about taking her children to two different schools.

23. The decision letter sent by the Panel noted Mrs C's grounds of appeal. It noted that E was due to attend School X. But it said the Panel did not consider Mrs C had made a case that was "*sufficient to over-ride the prejudice*" caused to the school by admitting an extra pupil.
24. After receiving this decision, Mrs C re-considered her options for sending D and E to the same school. She re-considered sending the children to School Z and found it could accept both children. They began attending the school in September 2019. Mrs C does not want either child to now move schools and so does not seek a further appeal for D. But she has continued with her complaint as she is unhappy with how the panel considered her appeal.

### **My findings**

25. I can find no fault in the Council's decision to refuse D a place at School X. I find the school had reached its published admission number for Year Three pupils from September 2019. As such, the Council was not under a duty to provide a place for D so long as it could offer an alternative, which it went on to do. It follows from this that I cannot fault the appeal panel for also finding the Council acted properly in initially refusing D's application.
26. I also consider the appeal panel made a sound decision that to admit further pupils to School X would cause prejudice. The Council provided it with information showing the difficulties caused by admitting pupils over the planned admission number. I find evidence the Panel did not simply accept the Council's case at face value. But asked probing questions to satisfy itself that admitting extra pupils would cause the prejudice claimed. I cannot see the Panel ignored any relevant information in reaching that view. Or took anything irrelevant into account. I have no reason to fault its decision on this part of the appeal.
27. The Panel therefore had to go on to consider if Mrs C's reasons for wanting D to attend School X outweighed this prejudice. I find evidence in the minutes of the appeal and its decision letter that the Panel properly understood the grounds of Mrs C's appeal. Its line of questioning shows that it gave some consideration to the arguments made by Mrs C around the difficulties faced in transporting her children to two different schools. Also, that it considered her view that School X could best meet D's SEN.
28. I have considered Mrs C's unhappiness with some of the questions asked by the Panel. I understand why the Panel would want to know if Mrs C had any support from family or friends to take her children to and from school. That would be relevant to her argument at appeal that taking two children to different schools was 'impossible'. The Clerk's notes are not a word for word account of all that was said at the hearing and so cannot provide for a finding on this point. But I accept on Mrs C's account that some of the questions may have been put more sensitively. I ask the Council to note the concern even though I cannot uphold Mrs C's complaint on this point.
29. However, I do find fault on other grounds. My concern is with how the Panel engaged with one of the two lines of argument raised by Mrs C in her appeal. In neither the minute of the Panel discussion nor the decision letter sent to Mrs C did the Panel address her case that she could not take her children to two different

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schools. So, while the Panel asked about family or friends' support, it is not clear what account it took of the answers given by Mrs C. I also note it did not ask such questions as what times the schools opened or if there were public transport links between the two.

- 30. I do not find therefore the Panel reached a sound decision when considering if Mrs C's case at appeal might outweigh the prejudice caused to the School. I am not satisfied it considered all evidence relevant to that decision.
- 31. This causes injustice to Mrs C as uncertainty, which we regard as a form of distress. Because she cannot be satisfied the Panel would have reached the same decision had it properly considered her case.

### **Agreed action**

- 32. Usually, for the injustice identified in paragraph 31 we would want the Council to arrange a fresh appeal. However, in this case Mrs C has advised she does not want this as her children have both settled at School Z and she would not want to disrupt their education.
- 33. Instead, the Council has agreed that within 20 working days of a decision on this complaint its Education Appeals team will apologise to Mrs C accepting the findings of this investigation.
- 34. The Council has also agreed to learn lessons from this case. In February 2020 it will hold annual meetings with its appeal panel clerks and members. It has said this will include reminding both of the need to engage with all key arguments made by appellants in their appeals. It will also include a session on sensitive questioning of appellants.

### **Final decision**

- 35. For reasons set out above I uphold this complaint finding fault by an independent education appeal panel causing an injustice to the complainant. The Council has agreed action that I consider will remedy the injustice. I can therefore complete my investigation satisfied with its actions.

### **Investigator's decision on behalf of the Ombudsman**

## **The Ombudsman's final decision**

Summary: There was fault in the way the Council investigated allegations against Mr X. The Council offered a financial remedy, but Mr X feels the Council should offer more. The Council should offer additional financial remedy to recognise the significant and prolonged period of distress. The Ombudsman is not able to assess Mr X's claim for reduced earnings.

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## **The complaint**

1. Mr X complained about the Council's handling of a safeguarding investigation against him. The original investigation findings have been overturned and Mr X is unhappy the Council did not follow the recommendations of the review Panel and adequately compensate him for distress and loss of earnings.

## **What I have investigated**

2. I have considered the Council's offer of a remedy to Mr X. I have not investigated the Council's handling of the allegations because an independent investigation and review Panel has already done this, and the Council has accepted it was at fault.

## **The Ombudsman's role and powers**

3. We investigate complaints about 'maladministration' and 'service failure'. In this statement, I have used the word fault to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. I refer to this as 'injustice'. If there has been fault which has caused an injustice, we may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1), as amended*)
4. If we are satisfied with a council's actions or proposed actions, we can complete our investigation and issue a decision statement. (*Local Government Act 1974, section 30(1B) and 34H(i), as amended*)

## **How I considered this complaint**

5. As part of the investigation I have considered the following:
  - The complaint and the documents provided by the complainant, as well as the information we discussed in a telephone conversation.
  - The Investigation Review Panel's report and recommendations.

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- Documents provided by the Council and its comments in response to my enquiries.
6. Mr X and the Council both had an opportunity to comment on a draft decision and I considered their comments before making a final decision.

## **What I found**

7. Mr X was working as a teaching assistant in January 2017. He told me he is a qualified teacher but had not worked as a teacher for several years. This was part of his phased plan to return to teaching by September 2017.
8. In January 2017 allegations were made about Mr X's conduct at the school he was working in. The school informed the Council and Mr X was sent home on 9 January 2017 while it investigated.
9. The Council referred the matter to the Local Authority Designated Officer (LADO), an officer who oversees investigations when allegations are made about people who work with children. The LADO started the Council's Allegations Against Professionals (AAP) process, which considers allegations about adults who work with children.
10. The allegations were considered at two Multi Agency Strategy Meetings (MASM), held on 13 January 2017 and 3 February 2017. A MASM involves agencies and professionals such as the police and social services. Most of the allegations were deemed unfounded or unsubstantiated but two allegations against Mr X were considered substantiated.
11. The Council confirmed the findings to Mr X by letter on 23 March 2017. It considered Mr X was still fit to work with children despite the substantiated allegations. It said there were mitigating reasons, such as naivety and a lack of training.
12. Mr X said the findings meant he could not gain employment with children in any capacity while the substantiated allegations remained in place. Instead he found work as a carer for adults with special needs.
13. Mr X complained to the Council about its investigation 13 July 2017. He said the investigation was inadequate, unfair and biased. He said the Panel took false information into account and failed to consider other relevant matters. The Council considered the complaint at all three stages of the statutory children's complaints process. This is a formal procedure, set out in law, which involves investigation by an independent investigator and review by an independent Panel (the Panel).
14. The independent investigator found failings in the original AAP process and recommended all the allegations against Mr X be reconsidered.
15. A new MASM was held on 24 April 2018. It overturned the original findings. It found all the allegations against Mr X were either unfounded or unsubstantiated.
16. The Panel was convened to meet on 30 April 2018 to consider Mr X's complaint at stage 3 of the complaints process. It said there was maladministration by the Council and recommended it consider offering a remedy to Mr X for the distress, loss of opportunity and reduced earning capacity its maladministration had caused over an eight-month period.
17. The Panel's decision was communicated to Mr X on 18 May 2018.

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18. The Council wrote to Mr X on 18 June 2018. It accepted some fault in the investigation process and apologised. It offered him £2,300 to recognise the distress he suffered. It said it could not consider his reduced earnings without evidence. It said it would reconsider its offer if Mr X provided further information.
  19. Mr X wrote back to the Council on 21 July 2018. He said he intended to return to work as a teacher and the Council's maladministration delayed this by 15 months. He said he had already supplied evidence of refused job applications because of the wrong findings against him. He said he had enrolled on a return to teaching course and registered with a supply teaching agency to start work in September 2018. He also said he had interviews at three schools and a college. He said his earning capacity reduced by over £22,000 over a 15-month period. He also claimed an added £1,805 for a seven-week delay by the Council communicating its original decision. He claimed a further £1,352.40 for legal advice he sought to bring his complaint.
  20. The Council responded on 15 August 2018. It accepted a three-week delay in communicating its decision and increased its offer to £3,073 to reflect this. It said it could not simply accept Mr X's assertion that he planned to return to teaching as he had only recently started temporary employment when the allegations were made. It therefore rejected his claim for loss of earnings. It also rejected his claim for legal fees as it said the process did not need legal advice. The Council directed Mr X to the Ombudsman if he disagreed with its decision.
  21. Mr X wrote to the Council again in April 2019. He provided evidence of the return to teaching programme he completed and that he took up full time employment as a supply teacher in February 2019. This led to contracted employment by April 2019 which he also provided evidence of. Mr X said he had completed his return to teaching. He provided updated loss of earnings calculations of £41,000 which he asked the Council to consider.
  22. The Council responded on 30 April 2019. It told Mr X its complaints process had finished and he should complain to the Ombudsman if he remained dissatisfied.
  23. Mr X complained to the Ombudsman on 28 May 2019 as he was unhappy with the Council's offer of a remedy. He said it had failed to consider his loss of earnings as the Panel had recommended.

### **Response to my enquiries**

24. The Council told me it carefully considered the Ombudsman's guidance on remedies when it decided on the maladministration payment it offered to Mr X.
25. It said its policy is to offer a fair remedy, but not compensation payments comparable to what the Courts might order. It said the Courts would consider reasons beyond the scope of its maladministration policy.
26. It said the Council only had limited evidence about Mr X's claim of reduced earnings. At the time of his complaint, it was not clear he intended to return to work as a qualified teacher.
27. It said its primary duty is to safeguard children. It is normal for investigations to take a certain period and this is unavoidable. It fully understands the difficulties this can cause but it considers its apology and offer of payment to be a suitable remedy.
28. The Council said at stage 2 of the complaint process a new MASM was recommended to reconsider all the allegations against Mr X. When the new MASM overturned the original finding, the Council said this was a reasonable

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and fair remedy as it put Mr X back in the position he would have been in if the fault had not occurred. It said this was the outcome Mr X was seeking when he complained. It only considered a financial remedy after the Panel recommended it should.

## **Analysis**

29. The independent investigation identified serious failings by the Council. It found faults in the early AAP process. These were about the independent chair, safeguarding process, conclusions reached, delay, and wording of the final letter from the LADO.
30. The faults included a lack of clarity on details of two of the allegations discussed in the AAP meetings; lack of detail in the minutes of the meetings to explain how the allegations were examined and findings reached; lack of clarity of the chair about the roles of the different agencies and professionals involved in the AAP process; delay of seven weeks by the LADO in sending the final letter and; the final letter lacked clarity and was contradictory.
31. The Council has accepted responsibility for its mistakes in Mr X's case and offered a remedy using guidance published by the Ombudsman. It has apologised and offered Mr X £3,073.68.
32. Mr X complains the Council has failed to address the impact of its mistakes. He says the Council's response to the allegations had an adverse impact on his ability to work in the area he is qualified to work in and reduced the money he could earn.
33. Mr X says he has lost out on £41,000 in earnings because of the Council's fault. He has provided a detailed breakdown of his claimed earning potential over the course of the Council's investigations. He also incurred legal fees of £1,352.40.
34. Mr X has provided evidence to show his applications for work as a teacher, and to join teaching agencies, were rejected while there was a substantiated allegation against him. He has also shown he could join a teaching agency as soon as the findings were overturned.

## **Mr X's claim**

35. The Council did initially consider Mr X's potential reduced earning capacity but told him there was limited evidence and his intention to return to teaching was not clear. Mr X went back to the Council after he returned to teaching and provided further evidence, but the Council did not consider this and told him the complaint was closed.
36. The Council became involved because allegations were made against Mr X and it has a duty to investigate where children may be at risk of harm. Such investigations will inevitably cause significant distress to those involved.
37. However, the Council's handling of the investigation has clearly caused Mr X notable added avoidable distress. This was recognised by the Panel, who recommended the Council offer Mr X a remedy. A significant payment for distress is justified in this case. The Council has offered Mr X a total of £3,073. This is broken down as follows:
  - £750 in recognition of the prolonged period of distress experienced.



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- £750 to recognise the distress caused by the wrong findings being in place for several months.
  - £500 for loss of opportunity of working with children.
  - £300 for time and trouble.
  - £773.58 for loss of earnings caused by the delay in issuing its decision.
38. I do not consider this a satisfactory remedy for Mr X's distress.
39. The Ombudsman has published guidance to explain how we calculate remedies for people who have suffered injustice because of fault by a council. Our primary aim is to put people back in the position they would have been in if the fault by the Council had not occurred. When this is not possible, we may recommend the Council makes a symbolic payment to recognise what could have been avoidable distress, harm or risk. However, we do not recommend compensation payments in the same way as the Courts. We can consider quantifiable losses. Where large sums of money are claimed it is more fitting for the Courts to consider the matter, particularly where the losses are not certain and need professional consideration.
40. We have broad discretion to recommend remedies which we judge to be suitable. Our remedies guidance exists to help decide remedies in a consistent way, but every case must be considered individually according to the scale and significance of the injustice.
41. The Ombudsman's guidance on remedies states up to £1,000 may be justified in cases where the distress is severe or prolonged. The Council has recognised the distress was prolonged in this case. I also consider it to be severe. It should increase its payments for distress to £1,000 for the two separate heads of distress it has identified.
42. The Ombudsman's guidance also includes loss of opportunity under the heading of distress. The Council should increase its offer for loss of opportunity of working with children to £1,000, again based on the severe and prolonged nature of distress.
43. The Council's offer of £300 for time and trouble is in line with the Ombudsman's guidance.
44. Mr X asked the Council to pay £1,805.02 in lost earnings for the seven-week delay in sending its decision letter. The Council said there was no set timescale for LADO decision letters, but it considered 20 days to be a reasonable timeframe. As its decision letter took an added three weeks on top of the 20 days it offered Mr X £773.58 as a gesture of good will. This is reasonable.
45. The Council did not agree to repay Mr X's legal fees because the complaints process did not need him to seek legal advice. I agree with its position. There is a three stage complaints process which includes an independent investigation that found in Mr X's favour. I have seen no evidence the Council refused to allow Mr X to complain until he took legal advice.
46. The Council has not made an offer for Mr X's reduced earning capacity or claimed loss of earnings as a qualified teacher. I do not propose to consider this further as the Ombudsman cannot assess Mr X's claim. Our informal means of investigation are not suited to assess claims for compensation of this nature. While we can make findings about the Council's actions, and decide where there was fault, we do not have the expertise to judge the impact of the Council's fault on Mr X's

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employment and financial position. These decisions need specialist judgement and are usually made by the Courts.

47. The Ombudsman can only make recommendations to remedy injustice. To make recommendations, there must be a direct link between any fault we identify, and the injustice claimed. In Mr X's case, the fault is clear, but the link with the claimed injustice is less so. I do not doubt Mr X's plan to return to teaching by September 2017. However, even if there had been no fault by the Council, I cannot say he would have been able to do so. I cannot assess the impact of the Council's faults on Mr X's earnings separately from the impact of the allegations themselves. In these circumstances, we can only recommend a payment for the distress and uncertainty caused by the Council's mistakes.

### **Agreed action**

48. Within one month of my final decision the Council agreed to pay Mr X £4,073.58. This is made up of:
- £3,000 to cover the separate heads of distress it has already considered (including loss of opportunity).
  - £300 for time and trouble.
  - £773.58 for the lost earnings caused by the delay in issuing its decision letter.

### **Service improvements**

As part of the Panel's findings it made recommendations to the Council about how it checks reports and manages timescales for complex complaints. I have therefore not made any recommendations to the Council about the failings leading to Mr X's complaint.

### **Final decision**

49. I have completed my investigation. There was fault in the way the Council investigated allegations against Mr X. I have recommended the Council offers additional financial remedy to recognise the significant and prolonged period of distress. The Ombudsman is not able to assess Mr X's claim for reduced earnings.

### **Investigator's decision on behalf of the Ombudsman**



## **The Ombudsman's final decision**

Summary: Mrs X complains about the Council's refusal to accept her and her husband to stage 2 of the process to become adoptive parents, causing distress. The Ombudsman finds no fault in the Council's decision making process.

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## **The complaint**

1. Mrs X complains about the Council's refusal to progress her and her husband to stage 2 of the process to become an adoptive parent. She believes the Council has discriminated against her because she suffered from anxiety in the past and because of her age and religion. This has caused her and her husband hurt, upset and fear this will affect their future adoption prospects with other agencies.

## **The Ombudsman's role and powers**

2. We investigate complaints about 'maladministration' and 'service failure'. In this statement, I have used the word fault to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. I refer to this as 'injustice'. If there has been fault which has caused an injustice, we may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1), as amended*)
3. We cannot question whether a council's decision is right or wrong simply because the complainant disagrees with it. We must consider whether there was fault in the way the decision was reached. (*Local Government Act 1974, section 34(3), as amended*)
4. If we are satisfied with a council's actions or proposed actions, we can complete our investigation and issue a decision statement. (*Local Government Act 1974, section 30(1B) and 34H(i), as amended*)

## **How I considered this complaint**

5. I spoke to Mrs X and I reviewed documents provided by Mrs X and the Council. I gave Mrs X and the Council the opportunity to comment on a draft of this decision and I considered the comments provided.

## **What I found**

### **Statutory Guidance**

6. The Department for Education publishes statutory guidance on the process to approve adopters.

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7. At Stage One the adoption agency will focus on training and preparation. It will decide, through checks and references, whether the prospective adopter is not suitable to adopt a child and should not proceed further.
  8. Where an agency decides a prospective adopter is not suitable it must inform them of the decision and provide a clear written explanation.
  9. Those who wish to complain about this decision may make a complaint using the agency's local complaints procedure. The Independent Review Mechanism is not available for decisions made during Stage One.
  10. The guidance says mild chronic conditions are unlikely to prevent people from adopting provided the condition does not place the child at risk or limit adopters in providing children with a range of beneficial experiences and opportunities. Agencies should bear in mind the possibility of providing support in appropriate cases. More severe health conditions may raise a question about the suitability of the prospective adopter, but each case will have to be considered on its own facts and with appropriate advice.

### **Equality Act 2010**

11. It is unlawful to treat someone less favourably someone because of age, race, religion or disability. It is not within the Ombudsman's jurisdiction to say whether a council has acted unlawfully or in breach of the Equality Act. If someone considers they have been discriminated against, they can make a claim to the County Court or make a complaint to the Equality and Human Rights Commission.

### **What happened**

12. In April 2018 Mrs X and her husband expressed an interest in adoption.
13. In June a Council officer visited them at home. In July the Council officer visited again and asked them to complete a form to register their interest.
14. Mr and Mrs X then attended training sessions. Mrs X says the Council did not raise any concerns or issues.
15. On 30 October the Council asked to meet Mrs X to discuss concerns. Mrs X was unavailable and asked to reschedule.
16. The Council then sent Mrs X a letter to say it would not progress her and Mr X to stage 2 of the process to become adoptive parents. It was concerned about the level of anxiety shown by Mrs X in needing to check every detail of the process. It said:

“When considering the impact of placing a child with you we were very concerned about how you would manage all the uncertainties in being considered for a child, plus the whole process around placing and supporting a child. We also had concerns about the impact of the raised anxiety levels on your daughter.”
17. The Council offered Mr and Mrs X a meeting to discuss this further if they wished.
18. In November Mr and Mrs X met with the Council. The Council's records show Mrs X explained the need to check details with the Council and confirmed she no longer suffered from anxiety, offering to get a letter from her GP to evidence this. Mrs X said she had a good employment record with no time off for sickness and positive references from others. The Council said it would consider everything they had said and write to them again.

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19. The Council sent Mrs X a further letter confirming its decision not to progress the couple to stage 2.
  20. In December Mrs X complained to the Council. She said no-one had raised concerns with her previously and she denied showing any signs of anxiety. The Council made its decision without asking her GP for information or considering her good employment record. The Council knew she suffered from post natal anxiety in the past but she overcame this in 2016. The Council's poor communications meant she had to constantly chase and check details, which the Council now perceived as a symptom of anxiety. She felt the Council decided without full information and was discriminating against her. She felt the Council had shown prejudice based on her age and religion.
  21. The Council acknowledged there were teething problems in the process. It explained the decision not to proceed was based on the level of anxiety Mrs X showed during stage one. For example, the number of emails, questions and phone calls in between groups was significant. The Council said:

"In our view, your high level of anxiety would be unmanageable should you progress further and this is based on the fact that adopters need to be able to face uncertainty, delay and rejection which they personally can deal with. Based on interactions between yourself and a number of different staff, it is our view that you would not be able to manage these challenges and would be unlikely to be matched with a child."
  22. The Council apologised for not discussing its concerns with Mrs X sooner. It found no evidence its decision was influenced by race or religion.
  23. Mrs X asked to escalate her complaint.
  24. In its further response the Council reiterated concerns had been raised about the high level of anxiety Mrs X had shown, through the high number of calls and correspondence during the process. It decided based on the information available at the time and did not feel any information from her GP would change this. It explained its social workers could "form a view on whether a person is displaying tendencies typical of anxiety and the possible impact of this on the children who they are seeking to place for adoption".
  25. Mrs X contacted the Ombudsman. She disputed her contact with the Council had been excessive and complained she felt discriminated against.
  26. In comments on the complaint the Council said:

"Mrs X was not discriminated against. The departments concerns about Mrs X's anxiety arose from the observations of her behaviour by a range of staff. They were based on our assessment of her behaviour, not a medical diagnosis."
  27. As part of my enquiries I asked the Council whether it had considered providing support to Mrs X for her perceived anxiety. In response the Council said:

"We are a child focused service and thus would not provide additional support for anxious applicants. As professionals we know the added stresses of adoption and thus would seek robust applicants to meet the needs of our children."
  28. The Council also provided a copy of the information it relied upon in deciding whether to progress the couple to stage 2. I note this details the Council's concerns and explains the basis for those concerns, with reference to its observations of the couple's behaviour. Although the Council references Mrs X's

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history of anxiety it notes she is currently stable. The Council records it has decided to end the couple's application because:

- It was not clear how Mrs X would manage with the rest of the process due to her need for constant reassurance;
- It felt Mrs X's behaviour would impact on a child;
- It felt the family would need intense support both in the process and with any child.

### **Findings**

29. We cannot question whether a council's decision is right or wrong simply because the complainant disagrees with it. We must consider if there was fault in the way the council reached its decision.
30. The Council considered the information it held about Mr and Mrs X and decided not to progress them to stage 2. It told them its decision and gave reasons. The Council then met with Mr and Mrs X and took account of the further information provided, including Mrs X's assurance that she no longer suffered from anxiety. In consideration of all the information the Council reached a final decision. There is no evidence this decision was based on irrelevant factors, such as Mrs X's age, race or religion. Having reviewed the information provided, I am satisfied the Council followed a proper decision making process. I therefore do not find the Council at fault and I cannot say its decision was wrong.
31. Mrs X is unhappy the Council did not seek further information from her GP. However, the Council says this would not have changed its decision. I note the Council's decision was based upon its observations of Mrs X's behaviour and actions rather than any formal diagnosis. I am therefore satisfied with its reasoning that further GP evidence would not have affected its decision.

### **Final decision**

32. I have completed my investigation. This is because I find no evidence of fault in how the Council decided whether to progress Mr and Mrs X to the next stage of the process to become adoptive parents.

### **Investigator's final decision on behalf of the Ombudsman**

## **The Ombudsman's final decision**

Summary: Mr E complains the Council failed to investigate an allegation against him in an appropriate and timely way. There is evidence of Council fault in it not allowing Mr E to challenge information about him presented to the Council in 2013. The Council has agreed to consider this now and to make a payment to reflect the distress its fault caused to Mr E.

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## **The complaint**

1. The complainant, whom I shall call Mr E, complains the Council failed to investigate an allegation against him in a fair, transparent and timely manner. In particular, it failed to provide necessary information to him, including in relation to historical complaints, interfered in his family life and caused him to give up his teaching career.
2. Mr E also complained about his school's actions and lack of support he received. He wanted me to tell the Department for Education its procedures for investigating allegations needed to be changed. He also asked me to tell the Council that information it holds about him is incorrect and to remove it from the record and for previous allegations that have been made not to be accessed again because of the inaccuracies and untruths within them.

## **What I have investigated**

3. I have investigated Mr E's complaint against the Council. I have not investigated his complaint about the actions of the school or contacted the Department for Education. I have not asked the Council to remove information from the record or asked it not to access previous allegations. I explain why at the end of this statement.

## **The Ombudsman's role and powers**

4. We cannot investigate complaints about what happens in schools. (*Local Government Act 1974, Schedule 5, paragraph 5(b), as amended*)

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5. We investigate complaints of injustice caused by ‘maladministration’ and ‘service failure’. I have used the word ‘fault’ to refer to these. We cannot question whether a council’s decision is right or wrong simply because the complainant disagrees with it. We must consider whether there was fault in the way the decision was reached. (*Local Government Act 1974, section 34(3), as amended*)
  6. When considering complaints, if there is a conflict of evidence, we make findings based on the balance of probabilities. This means that we will weigh up the available relevant evidence and base our findings on what we think was more likely to have happened.
  7. Under the information sharing agreement between the Local Government and Social Care Ombudsman and the Office for Standards in Education, Children’s Services and Skills (Ofsted), we will share this decision with Ofsted.
  8. We normally expect someone to refer the matter to the Information Commissioner if they have a complaint about data protection or if they believe a Council holds incorrect data about them. However, we may decide to investigate if we think there are good reasons. (*Local Government Act 1974, section 24A(6), as amended*)
  9. If we are satisfied with a council’s actions or proposed actions, we can complete our investigation and issue a decision statement. (*Local Government Act 1974, section 30(1B) and 34H(i), as amended*)

## **How I considered this complaint**

10. I considered the information received from Mr E and spoke to his representative on the telephone. I have accessed relevant guidance, which I outline below, and the Council’s own procedures for dealing with allegations. I sent Mr E and the Council a copy of my draft decision and took the comments they made into account before issuing my decision.

## **What I found**

### **Background**

#### **Working together to Safeguard Children**

11. The Children Act 1989 says councils have a duty, with other agencies, to safeguard and promote the welfare of children and young people in their area.
12. The Department for Education issued statutory guidance to support the Act, which is called ‘Working Together to Safeguard Children’. This was last updated in 2018. ‘Working Together’ says councils should identify an officer to be involved in managing and overseeing allegations against people who work with children. This officer is known as the Local Authority Designated Officer or LADO.

#### **Keeping children safe in education**

13. The Department for Education issued specific safeguarding guidance to schools called ‘Keeping children safe in education.’ The latest version of this is from October 2019. This sets out what schools should do when an allegation is made that an employee may pose a risk of harm to children.
14. Where the police or children’s social care services are involved, the employer should consult with them and agree what information it can give to the accused person. Employers should only suspend an employee if ‘there is ‘no reasonable alternative’. The employer should keep the accused person informed of the progress of the case and provide support.



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### **The Council's procedures**

15. The Council's 'Allegations Against Persons who Work with Children' procedure sets out the role of the LADO and what agencies should do if they receive an allegation. The procedure applies where it is alleged that a person who works with children has:
  - a) behaved in a way which has harmed a child, or may have harmed a child;
  - b) possibly committed a criminal offence against or related to a child; or
  - c) behaved towards a child in a way which suggests they may pose a risk to children.
16. The LADO's role is to
  - a) receive reports about allegations and be involved in the management and oversight of cases;
  - b) to provide advice and guidance to employers;
  - c) to liaise with the police and other agencies;
  - d) to oversee the progress of cases to ensure they are dealt with quickly and consistently; and
  - e) to provide advice to employers on making referrals to the DBS and regulatory bodies.
17. At the initial strategy meeting, those present share information about the accused person and the alleged victim. They plan the investigation and set timescales for completing tasks or gathering information. They consider if any other children are affected by the allegations and if action needs to be taken to safeguard them. Attendees will decide how the accused person, and the child and their family, will be kept informed and supported. They will also offer a view to the employer about whether the accused person should be suspended from contact with children (if they have not been suspended already).
18. The views of the 'adult of concern' must be fed into the strategy meetings by their Social Worker on an ongoing basis. The Social Worker should provide feedback about the process with the content of this feedback agreed at the strategy meeting, particularly taking into account police views.
19. The LADO will write to the accused person at the end of the process outlining the findings of the investigation and the outcome.

### **What happened**

20. When the Council was made aware of an allegation against Mr E, it referred the matter to the Local Authority Designated Officer (LADO). Mr E had been in a position of trust with the young person who made the allegation.
21. Mr E was unaware of the nature of the concerns until he was suspended from his position at the school where he worked in December 2018. The school had been made aware, at a strategy meeting, of what Mr E was accused of. We would not expect individuals under investigation to be invited to strategy meetings, which are for professionals to discuss the way forward.
22. Mr E says his employer should not have suspended him. This is a matter for the employer to decide, in the same way as the employer would decide how to support Mr E through the investigation. His employer is not in the Ombudsman's jurisdiction so this is not something I can consider. Mr E has criticised the Council for recommending suspension. As this was a possible outcome, it could not be

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fault for the Council to suggest it. According to the notes of the meetings, Mr E had been advised, by the school, to speak to his union and was given a single point of contact. Mr E says his employer should have given him the full details of the allegation when he was suspended. This may have impacted on the criminal investigation the police were conducting at the time. The Council explained that if the allegation had gone to court, Mr E would have received all the information. There is no evidence of Council fault.

23. On 28 February, Mr E had a meeting with social workers at which one of the allegations was detailed. Council officers could not tell Mr E the date the incident was said to have happened and would not share with him the identity of the person who made the allegation. Officers would not detail how the allegation had arisen. Although I understand Mr E was extremely frustrated that the information presented was partial, we would not expect children and young people to be able to pinpoint dates. We would not necessarily expect them to 'have any concerns' about what happened either; it is for the LADO process, and the police, to decide whether there are concerns or not. The Council would not be expected to share the identity of the person making the allegations. There is no evidence of Council fault.
24. As part of the safeguarding process, Mr E was asked about an incident of domestic violence (which would have been shared with the Council by the police if a child was in the household, and, in line with best practice, if someone held a position of trust with children). Mr E's employer was approached, to check there were no current safeguarding concerns, and his daughter was seen. Social workers visited his daughter's nursery and made enquiries of the school where Mr E's wife worked. The purpose of this was to check children were safe. There is no evidence of fault. The Council apologised if Mr E had the impression social workers would continue to be involved after the case had concluded, which is appropriate.
25. Mr E was told the police were taking no further action. He was concerned social services were still asking him questions and intruding into his life. The criminal standard of evidence is 'beyond reasonable doubt' whereas social services, like us, look at 'the balance of probabilities'. Therefore, Councils continue investigations even when the police have ceased to be involved. There is no evidence of Council fault. Mr E was unhappy with some of the questions being asked but asking questions is not fault.
26. On 22 March 2019, Mr E was told the allegations were 'unfounded'. He was told the person who made the allegation had refused to give their name or to make or sign any formal statement. I accept Mr E considers the allegations were malicious but this is for the LADO meeting to establish. I also accept Mr E was caused stress by the investigation but this is not wholly because of the actions of the Council.
27. Mr E says this was not dealt with quickly enough. I do not consider a period of just over three months from when Mr E was suspended is slow. There is no evidence of fault.

### **Previous investigation**

28. One issue that was raised in LADO meetings was about a previous investigation about Mr E in 2013. Mr E says he was told by the headteacher of the school he worked at, in 2013, the allegation made was malicious and he could continue teaching. He was told his probation period would be extended as a result of the



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allegation and that he would receive mentoring but he says he was not made aware of any formal investigation.

29. There is no evidence he was spoken to by social workers at that time. The letter he was apparently sent on 25 July 2013 (at the end of the 2013 investigation) refers to a letter of 12 June 2013, which cannot be found on the Council's file. I have no grounds to say it was sent. Even if Mr E received the 25 July letter, which he says he did not, it does not show he was able to contribute to the LADO process given it was sent when the investigation was complete. Nevertheless, it was accepted, through the 2018/19 meetings, Mr E was aware of the 2013 allegations and able to participate in the process. On the balance of probabilities, I disagree. The reference from his old to his new school mentions an allegation but not that this led to a LADO process. This echoes Mr E's views that he was unaware of any formal referral.
30. That Mr E 'would have known' what happened in 2013 appears to have negatively influenced the views of some of those present. Mr E was not told about this at the time of the 2018/19 investigation either – he was only told when he made a formal request for the records held on him by the Council. This is fault. The Council should have shared information with him in 2013 and in 2019. If he was teaching throughout the time the 2013 allegations came to light and were investigated, this should have been noted. Mr E also says that the allegation detailed in the 14 December 2018 minutes i.e. that he 'confessed to having slept with the student more than once' is false as he disputes he has ever done this or been given the chance to say he did not do it. If he had done this, on the balance of probabilities, he would not have been allowed to continue to teach through the 2013 investigation. The school would not have failed to alert his new school to this in his reference. Indeed, there may have been a referral to the Teaching Regulation Agency (or what it was named at the time) as the allegation is so serious. As there is no evidence Mr E was involved in the 2013 LADO process, I consider he has good reasons to be upset about this. This is something he can pursue with the Information Commissioner.
31. I cannot see evidence to show the LADO meetings reflect on whether the 2018 allegations had similarities to the 2013 allegation, which is one of Mr E's contentions.

### **Fault**

32. There is no evidence Mr E was involved in the LADO process in 2013. He was not told about concerns relating to 2013 through the 2018/19 LADO process either. He was not given the opportunity to challenge some of the information presented (sometimes as fact) about him in 2019, which relate to the 2013 investigation.
33. There has been insufficient detail provided to him about any similarities between the 2013 and 2018/19 allegations.

### **Agreed action**

34. The Council's failure to properly involve Mr E in 2013, and to fail to alert him to allegations from this in 2018/19 has caused Mr E distress. Given the significance of the allegations presented in 2018/19 a token amount to reflect this distress is appropriate. Given the severity of the effect, the Council has agreed to make a payment of £700. The Council should also apologise to Mr E. The Council should do this within two months of the date of my decision.

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35. The Council should provide Mr E with the opportunity to challenge what was said about him in 2013. It should check with the school Mr E taught in at the time what information it provided to Mr E. It may be appropriate to hold another LADO meeting to discuss this. The Council should also inform Mr E whether there are similarities between the 2013 and 2018 allegations. The Council has agreed to hold a meeting with him to discuss these matters and should do so within two months of the date of my decision.
36. The Council should ensure that people subject to LADO investigations receive as much information as possible at as early a stage as possible. I can see no reason why the 2013 allegations would not have been shared and confirmed with Mr E once the LADO became involved in 2018. The Council should consider whether its procedures could be further elaborated and tell me what action it will take within four months of the date of my decision.

### **Final decision**

37. My final decision is that there is evidence of fault leading to injustice. A remedy has been agreed to remedy the injustice.

### **Parts of the complaint that I did not investigate**

38. I did not investigate Mr E's complaints about the actions of the school as this is not a body in jurisdiction. I do not have the authority to tell the Department for Education to change its procedures for investigating allegations. If Mr E wants information removed from the record, he should refer the request to the Office of the Information Commissioner (ICO) as the agency best placed. This would also cover his request that information from previous LADO investigations should not be accessed.

### **Investigator's decision on behalf of the Ombudsman**

## APPENDIX 1

### DECISIONS NOT TO INVESTIGATE FURTHER

DATE	LGO REF/ANNEX PAGE No.	PROCEDURE	COMPLAINT SUMMARY	REASON FOR DECISION
2.10.19	19 007 448 page 8	CORPORATE	Highways maintenance	Out of jurisdiction
5.10.19	19 007 589 page 10	CHILDREN'S	Council's response to subject access request	Matter for the ICO - out of jurisdiction
15.10.19	19 007 811 page 20	CORPORATE	Failure to remove a tree from outside home	Unlikely to find fault
22.10.19	19 008 067 page 27	ASCH& PP	Change to council policy and financial assessment as leaves service user with insufficient money	Unlikely to find fault
25.10.19	19 008 225 page 42	ASCH&PP	Change to council policy and financial assessment leaves service user with insufficient money	No evidence of fault

### FULL INVESTIGATIONS

DATE	LGO REF ANNEX PAGE No	PROCEDURE	COMPLAINT SUMMARY	DECISION	RECOMMENDATION	FINANCIAL REMEDY
27/09/19	18 016 318 Page 1	ASCH& PP	I) council policy change resulting in increase in financial contribution II) process to implement changes to policy and management of complaint	I) <b>NO FAULT FOUND</b>  II) <b>FAULT</b> Lack of notice about changes and delay in sending a full response to all issues	Letter of apology Explain how council decides hardship Whether husband's Reimburse 6 weeks of contributions	<b>TOTAL £1209.08</b>  <b>£500</b> Distress/uncertainty <b>£709.08</b> Reimbursed
08/10/19	18 016 966 Page 12	ASCH&PP	Council reduction to care package so no longer has sufficient support	<b>NO FAULT</b> Council had completed an assessment which met service user's needs		
14.10.19	18 019 993 Page 17	ASCH&PP	Council policy resulting in increased financial contribution	<b>NO FAULT</b> in Council's actions to change policy		

17.10.19	18 013 338 Page 22	ASCH&PP	Council did not tell son about care charges when his mother entered care home and wrongly charged for care	<b>FAULT</b> Council failed to provide important information and took too long to carry out financial assessment	Apology and financial remedy. Provide staff guidance about what to record in case records. Provide families with information about fees and charging during the assessment process. Aim to complete a financial assessment within 28 working days	<b>£300</b> for distress and uncertainty
24.10.19	18 017 296 Page 29	ASCH&PP	I) delay in assessment of needs, II) underestimated severity of needs III) failure to provide suitable accommodation IV) officers have been rude and unprofessional	I) <b>FAULT</b> leading to uncertainty/distress II) <b>NO FAULT</b>  III) <b>NO FAULT</b>  IV) <b>NO FAULT</b>	Apologise for the delay in providing the assessment and financial remedy	<b>£200</b> for Distress, time and trouble
28.10.19	19 005 448 Page 44	CORPORATE	Conduct of independent school admission appeal hearing	<b>FAULT</b> Panel did not properly engage with specific grounds of appeal causing uncertainty about original outcome	As parent did not want a fresh hearing, the recommendation asked the Council to apologise in recognition of injustice found. <b>Lessons</b> Council holds annual review meetings with appeal clerks and panel members and training sessions. These will be used to remind clerks and panel Members of the need for sensitive questioning and to engage with key grounds for appeal.	

01.11.19	19 003 106 Page 49	CHILDREN'S SOCIAL CARE	Council found fault in the way allegations against a professional was conducted and offered a financial remedy. Complainant felt council should offer more for loss of earnings.	<p><b>NO FAULT</b> With council's decision regarding potential loss of earnings and financial remedy offered for time and trouble and delay</p> <p><b>FAULT</b> With financial remedy offered for distress</p>	Recommended increase of remedy for distress by £1000	<b>TOTAL FINANCIAL REMEDY £4,073.58.</b>
13.11.2019	18 016 699 Page 55	CHILDREN'S SOCIAL CARE	Council's refusal to accept complainants to progress through process to become adoptive parents	<b>NO FAULT</b> found In council's decision making		
14.11.2019	19 003 954 Page 59	CHILDREN'S SOCIAL CARE	Council failed to investigate an allegation against a professional in a fair and timely way	<p><b>FAULT</b> No evidence complainant was involved in process in 2013 and had no opportunity to challenge this at the time or at the time of further allegation in 2018/19</p>	<p>Apology for failure to alert complainant to allegations in 2013. Allow complainant to challenge allegations made in 2013 and advise whether there are similarities between allegations in 2013 and 2018/19 Financial remedy</p> <p>Review of procedures to reflect findings and inform ombudsman of outcome within 2 months</p> <p><b>Lessons</b> Council to ensure people subject to LADO investigations receive as much information as early as possible</p>	<p><b>£700</b> For distress</p>



## **REPORT OF THE MONITORING OFFICER**

### **WHISTLEBLOWING UPDATE**

#### **Purpose of the Report**

1. To update Committee on whistleblowing concerns that have been reported during 2018 and report on a review of the Whistleblowing Policy.

#### **Information and Advice**

2. 'Whistleblowing' means the reporting by employees of suspected misconduct, illegal acts or failure to act within the Council. The aim of the County Council's Whistleblowing Policy is to encourage Council and other relevant employees who have serious concerns about any aspect of the Council's work to come forward and voice those concerns. Having effective whistleblowing procedures enables employees to raise serious concerns within the County Council rather than ignoring a problem or 'blowing the whistle' outside the County Council.
3. The County Council's Whistleblowing Policy is designed to ensure that employees can raise concerns without fear of victimisation, subsequent discrimination, disadvantage or dismissal. Employees who raise concerns under the Whistleblowing Policy have protection against victimisation and dismissal under the law.
4. The County Council logs concerns it receives centrally on its corporate register. All matters which fall under the Whistleblowing Policy are required to be reported to the Monitoring Officer.
5. During 2018, two concerns were reported under the Whistleblowing Policy. Given the confidential nature of the complaints this report can only refer to the general nature of the complaint. The complaints can be summarised as follows:

No.	Nature of complaint	Dept.	Status of complaint	Outcome
1	Financial irregularities and bullying	ASCPH	Closed	Not upheld, but suggested accounting good practice recommendations implemented.
2	Allegation regarding staff conduct	CEX	Closed	Investigated under HR procedures. Not upheld.



6. The following table sets out the number of complaints for each Department recorded for the last three years: It can be seen that two concerns were reported during 2018.

Year	Number of complaints recorded per Department			
	ASCHPP	CFCS	Place	CEX/ Resources
2018	1	-	-	1
2017	4	1	1	-
2016	1	2	1	-

7. It is important to ensure that the effectiveness of the Whistleblowing Policy is kept under review and that it is well publicised. It is suggested the following changes be made to the Policy documentation:

- A foreword by the Chief Executive to show the high-level commitment to the Policy
- A flowchart to show how the system works for ease of reference.
- Some examples of whistleblowing issues
- Some guidance to show the distinction between whistleblowing and other procedures
- Clarification that the Committee responsible for review of the Policy is now Governance and Ethics Committee.

As these are aimed at improving understanding by including flowcharts and examples and won't change the substantive content of the policy wording itself it is proposed that the Monitoring Officer be authorised to make these changes.

8. It should be noted that on 16<sup>th</sup> April 2019, the European Parliament adopted a new Directive to protect Whistleblowers. If the UK remains a part of the EU, then they will have to implement the provisions. The Directive expands the people who are protected to include trainees, volunteers and self-employed workers. Specific protection is given to 12 key areas including fraud and tax evasion. It also forbids retaliation in the form of suspension, demotion, dismissal or any other form of intimidation by the whistle-blower's employer.
9. In light of the above, it is proposed to undertake a more detailed review of the Policy during the course of 2020 to ensure ongoing fitness for purpose and ease of use by those covered by the Policy and to identify what steps would need to be taken in the event that the UK is to adopt the EU Directive.
10. The County Council's Whistleblowing Policy is published on the County Council's website. It is suggested that in order to improve awareness of the Policy by all staff, the Committee support publication of a Whistleblowing news article in the Council's Team Talk (departmental news bulletin).

### Other Options Considered

11. Consideration was given to expanding the Policy to enable looked after children/care leavers to report issues, but these were not progressed as they are not in an employment situation and other more appropriate reporting arrangements are already in place. Looked after children/care leavers are able to use the services of an independent advocate sourced through an externally commissioned advocacy service provided by the Children's Society.

Additionally, all children have regular review meetings chaired by an Independent Reviewing Officer.

### **Reason/s for Recommendation/s**

12. It is important to ensure employees are aware of the Whistleblowing Policy, and therefore it is considered worthwhile to continue promoting and publicising the Policy.

### **Statutory and Policy Implications**

13. This report has been compiled after consideration of implications in respect of crime and disorder, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, sustainability and the environment and ways of working and where such implications are material they are described below. Where appropriate consultation has been undertaken and advice sought on these issues as required.

### **RECOMMENDATION/S**

- 1) That Committee considers the report, agrees the suggested areas for change and authorises the Monitoring Officer to make the relevant amendments to aid understanding of the Policy.
- 2) That the Committee supports the publication of a Whistleblowing news article in the Council's Team Talk (departmental news bulletin).
- 3) That the Monitoring Officer undertakes a more detailed review of the Whistleblowing Policy during 2020 with any suggested recommendations for change reported back to this Committee.

**Marjorie Toward,**  
**Service Director, Customers, Governance and Employees and Monitoring Officer**

**For any enquiries about this report please contact:**

Linda Walker, Legal Services – Corporate & Environmental Law Team

### **Constitutional Comments (HD – 22/11/2019)**

The issues raised within the report fall within the remit of the Committee.

### **Financial Comments (RWK – 25/11/2019)**

There are no specific financial implications arising directly from the report.

### **Background Papers and Published Documents**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- None

**Electoral Division(s) and Member(s) Affected**

- All

17 December 2019

Agenda Item: 6

## **REPORT OF SERVICE DIRECTOR – CUSTOMERS GOVERNANCE AND EMPLOYEES AND SENIOR RESPONSIBLE OFFICER FOR RIPA**

### **REGULATION OF INVESTIGATORY POWERS ACT 2000 – ANNUAL REPORT**

#### **Purpose of the Report**

1. To report to the Committee:
  - a. Activity by the Council under the Regulation of Investigatory Powers Act (RIPA) for the periods from January to December 2018 and January to November 2019; and
  - b. The outcome of the inspection of the Council by the Investigatory Powers Commissioner's Office (IPCO).

#### **Information**

##### **Background**

2. The Regulation of Investigatory Powers Act 2000 (RIPA) gives the Council the power to undertake covert surveillance in relation to certain investigations. Since 2017 the Investigatory Powers Commissioner's Office (IPCO) has been responsible for the oversight of the use of RIPA.
3. There is a strict authorisation process set out in the legislation; applications are considered by senior officers before final approval is given by the Magistrates Court. The Council is required to submit an annual statistical return to the IPCO on the number of authorisations made and is subject to periodic inspections.
4. The Council is also able to obtain certain communications data (i.e. data about electronic communications) through the National Anti-Fraud Network (NAFN), an expert provider accredited by the IPCO and the Home Office. NAFN submits the annual statistical return to the IPCO on the number of submissions made by the Council.
5. A programme of monitoring and review is set out in the Council's RIPA policy and guidance. Since 2017 annual reports are made to the Governance and Ethics Committee. Throughout the year quarterly reports of Trading Standards activity, which includes use of RIPA, are made to the Communities and Place Committee.

6. This is the second oversight report to Governance and Ethics Committee since November 2017. This report covers 2 years: January to December 2018; and January to November 2019.

#### **Annual Activity 2018 (January to December)**

7. Throughout 2018 RIPA powers were not used by the Council and no new authorisations for covert surveillance were granted. Trading Standards successfully concluded one prosecution relating to supply of illicit and counterfeit cigarettes and tobacco, for which evidence was gathered in April 2016 using covert surveillance.
8. There were no new applications for communication data access. There was one Crown Court case where communications data obtained before 2018 was used in respect of fraud offences.
9. As a result of the above, a nil return was submitted for the annual statistical return to IPCO for the period 1 January 2018 to 31st December 2018

#### **Annual Activity 2019 (January to November)**

10. Throughout 2019 the Council has used RIPA sparingly and towards the end of the year the Council successfully completed an IPCO inspection.
11. Two new authorisations have been made in relation to the same investigation of illicit and counterfeit cigarettes and tobacco. The first authorisation was cancelled once the conditions no longer applied. The second authorisation yielded evidence which is currently being assessed for future proceedings. There have also been 5 new applications for communication data access.
12. The Council will submit the annual statistical return to IPCO for the 2019 period by March 2020.
13. Training and awareness raising activity has been undertaken as follows:
  - a. Refresher RIPA training was undertaken by the Council's Senior Responsible Officer (SRO) for RIPA (the Service Director for Customers, Governance and Employees) and Trading Standards Officers, (44 Officers including managers) during January and February 2019. In June 2019 the Trading Standards Group Manager attended the roadshow of National Anti-Fraud Network.
  - b. Awareness raising for employees and staff has also been undertaken throughout the year including the Chief Executive's blog, articles in Team Talk, and via the Council's Intranet News.
14. The Council was also represented at the meeting of the RIPA District Working Group, made up of representatives of all the local councils in Nottinghamshire, held in April.

## **IPCO Inspection**

15. The Council is inspected by the IPCO approximately every 3 years with the last inspection being in April 2016. This year's IPCO inspection commenced in September 2019 and was successfully completed on 1st November 2019. This was a desk-top documentary inspection.
16. The IPCO noted that there was no annual report to this Committee in 2018; the Council's RIPA policies are undergoing amendment to reflect changes in RIPA statutory guidance; the Council's social media policy would also benefit from amendment to reflect the Council's updated RIPA Policy and guidance; and that the Council's CCTV policy would benefit from consideration of instances where CCTV is used under RIPA.
17. The amendments to the RIPA Policy are minor consequential changes resulting from changes in RIPA guidance (largely changes to reflect the altered name of the Commissioner bodies, a reference to nicotine inhaling products and a reference to this Committee). As there are no substantive changes to the Policy and changes to supporting guidance is also limited, authority is sought for the Service Director for Customers, Governance and Employees to approve the changes. Colleagues in Legal Services and Information Governance are also working through the suggested changes to other policies/procedures raised by the IPCO inspection and will update the IPCO on progress before the end of the year.
18. The next IPCO inspection will be in 2022 and it is anticipated that this will consist of a physical inspection.

## **Other Options Considered**

19. None. Activity under the RIPA Policy requires reporting to Committee.

## **Reason/s for Recommendation/s**

20. To ensure the Council is able to exercise its statutory powers in relation to RIPA where it is necessary and proportionate to do so.

## **Statutory and Policy Implications**

21. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Where appropriate consultation has been undertaken and advice sought on these issues as required

## **Crime and Disorder Implications**

22. Use of surveillance can assist the Council in relation to the reduction of crime in Nottinghamshire.

### **Human Rights Implications**

23. Every authorisation for surveillance requires consideration of human rights including the right to privacy and the right to a fair trial. The rights of people under surveillance need to be balanced against public safety and the prevention of crime. Every authorisation, therefore, has to clearly set out why the surveillance is considered necessary and proportionate in the circumstances.

### **RECOMMENDATION/S**

1. That members consider whether there are any actions they require in relation to the matters contained within the report.
2. That the Service Director for Customers, Governance and Employees be authorised to approve the minor consequential changes to the RIPA Policy to reflect changes to the RIPA statutory guidance.

**Marjorie Toward**

**Service Director, Customers Governance and Employees and Senior Responsible Officer for RIPA**

**For any enquiries about this report please contact:**

Murz Marston Parchment, Lawyer, Legal Services:

[murz.marstonparchment@nottscc.gov.uk](mailto:murz.marstonparchment@nottscc.gov.uk)

### **Constitutional Comments (HD – 22/11/2019)**

The proposals set out in this report fall within the remit of this Committee.

### **Financial Comments (RWK – 25/11/2019)**

There are no specific financial implications arising directly from this report.

### **Background Papers and Published Documents**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

### **Electoral Division(s) and Member(s) Affected**

All



17 December 2019

Agenda Item: 7

## **REPORT OF SERVICE DIRECTOR FOR FINANCE, INFRASTRUCTURE & IMPROVEMENT**

### **COUNTER FRAUD PROGRESS REPORT – DECEMBER 2019**

#### **Purpose of the Report**

1. To update the Governance and Ethics Committee (G&E) of the Counter Fraud work undertaken to date in 2019/20.

#### **Information**

2. The report brings together work undertaken in relation to:
  - National Fraud Initiative (NFI) - outcomes to date from the 2018-20 exercise;
  - A significant attempted fraud against the Council and how control measures prevented this;
  - Counter fraud activities – to provide an update on recent, pro-active work; and
  - Counter fraud action plan progress - an update on progress made against the action plan.

#### ***National Fraud Initiative***

3. The Council participates every two years in the compulsory NFI exercise. Key statistics from NCC's participation in the 2018-20 exercise to date are the following:
  - Data matching reports were generated from the exercise comparing NCC data to data sources such as DVLA, Mortality Data, and DWP etc.
  - 14,447 matches generated of which 4,521 matches recommended for high priority review
  - The key outcomes so far are three cases identified from the matches examined, leading to recoveries of £21,653 (**See table 1**).
4. The NCC outcomes for the 2018-20 exercise are shown below in **Table 1** - Headline Categories of Fraud for NCC which compares outcomes to date alongside the outcomes of the 2016-18 exercise. To date, the outcomes show a three-fold increase in the values identified from pro-active review across the Council.

#### **Table 1 – Headline Categories of Fraud for NCC - 2016-18 & 2018-20**

Category	NCC 2016-18	NCC 2018- 20 (To Date)
Pension Fraud and Overpayments	£0	£12,277
Personal budgets	£5,848	£2,474
Trade Creditors	£1,498	£0
Payments to Private Care Homes for Deceased Persons	£0	£6,902
<b>Total</b>	£7,346	£21,653
<b>Other significant results</b>		
Blue Badges revoked or withdrawn (no's)	0	576
Concessionary Travel Passes Cancelled (no's)	2	0

5. The Cabinet Office have developed products offered to Local Government following the 2016-18 NFI exercise and NCC has engaged in the Re-Check facility. This provides the opportunity to resubmit data sets for matching against more recent data sources, thus providing more up-to-date match records.
6. To date the only data reviewed in a recheck exercise process has been mortality data to conduct Pension data matches. This has resulted in matches which are being worked through. The mortality matched cases completed to date have not led to recovery action.

### ***Attempted Fraud case***

7. Members will be aware from previous fraud updates that attempts to change bank mandates and suppliers' bank account details are a significant type of fraud threat for Councils. These are aimed at establishing regular flows of bogus payments to fraudsters and to divert legitimate payments into the bank accounts of fraudsters. The Council has established controls to guard against attacks of this nature. Members will be re-assured to know that those controls successfully defended a fraudulent attempt in August 2019 to change the bank account details for Via East Midlands Ltd.

The vigilance and prompt actions by staff in the Business Services Centre, in compliance with the established control procedure, prevented a payment of £1.9m being diverted to a fraudster's bank account. The matter was reported to Action Fraud. Colleagues from the Business Services Centre will attend the Committee meeting to deliver a short presentation to illustrate the robust arrangements in place to repel attacks of this nature.

### ***Counter Fraud E-learning and Other Activities***

8. The Counter Fraud E-learning materials were released to all staff through the intranet in July 2018. Since its release, the training package has been completed by 902 staff. **Table 2** below shows the breakdown of completions across departments. This shows the Place department having the lowest take-up which we will use to inform our fraud risk assessment.

**Table 2 – Completion of Counter Fraud E-learning**

Department	Completions Dec 2018	%	Completions Oct 2019	%
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ASCH	56	32%	306	34%
Chief Executives	65	37%	240	27%
C&F	44	25%	192	21%
Place	12	6%	53	6%
Other / External	0	0%	111	12%
<b>Total</b>	<b>177</b>		<b>902</b>	

9. We have continued to monitor the completion of the training and have undertaken a further re-launch of the e-learning materials as part of International Fraud Awareness Week which ran from 17 – 23 November 2019. The re-launch involved a Team Talk article to raise awareness of fraud and to remind staff of the training available, how to protect the Council and themselves from fraud.
10. In our Annual Fraud Report we reported on how the Council's insurers, Zurich Municipal, had worked with the Risk and Insurance Team to provide fraud awareness training. This training and awareness have now been expanded to include engagement with the Council's Counter Fraud Specialist to share knowledge and experience and access to industry networks.
11. The Risk and Insurance Team remain vigilant to potentially fraudulent claims and continue to undertake pro-active detection work. The team have also been active in the successful defence of claims made against the council and have recently generated estimated savings of £80,000 through such work.
12. Internal Audit continue to be involved in fraud investigation activities and are currently involved in nine live cases. The developments and outcomes are reported to the Chairman of this committee through regular updates with the Group Manager and summarised to all members in the Annual Fraud Report. We continue to report our findings and recommendations to management in relation to recommended redress and / or strengthening of the control environment.
13. We have previously reported our engagement with Nottinghamshire Police to develop the 'data washing' agenda. This has now transferred to the Government Agency Intelligence Network (GAIN) to identify potential matches with known serious organised crime targets. The first 'data washing' exercise has been completed and no targets were identified from the sample data provided. We have made a commitment with GAIN to undertake further 'data washing' exercises on a six-monthly basis.

### ***Counter Fraud Action Plan Progress***

14. We have reviewed the implementation of actions within the Counter - Fraud Action Plan and provide an update on progress for each in **Appendix A**.
15. During our work we have identified that the Council's Counter - Fraud and Counter Corruption Strategy and Fraud Response Plan require review and updating. The review will ensure the key documents are updated and complement each other. We will work with stakeholders such as legal and finance to review these strategies. This will be monitored through the Counter Fraud Action Plan and is a recorded action in **Appendix A**.

## **Other Options Considered**

16. The Audit Section is working to the Public Sector Internal Audit Standards and the contents of the Counter Fraud Action Plan. This report follows the requirements of the Standards to undertake a risk-based approach to counter fraud work and report progress and outcomes of such work. No other option was considered.

## **Reason/s for Recommendation/s**

17. To report the progress made by the Group Manager – Assurance in undertaking counter fraud work.

## **Statutory and Policy Implications**

18. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

### **Crime and disorder**

The Council's Counter Fraud Policy provides for a zero tolerance approach to fraud and corruption. The Fraud Response Plan provides for all suspected cases being considered for referral to the Police for investigation.

### **Human Resources implications**

Under the zero tolerance approach in the Council's Counter Fraud Policy, all suspected cases involving members of the Council's staff are investigated and consideration given to disciplinary proceedings.

### **Financial Implications**

Any money lost to fraud is money that cannot be spent delivering critical public services to the citizens of Nottinghamshire. The Annual Fraud Report for 2018/19 was presented to the Governance & Ethics Committee in June 2019 and identified that the value of detected or prevented fraud in that year amounted to approximately £238,000.

## **RECOMMENDATIONS**

- 1) Committee considers whether it wishes to see any additional actions put in place to tackle fraud or to receive further reports on the actions already being taken within the Council.

**Nigel Stevenson**

**Service Director for Finance, Infrastructure & Improvement**

**For any enquiries about this report please contact:**

Rob Disney  
Group Manager – Assurance

### **Constitutional Comments (GR – 28112019)**

19. Pursuant to the County Councils constitution the Governance and Ethics Committee has the delegated authority to both receive this report and make the recommendations contained within it.

### **Financial Comments (RWK 02/12/2019)**

20. There are no specific financial implications arising directly from the report.

### **Background Papers and Published Documents**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- None

### **Electoral Division(s) and Member(s) Affected**

- All



**Fraud Response Plan Progress**

Action	Timescale	Responsibility	Progress & revised timescale
Respond to any issues identified by the data-washing exercise with Nottinghamshire Police.	March 2019	Internal Audit Team Manager	<b>Achieved</b> –Protocol established with GAIN to submit datasets every six months.  No concerns were identified in the first extract for matching.
Pro-active work with the Travel & Transport team to review the controls in place to manage Blue Badge fraud.	January 2019	Head of Internal Audit	<b>Partially Achieved</b> – Further analysis on Blue Badges using the latest NFI value and for recording cancellations undertaken.  Use of the NFI recheck facility to continue to be able to match data and check matches.  Ongoing work to follow up audit findings around implementing quality assurance checks and internal controls.
Review of the Counter Fraud and Corruption Strategy and the Fraud Response Plan.	April 2020	Head of Internal Audit with the assistance of the Head of Legal Services	<b>Ongoing</b> – both documents will be subject to review and refresh and reference to the item above.
Work with Legal Services to develop a proposed protocol for the pursuit of private and civil prosecutions.	April 2020	Head of Internal Audit with the assistance of the Head of Legal Services	<b>Partially Achieved</b> – Initial feedback with legal services. This will be taken forward as part of the Fraud Response Plan review.
Pro-active work with the Group Manager – Procurement to assess vulnerability to contract management fraud.	November 2019	Head of Internal Audit	<b>Achieved</b> –Contract Management audit complete with Limited Assurance. Internal Audit are working closely with Procurement on improvements the control environment.



Action	Timescale	Responsibility	Progress & revised timescale
			The National focus on Procurement Fraud Risk and recent audit outcomes will be considered further as part of our risk assessment process.
Update of the self-assessment for the Council's defences against cyber fraud and review progress against the action plan.	July 2019	ICT Service Manager	<b>Achieved</b> - Updated report to G&E June 2019.
Continue to support the Direct Payments Team to map and review processes for fraud/overpayment referrals.	September 2019	Head of Internal Audit & Service Director Strategic Commissioning, Adult Access and Safeguarding	<b>Achieved</b> - Revised mapping has been completed.
Develop e-learning materials to respond to tax evasion risks arising from the Criminal Finances Act Policy.	August 2019	Head of Internal Audit	<b>Partially Achieved</b> – Risk assessment undertaken but additional module required for e-learning materials.
Disseminate insight and responses to fraud alerts through 'Team Talk' to coincide with International Fraud Awareness Week.	March 2020	Head of Internal Audit	<b>Achieved to date</b> – Team Talk article completed and updates planned every 6 months.

17 December 2019

Agenda Item: 8

## **REPORT OF SERVICE DIRECTOR – FINANCE, INFRASTRUCTURE AND IMPROVEMENT.**

### **EXTERNAL AUDIT – PROGRESS REPORT**

#### **Purpose of the Report**

1. To present to Members the External Auditors' latest Progress Report.

#### **Information and Advice**

2. The attached progress report from Grant Thornton provides an overview of the progress made to date with regard to delivering their responsibilities. It also highlights a number of emerging issues that are impacting upon local government nationally. The Audit Engagement Lead and the Audit Engagement Manager from Grant Thornton will be in attendance to present the report and respond to Members' queries.
3. Outside of the normal external arrangements, Grant Thornton also undertook the audit of the Teachers' Pension Return 2018/19. The findings to date of this audit are set out on page 6 of the progress report.

#### **Reason/s for Recommendation/s**

4. To provide information to Members on the External Auditors' latest Progress Report.

#### **Statutory and Policy Implications**

5. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

## **RECOMMENDATION/S**

- 1) That Members comment upon the External Auditors' latest Progress Report.

**Nigel Stevenson**

**Service Director – Finance, Infrastructure & Improvement**

**For any enquiries about this report please contact:**

Nigel Stevenson tel. 0115-9773033

### **Constitutional Comments (KK 29/11/2019)**

6. Governance and Ethics Committee is the appropriate body to consider the content of this report.

### **Financial Comments (GB 20/11/2019)**

7. The total audit fees for the 2019/20 external audit are £75,624 for Nottinghamshire County Council and £23,043 for the Nottinghamshire Pension Fund. The cost of the Teachers' Pension Audit was £3,500.

### **Background Papers and Published Documents**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- None

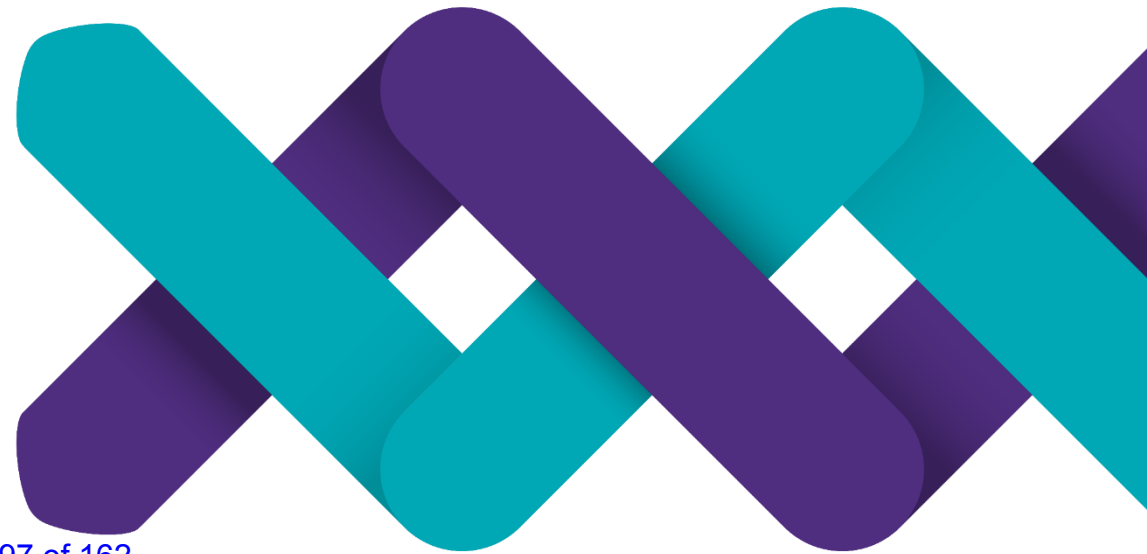
### **Electoral Division(s) and Member(s) Affected**

- All

# Audit Progress Report and Sector Update

Nottinghamshire County Council  
Nottinghamshire Pension Fund  
Year ending 31 March 2020

3 December 2019



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# Introduction



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This paper provides the Governance & Ethics Committee with a report on progress in delivering our responsibilities as your external auditors.

The paper also includes:

- a summary of emerging national issues and developments that may be relevant to you as a local authority; and
- includes a number of challenge questions in respect of these emerging issues which the Committee may wish to consider (these are a tool to use, if helpful, rather than formal questions requiring responses for audit purposes)

Members of the Governance & Ethics Committee can find further useful material on our website, where we have a section dedicated to our work in the public sector. Here you can download copies of our publications [www.grantthornton.co.uk](http://www.grantthornton.co.uk).

If you would like further information on any items in this briefing, or would like to register with Grant Thornton to receive regular email updates on issues that are of interest to you, please contact either your Engagement Lead or Engagement Manager.

# Progress at December 2019

## Financial Statements Audit

We issued our opinion on your 2018/19 Statement of Accounts on 31 July 2019..

We will begin our planning for the 2019/20 audit in December and will issue a detailed audit plan, setting out our proposed approach to the audit of the County Council and Pension Fund's 2018/19 financial statements.

We will begin our interim audit in January 2020. Our interim fieldwork includes:

- Updated review of the Council and Pension Fund's control environment
- Updated understanding of financial systems
- Review of Internal Audit reports on core financial systems
- Early work on emerging accounting issues
- Early substantive testing

We will report our work in the Audit Findings Report and aim to give our opinion on the Statement of Accounts by the statutory accounts publication date of 31 July 2020.

## Value for Money

The scope of our work is set out in the guidance issued by the National Audit Office. The Code requires auditors to satisfy themselves that; "the Council has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources".

The guidance confirmed the overall criterion as: "in all significant respects, the audited body had proper arrangements to ensure it took properly informed decisions and deployed resources to achieve planned and sustainable outcomes for taxpayers and local people".

The three sub criteria for assessment to be able to give a conclusion overall are:

- Informed decision making
- Sustainable resource deployment
- Working with partners and other third parties

Details of our initial risk assessment to determine our approach will be included in our Audit Plan.

We will report our work in the Audit Findings Report and aim to give our Value For Money Conclusion by the statutory accounts publication date of 31 July 2020.



# Progress at December 2019 (Cont.)

## Other areas

### Certification of claims and returns

We certify the Council's annual Teacher's Pension Claim in accordance with procedures agreed with the Department for Education. At the time of writing this report the certification work for the 2018/19 claim is in progress and will be completed by the 29 November deadline. We have included within this report at page 6 an overview of the work undertaken, findings to date and fees

### Meetings

We met with Finance Officers in October as part of our quarterly liaison meetings and continue to be in discussions with finance staff regarding emerging developments and to ensure the audit process is smooth and effective.

### Events

We provide a range of workshops, along with network events for members and publications to support the Council. Your officers will be invited to attend our Financial Reporting Workshop in February, which will help to ensure that members of your Finance Team are up to date with the latest financial reporting requirements for local authority accounts.

Further details of the publications that may be of interest to the Council are set out in our Sector Update section of this report.

## Audit Fees

During 2017, PSAA awarded contracts for audit for a five year period beginning on 1 April 2018. 2019/20 is the second year of that contract. Since that time, there have been a number of developments within the accounting and audit profession. Across all sectors and firms, the Financial Reporting Council (FRC) has set out its expectation of improved financial reporting from organisations and the need for auditors to demonstrate increased scepticism and challenge and to undertake additional and more robust testing.

Our work in the Local Government sector in 2018/19 has highlighted areas where financial reporting, in particular, property, plant and equipment and pensions, needs to improve. There is also an increase in the complexity of Local Government financial transactions and financial reporting. This combined with the FRC requirement that all Local Government audits are at or above the "few improvements needed" (2A) rating means that additional audit work is required.

We are currently reviewing the impact of these changes on both the cost and timing of audits. We will discuss this with your s151 Officer including any proposed variations to the Scale Fee set by PSAA Limited, before communicating fully with the Governance and Ethics Committee.

As a firm, we are absolutely committed to meeting the expectations of the FRC with regard to audit quality and local government financial reporting.

# Teachers Pension Grant Certification

The Teachers Pension scheme is a contributory pension scheme administered by Teachers Pensions on behalf of the Department of Education.

Regulations require employers to deduct contributions from teachers salaries and to send them to Teachers Pensions together with employers contributions. An annual return is required to be submitted by employers.

Your 2018/19 Teachers Pension Return showed:

- Total Contributory Salary of £91,284,153.18 and
- Contributions deducted of £23,373,874.59

Nottinghamshire County Council have engaged Grant Thornton to certify this return under 'agreed upon procedures' with Teachers Pensions.

To date we have identified two minor issues which will be reported to Teachers Pensions which we highlight for your attention.

- When recalculating submitted figures from the claim minor variances were found, none of these were large (all below £100) however we would not expect to see any variances at all.
- Discrepancies within the bandings % used were found. This is because monthly and not annual salaries are used for the calculation. We understand this has been an issue reported by your previous auditors in earlier years.

The fee for the certification of the Teachers Pension Claim is £3,500.

# Audit Deliverables

2018/19 Deliverables	Planned Date	Status
<b>Audit Findings Report</b> The Audit Findings Report was reported to the July Governance and Ethics Committee.	July 2019	Complete
<b>Auditors Report</b> This is the opinion on your financial statement, annual governance statement and value for money conclusion.	July 2019	Complete
<b>Annual Audit Letter</b> This letter communicates the key issues arising from our work.	September 2019	Complete
2019/20 Deliverables	Planned Date	Status
<b>Fee Letter</b> Confirming audit fee for 2018/19.	April 2019	Complete
<b>Accounts Audit Plan</b> We are required to issue a detailed accounts audit plan to the Governance and Ethics Committee setting out our proposed approach in order to give an opinion on the County Council and Pension Fund's 2019-20 financial statements.	March 2020	Not yet due
<b>Interim Audit Findings</b> We will report to you the findings from our interim audit and our initial value for money risk assessment within our Progress Report.	April 2020	Not yet due
<b>Audit Findings Report</b> The Audit Findings Report will be reported to the July Governance and Ethics Committee.	July 2020	Not yet due
<b>Auditors Report</b> This is the opinion on your financial statement, annual governance statement and value for money conclusion.	July 2020	Not yet due
<b>Annual Audit Letter</b> This letter communicates the key issues arising from our work.	August 2020	Not yet due

# Sector Update

Councils are tackling a continuing drive to achieve greater efficiency in the delivery of public services, whilst facing the challenges to address rising demand, ongoing budget pressures and social inequality.

Our sector update provides you with an up to date summary of emerging national issues and developments to support you. We cover areas which may have an impact on your organisation, the wider NHS and the public sector as a whole. Links are provided to the detailed report/briefing to allow you to delve further and find out more.

Our public sector team at Grant Thornton also undertake research on service and technical issues. We will bring you the latest research publications in this update. We also include areas of potential interest to start conversations within the organisation and with audit committee members, as well as any accounting and regulatory updates.

- **Grant Thornton Publications**
- **Insights from local government sector specialists**
- **Reports of interest**
- **Accounting and regulatory updates**

More information can be found on our dedicated public sector and local government sections on the Grant Thornton website by clicking on the logos below:

Public Sector

Local  
government

# CIPFA – CFO confidence survey

## In July, the Chartered Institute of Public Finance and Accountancy (CIPFA) reported the results of their annual confidence survey.

The survey found that the majority of local government finance officers have lost confidence in their future financial positions over the last year.

Seventy per cent of respondents said they were either slightly less or much less confident in their financial position this year compared to 2018-19.

The survey also found that 68% said they were either slightly less or much less confident in their ability to deliver services in 2020-21. Sixty-two per cent expressed equal confidence in their financial position for 2019-20 as they had last year.

CIPFA found that the area of greatest pressure for top tier authorities was children's social care, with the number of authorities rating it as the biggest pressure rising by six percentage points.

For districts the greatest pressures were housing, cultural services and environmental services.

Rob Whiteman, CIPFA chief executive, said: "Local government is facing greater demand pressures than ever before, with particularly pressures in adults' and children's social care and housing. Local authorities also lack certainty about their future financial positions, so it's unsurprising to see confidence on the decline.

"We have repeatedly pointed out that local government is in need of a sustainable funding solution, but meeting this demand requires more than pennies and pounds. The sector as a whole must come together to address the challenges of effective service delivery."

CIPFA's survey received a total of 119 responses from authorities in the UK - 56 top tier authorities, 47 English districts, 12 Scottish authorities, and 4 Welsh authorities.



On the same theme, a Local Government Association (LGA) survey, also reported in July, found that almost two-thirds of councils believe cash for services like adult social care, child protection and preventing homelessness will dry up by 2024-25.

The survey got responses from 141 of the 339 LGA member councils in England and Wales.

It also found that 17% of councils were not confident of realising all of the savings they had identified this year (2019-20).

The LGA said that councils needed a guarantee they will have enough money to meet growing demand pressures in particular in adult social care, children's services, special educational needs, homelessness support and public health.



## Financial confidence



### Challenge question:

How confident over its' financial position is your Authority? Has this changed from previous years?

# MHCLG – Independent probe into local government audit

In July, the then Communities secretary, James Brokenshire, announced the government is to examine local authority financial reporting and auditing.

At the CIPFA conference he told delegates the independent review will be headed up by Sir Tony Redmond, a former CIPFA president.

The government was “working towards improving its approach to local government oversight and support”, Brokenshire promised.

“A robust local audit system is absolutely pivotal to work on oversight, not just because it reinforces confidence in financial reporting but because it reinforces service delivery and, ultimately, our faith in local democracy,” he said.

“There are potentially far-reaching consequences when audits aren’t carried out properly and fail to detect significant problems.”

The review will look at the quality of local authority audits and whether they are highlighting when an organisation is in financial trouble early enough.

It will also look at whether the public has lost faith in auditors and whether the current audit arrangements for councils are still “fit for purpose”.

On the appointment of Redmond, CIPFA chief executive Rob Whiteman said: “Tony Redmond is uniquely placed to lead this vital review, which will be critical for determining future regulatory requirements.

“Local audit is crucial in providing assurance and accountability to the public, while helping to prevent financial and governance failure.”

He added: “This work will allow us to identify what is needed to make local audit as robust as possible, and how the audit function can meet the assurance needs, both now and in the future, of the sector as a whole.”

In the question and answer session following his speech, Brokenshire said he was not looking to bring back the Audit Commission, which appointed auditors to local bodies and was abolished in 2015. MHCLG note that auditing of local authorities was then taken over by the private, voluntary and not-for-profit sectors.

He explained he was “open minded”, but believed the Audit Commission was “of its time”.

Local authorities in England are responsible for 22% of total UK public sector expenditure so their accounts “must be of the highest level of transparency and quality”, the Ministry of Housing, Local Government and Communities said. The review will also look at how local authorities publish their annual accounts and if the financial reporting system is robust enough.

Redmond, who has also been a local authority treasurer and chief executive, is expected to report to the communities secretary with his initial recommendations in December 2019, with a final report published in March 2020. Redmond has also worked as a local government boundary commissioner and held the post of local government ombudsman.



# National Audit Office – Code of Audit Practice

The Code of Audit Practice sets out what local auditors of relevant local public bodies are required to do to fulfill their statutory responsibilities under the Local Audit and Accountability Act 2014. ‘Relevant authorities’ are set out in Schedule 2 of the Act and include local councils, fire authorities, police and NHS bodies.

Local auditors must comply with the Code of Audit Practice.

## Consultation – New Code of Audit Practice from 2020

Schedule 6 of the Act requires that the Code be reviewed, and revisions considered at least every five years. The current Code came into force on 1 April 2015, and the maximum five-year lifespan of the Code means it now needs to be reviewed and a new Code laid in Parliament in time for it to come in to force no later than 1 April 2020.

In order to determine what changes might be appropriate, the NAO is consulting on potential changes to the Code in two stages:

**Stage 1** involves engagement with key stakeholders and public consultation on the issues that are considered to be relevant to the development of the Code.

**This stage of the consultation is now closed.** The NAO received a total of 41 responses to the consultation which included positive feedback on the two-stage approach to developing the Code that has been adopted. The NAO state that they have considered carefully the views of respondents in respect of the points drawn out from the [Issues paper](#) and this will inform the development of the draft Code. A summary of the responses received to the questions set out in the [Issues paper](#) can be found below.

[Local audit in England Code of Audit Practice – Consultation Response \(pdf – 256KB\)](#)

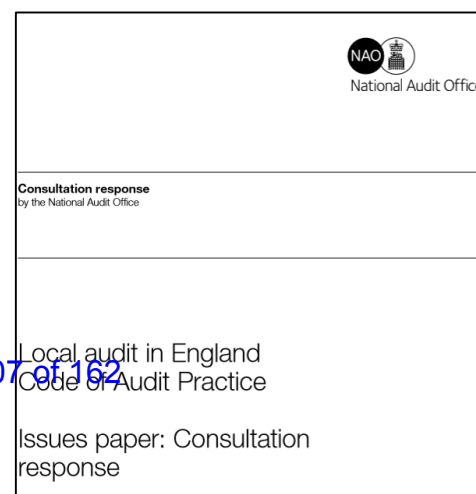
**Stage 2** of the consultation involves consulting on the draft text of the new Code. To support stage 2, the NAO has published a consultation document, which highlights the key changes to each chapter of the draft Code. The most significant changes are in relation to the Value for Money arrangements. Rather than require auditors to focus on delivering an overall, binary, conclusion about whether or not proper arrangements were in place during the previous financial year, the draft Code requires auditors to issue a commentary on each of the criteria. This will allow auditors to tailor their commentaries to local circumstances. The Code proposes three specific criteria:

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

The consultation document and a copy of the draft Code can be found on the NAO website. The consultation is open until 22 November 2019. The new Code will apply from audits of local bodies’ 2020-21 financial statements onwards.

Link to NAO webpage for the Code consultation:

<https://www.nao.org.uk/code-audit-practice/code-of-audit-practice-consultation/>



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# Local Government Association – Profit with a purpose – delivering social value through commercial activity

The Local Government Association (LGA) report 'Profit with a purpose' focuses on some of the practicalities of how councils can deliver social value through their commercial activity.

Through 'key questions' to ask, the guidance supports councils to face the challenge of how to undertake commercial activity and achieve greater value for the public purse in ways that better meet society's needs and outcomes for people and communities.

In addition, the publication features a number of short case studies highlighting some of the innovative commercial practice already achieving results for communities.

The LGA comments that the best approaches ensure the generation of social value is the primary factor driving commercial activity; from the initial decision to develop a commercial vision to how the approach is developed, and implemented, councils which are pulling ahead ensure social value is placed centre stage.

The guidance starts with an overview of what the LGA understands by 'profit with a purpose', the guidance explores different types of social value and the role of councils in driving social value alongside their commercial ambition.

The guidance then looks at how consideration and delivery of social value should be practically considered when deciding on whether to embark on commercial activity, the need for social value to be prioritised alongside financial return and the key questions councils should consider when embarking on a commercial initiative.

Following on from this, there are specific chapters on; embedding social value in governance of alternative service delivery vehicles, the role of procurement in contracting services that deliver social value and finally how to contract and performance manage social value through your service providers.

Each chapter outlines the factors that need to be considered and the 'key questions' councils should be asking themselves.

In addition, a number of short case studies are provided to highlight some of the innovative commercial practice already achieving results for communities.

The report can be downloaded from the LGA website:

<https://www.local.gov.uk/profit-purpose-delivering-social-value-through-commercial-activity>



## Profit with a purpose

Delivering social value through commercial activity

### Profit with a purpose



#### Challenge question:

If your Authority is looking at commercial activity, have you considered the LGA report?

# Public Accounts Committee – Local Government Governance and Accountability

The Public Accounts Committee has found that the Government has not done enough to ensure that, at a time when local authority budgets are under extreme pressure, governance systems are improved.

The Ministry of Housing, Communities & Local Government (the Department) is responsible for: ensuring that this framework contains the right checks and balances, and changing the system if necessary. The Secretary of State also has powers to intervene in cases of perceived governance failure. The framework includes: officers with statutory powers and responsibilities; internal checks and balances such as audit committees and internal audit; and external checks and balances such as external audit and sector-led improvement overseen by the Local Government Association. These arrangements represent a significant reduction in the level of central oversight in recent years following the government's decision to abolish the Audit Commission and the Standards Board for England as part of a broader reform of local audit, inspection and reporting.

The Public Accounts Committee report summary notes “Local authorities have a good overall track record with governance arrangements generally robust across the sector, and there is evidence that local authority governance compares favourably to that of the health sector. However, this is not universal and in some authorities governance is under strain, as funding reduces and responsibilities and exposure to commercial pressures change. We are worried to hear about audit committees that do not provide sufficient assurance, ineffective internal audit, weak arrangements for the management of risk in local authorities’ commercial investments, and inadequate oversight and scrutiny. This is not acceptable in the more risky, complex and fast-moving environment in which local authorities now operate.

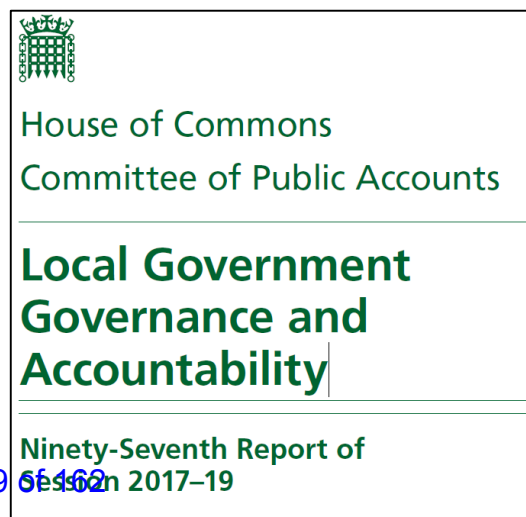
The Department has been reactive and ill-informed in its approach to oversight of the local governance system. However, the Department has now recognised that the network of bodies with responsibility for the local governance framework is fragmented and lacking the leadership needed to drive change. Encouragingly, the Department has now committed to enhancing its oversight role and producing a proactive work programme to deliver this change. We urge the Department to ensure that this activity leads to concrete actions and outcomes on a timely basis. When a local authority fails this has a significant impact on local people and the Department has a responsibility to work with local government to ensure that problems are caught early and that it can pinpoint at-risk councils. Since the abolition of the Audit Commission and other changes culminating in the Local Audit and Accountability Act 2014 there is no central assessment of value for the money, which means the Department's work is fundamental.”

The report makes five conclusions, with associated recommendations:

- 1) The Department is not yet providing effective leadership of the local governance system.
- 2) The Department does not know why some local authorities are raising concerns that external audit is not meeting their needs.
- 3) The Department lacks reliable information on key governance risks, or relies on weak sources of information, meaning it has no way of pinpointing the at-risk councils.
- 4) The Department's monitoring is not focused on long-term risks to council finances and therefore to services.
- 5) There is a complete lack of transparency over both the Department's informal interventions in local authorities with financial or governance problems and the results of its formal interventions.

The Government response is available on the website below:

<https://www.parliament.uk/documents/commons-committees/public-accounts/Gov-response-to-Public-Accounts-on-the-93-98-reports.pdf>





**17 December 2019****Agenda Item: 9****REPORT OF THE MONITORING OFFICER****RESPONSE TO COUNCIL MOTION REGARDING TRANSPARENCY AND  
STREAMING OF MEETINGS****Purpose of the Report**

1. To consider a review by the Monitoring Officer of transparency of meetings, including members working groups and the potential for live streaming of meetings.

**Information**

2. At its meeting on 18 December 2018, a motion was presented to County Council and it was agreed that the Monitoring Officer would carry out a review into the following:
  - I. Any meetings including Council Members relating to Council functions and decision-making which are held in private.
  - II. Whether working groups of this County Council should be held in public.
  - III. Whether meetings should be streamed live on the Council's website and Facebook page to ensure maximum transparency and coverage.
3. Council agreed that the review would be reported back to Governance and Ethics Committee to decide if any action was necessary to ensure the maximum amount of business is held in public and that meetings are scheduled at times which enable the widest possible access to elected councillors. Each of the matters raised in the motion will be considered in turn below.

**Any meetings including Council Members relating to Council functions and decision-making which are held in private.**

4. Consideration has been given to the range of meetings involving elected members which take place at the Council which are held in private. These include
  - a. briefing meetings for elected members which are commonplace across the Local Government sector to ensure that members of all political parties are kept up to date with Council business and functions.
  - b. Pre-agenda and business management meetings also take place to ensure the efficiency and orderly conduct of Council business. This again is a common and accepted practice across Local Government.
  - c. Member Working Groups which are advisory groups established by Council or Committees (see further below)

5. The Monitoring Officer is satisfied that such meetings are appropriate and that decision making relating to Council functions which includes Members is carried out in the Council's properly constituted bodies for such decision making, namely: Full Council, Committees and Sub-Committees. These meetings as a matter of law have to be held in public unless specific exclusions apply as set out Schedule 12A of the Local Government Act 1972. If officers recommend that information meets one of the grounds for exemption from publication then Members have to agree this and also agree that it is in the public interest not to publish this information. Once agreed, that information can be deemed as 'exempt information'.
6. As explained in the Constitution, the Council is committed to the principles of openness and it is now extremely rare for a fully exempt report to be submitted to any meeting. Where there is exempt information, report authors are encouraged to make as much information as possible public, with the remaining exempt information included in a separate appendix.

#### **Whether working groups of this Council should be held in public.**

7. The Committees of the County Council all have power within Part 4 of the Constitution to set up working groups. They will generally have terms of reference which will make it clear that they are an advisory group and not a decision making body. This is common practice and exists in most authorities. They are typically set up to 'have a think about the best way of doing things' as advised in case law.
8. Under Part VA of the Local Government Act 1972, inserted by the Local Government (Access to Information) Act 1985 with effect from 1<sup>st</sup> April 1986, all council committees and sub-committees are required to be open to the public and also for various pieces of information to be available to the public and press in advance of the meeting. Such provisions, however, do not apply to working groups. One of the reasons for this is that it is important that working groups are able to engage and stimulate debate across the political spectrum whilst retaining confidentiality in developing thinking and documentation which are yet to reach maturity.
9. The notes of such meetings will reflect that dialogue, comments and recommendations are advisory only and that no decision-making has taken place. It is also worth noting that the outcome of these advisory working group discussions are later reported back to the relevant body which set up the working group and any relevant decisions are taken there or at the relevant body of Council for such decisions.
10. This reflects the Council's current approach.

#### **Timing of meetings**

11. The Council's meetings take place in daytime, which is long-established practice. Whilst recognising that this could impact on potential attendance from some members of the public, this approach prevents any conflicts with District and Borough Council meetings which generally take place in evenings. It is worth noting that 42 of the 66 County Councillors are also currently District or Borough Councillors.

**Whether meetings should be streamed live on the Council's website and Facebook page to ensure maximum transparency and coverage.**

12. There was a change in the law a few years ago which allowed members of the public to record proceedings and report public Council meetings. This was incorporated into the Council's Procedure Rules in the Constitution at paragraph 5.12 for Council meetings and paragraph 5.20 for committees and sub committees. There are restrictions on this permission, namely, oral commentary during meetings is not permitted as this would be disruptive. Mobile phones need to be switched to silent. Placards, banners, advertising materials and similar items are not permitted in any meetings.
13. As a result of these new provisions applicable to members of the public, some councils decided that they would record Council meetings open to the public. Practice has varied with some councils producing audio recordings, others video recordings and some live streaming meetings.
14. Providing video recordings/live streaming of council proceedings grants citizens immediate access to the council meetings without having to leave the comfort of their living room. It encourages a greater number of people to get involved, for example, those working long hours can catch up with proceedings on their tablet or smartphone.
15. The County Council currently has Communications Officers utilising Twitter to "tweet" updates live from Full Council and Policy Committee meetings on what is being debated. This approach has proved helpful in engaging audiences and developing an interest in the Council's decision-making meetings.
16. The experiences of a number of other Councils have been reviewed and the conclusion is that it is for a Council to assess for itself the benefits of recording/live streaming meetings by assessing the amount of interest there would be from the public weighed against the costs. The cost does vary depending upon how sophisticated the system is, so again, this would have to be explored with suitable providers. The main benefits appear to be such things as the local press finding it helpful because they don't have to physically attend each meeting. Officers find it helpful as it reduces disputes over minutes etc. Politicians use the recordings to review previous speeches and commitments etc. The take up from the public does vary from authority to authority and in some cases is very limited.
17. Officers gathered information from a number of other authorities regarding the possibilities for live streaming of meetings and the findings are set out in the table attached at Appendix 1 (it should be noted that the available information is historic and therefore may require updating). Based on this information, including the costs and likely audience sizes, Members are recommended to implement **Option 1** detailed below for a period of pilot testing to assess operational, technical and quality issues and to develop any necessary procedures.

A protocol and training will be developed to ensure that Committee Chairmen, Members and officers are fully aware of the approach being taken. Advice will be sought from peers at other Councils who are using a similar approach to share any lessons learnt and best practice. This will enable officers to fully support Councillors in this new approach. Following the development of this protocol it is proposed to have a phased implementation as follows:-



Phase 1 – audio record relevant meetings and publish subsequently;

Phase 2 – live audio streaming of relevant meetings;

Phase 3 – consideration of a possible move to live video streaming of meetings.

**Option 1** – audio (and possible video) - as Full Council meetings are currently audio recorded it would be relatively straight forward to use the existing equipment to post such audio recordings after the meeting to the Council's website at minimal cost and officer impact. Some software providers offer this service whereby it can be linked in with the Council's Committee Management Information System (CMIS). Such software has the added benefit of breaking down the recordings alongside each agenda item on the same page of the website where the agenda and reports are published, offering a more transparent and accessible solution for the public.

18. The Council is able to access a three month trial on a no-cost basis of such software and it is recommended that this be pursued as a means of assessing the system's suitability. For the audio-only phases 1 and 2, this is likely to involve some low-level technology requirements and officer training but could be implemented relatively quickly, as an interim measure pending further exploration of the costs and benefits of a more advanced option. Taking this approach could also help to cost-effectively assess how much of an audience there is for any form of broadcasting of meetings and to iron out any technical issues.

19. It is proposed that the approach be trialled initially at a meeting of Governance and Ethics Committee.

20. The estimated annual cost for Phase 1 and 2 would be £3,000 - £5,000 plus some additional one-off hardware costs estimated at £2,000.

21. Phase 3 will look to build on the lessons learnt from Phase 1 and 2 in order to assess the benefits of any possible move to live video streaming. Any such move will need to be appropriately managed, with the likely increased costs and staffing resources, further technological requirements and data protection issues given due consideration.

### **Other Options Considered**

22. The other main options considered by officers were:-

**Option 2** – Recording of meetings using simple mobile phone technology and posting the recording to the Council's website after the meeting. Alternatively, meetings could be broadcast live using the same kind of technology and social media sites such as Facebook. This would involve the need for someone to operate the phone during the meeting so there would be an additional staff cost impact. The estimated cost would be between £5,000 - £10,000 with potential ongoing staffing costs. This option is not recommended as, based on the experience of other Councils, issues with sound and image quality can result in complaints from users.

**Option 3** – Recording of Council meetings using Council owned camera equipment which would require the purchase of specialist equipment, training of officers and dedicated officer attendance at the meetings to operate it – this option may require additional officer capacity within either Democratic Services or Corporate Communications to manage and operate the system. This system could be operated by (a) posting after the meeting or (b) as live streaming.



The estimated cost would be between £30,000 - £60,000 with potential ongoing staffing costs. There may be issues to resolve with regard to linking up sound from the microphone system to the imagery from the video camera recordings as well as potential issues regarding intrusive works to the fabric of the Council Chamber. For these reasons and the additional costs, this option is not recommended.

**Option 4** - The purchase of a fully serviced, bespoke audio-visual system to live stream all meetings with ongoing maintenance and licence costs to the relevant service company. This would have an estimated one off cost up to £150,000, with ongoing annual costs of up to £15,000 plus any additional staffing costs required to manage and operate the system during and after meetings. Due to the significant costs, this option is not recommended.

23. Any more costly longer-term options chosen would require more detailed work to set out the proposal in a business case. This would require consideration of:

- the timetable for any necessary procurement exercise,
- scope of technology requirements including cameras, sound and possibly big screens as well as any improved cabling and broadband requirements
- assessment of any additional regulatory requirements around broadcasting and content management
- impact on the Council chamber/other parts of the County Hall and how that might tie in with other works already scheduled
- impact on staffing resources
- estimated costs and benefits analysis
- development of any appropriate policy and procedure documentation.

### **Reason/s for Recommendation/s**

24. To consider the Monitoring Officer's review into the issues raised by the Motion agreed by Council and to ensure the most cost-effective and appropriate openness and transparency of meetings.

### **Statutory and Policy Implications**

25. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Where appropriate, consultation has been undertaken and advice sought on these issues as required.

### **Data Protection Implications**

A Data Protection Impact Assessment will need to be completed ahead of the new approach of meetings being recorded or streamed as this will involve the processing of personal data.

### **Implications for Service Users**

The review considered the accessibility and transparency of meetings which may be attended by members of the public.

## RECOMMENDATION/S

- 1) That the phased implementation of Option 1 be approved with an appropriate protocol and training developed as appropriate.
- 2) That, following Phase 1 and 2 of the implementation, a further report be submitted to this Committee on the proposed next steps.

**Marjorie Toward**

**Service Director Customers Governance and Employees, and Monitoring Officer**

**For any enquiries about this report please contact:**

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0115 977 4404

### **Constitutional Comments (HD – 23/11/2019)**

26. Governance and Ethics Committee is the body responsible for considering the review as resolved by Full Council.

### **Financial Comments [RWK 05/12/2019]**

27. The report proposes the implementation of measures to enable council meetings to be more transparent and accessible solution for the public . The proposed measures are estimated to cost £3,000 to £5,000 per annum together with estimated one-off additional hardware costs of £2,000. These costs can be contained within the committee's existing revenue budget of £7.305 million.

### **Background Papers and Published Documents**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- Motion to County Council 13 December 2018 and minutes of that meeting ([published](#))

### **Electoral Division(s) and Member(s) Affected**

- All

**COMPARISON TABLE – STREAMING OF COUNCIL MEETINGS**

<b><u>AUTHORITY</u></b>	<b><u>SYSTEM</u></b>	<b><u>COST</u></b>	<b><u>COMMENTS/EFFECTIVENESS</u></b>
1. A City Council	Camera in Council Chamber for Full Council only. Stream to nearby room. Recording posted on website at a later date. Uploaded onto YouTube.	£2,000 camera.	Between 42 and 98 views on average. Mainly used by Comms team and journalists.
2. A London Borough	Invested in a bespoke webcasting and AV system used for Council, Cabinet, Planning and Scrutiny.	£150,000	Interest varies from hundreds to single figures. Has led to complaints re late posting etc.
3. A City Council	Equipment hired at an hourly rate. Most meetings streamed.	£28,000 per annum.	Interest varies – Council meetings can get around 2,000 views and more for budget meetings. Smaller meetings get around 100. Main feedback from public is negative – e.g. distortion lack of sound, buffering. Useful as a record of the meetings.
4. A London Borough	Practically everything is live webcast. Any meetings not webcast are audio recorded. system bought 2½ years ago.	£140,000 plus £13,000 per year subscription to supply and host.	Various difficulties experienced. Generally, less than 100 views. Have been a number of complaints about it from public re quality and breakdowns.

<u>AUTHORITY</u>	<u>SYSTEM</u>	<u>COST</u>	<u>COMMENTS/EFFECTIVENESS</u>
5. A London Borough	Most meetings audio recorded	Minimal cost and not very onerous. Head of Dem Services had previously done a cost benefit exercise and decided this was the best option.	Limited public interest but useful for minute takers.
6. A County Council	Used to have expensive provider. Now use YouTube. Most meetings streamed.	YouTube free, but microphones and cameras cost £55,000 for Council Chamber and between £20,000-£30,000 for other rooms.	Numbers vary from 10-12 to 50 people. Negative feedback when system fails. Happy to demonstrate the system.
7. A County Council	Going through a period of change as webcasting solution failed. Engaging with providers to procure a new system. Have also used YouTube solution, but that was dependant on the system that failed. In addition, they have used national providers for individual meetings which was good, but cost could not be justified.	No costs given.	Viewing figures modest unless it is a matter of particular interest. Main feedback is when things go wrong. They feel it benefits transparency and helps with the understanding of Local Government. Happy to discuss further.

<b>AUTHORITY</b>	<b>SYSTEM</b>	<b>COST</b>	<b>COMMENTS/EFFECTIVENESS</b>
8. A local District / Borough Council	New system introduced in October 2019 to enable live video broadcasting or retrospective publication of recordings. System can also record audio only for either publication or the Council's own use. The system also has electric voting capability although this is not currently being utilised.	£104,000 initial equipment outlay (£16,000 related to the three cameras – linked to microphones). £5,000 ongoing annual support and maintenance charge.	System is currently operated by ICT team although Democratic Services staff will also receive training.
9. A local District / Borough Council	Operate an audio recording and voting system through the microphones.  Have also broadcast occasional meetings live using Facebook Live.	Initial outlay for microphone / recording system (including microphones and hardware/software) in 2012 was £34,000	Audio recording system operated by Democratic Services staff – very easy to use and audio recordings are very clear (published on Council's website as a single recording). Recordings not linked to democratic management system.  Live video broadcasts operated by Comms Staff using an iPad - feedback on Facebook Live broadcasts include many complaints about the quality of the sound.
10. A local District / Borough Council	New Council Chamber has AV equipment including cameras built in – 4 cameras linked to microphones). System geared towards Full Council meetings – needs greater flexibility for other types of committee meetings.  Upload recordings of meetings to Youtube. Have also used an iPad to broadcast via Facebook	Initial costs included within new building costs.  Page 119 of 162	System works well although limited viewing numbers but largely positively received.

<u><b>AUTHORITY</b></u>	<u><b>SYSTEM</b></u>	<u><b>COST</b></u>	<u><b>COMMENTS/EFFECTIVENESS</b></u>
	Live – sound quality is limited but good levels of public engagement.		
11. A local District / Borough Council	Trialled audio recording software – via Android tablet device, plugged into one of the Chamber's microphones.	Usual price is either £100 a meeting or £325 for a month, with different options / functionality available.	System was effective and costs were the main prohibitive factor in pursuing previously. System not linked to democratic management system but does work in conjunction with it – Democratic Services clerk taps on tablet device in the meeting to divide recording by each agenda item.
12. A local District / Borough Council	New meeting rooms have AV equipment built in – facility to audio record meetings via touchscreen panels in the rooms (which records back at the building's server onto a datastick).  Considering building in e-voting via software provider.	Initial costs included within new building costs.  Free to upload to Youtube other than Officer time	A Comms Officer checks through the recording prior to publishing as a single recording to Youtube.  Limited viewing numbers but feedback has been positive.

**17 December 2019****Agenda Item: 10****REPORT OF THE SERVICE DIRECTOR CUSTOMERS, GOVERNANCE AND  
EMPLOYEES****MEMBER COMMUNICATION AND ENGAGEMENT PROGRAMME  
QUARTERLY UPDATE****Purpose of the Report**

1. To update the Committee on progress with the Member Communication and Engagement programme.

**Information**

2. At its meeting of 24 July 2019, the Committee agreed proposals to establish a new cross cutting programme of work to review the Council's approach to member communication and engagement and consider where improvements can be made.
3. The Committee also agreed to receive quarterly progress updates.
4. This programme consists of four distinct but interdependent workstreams, with progress so far detailed below and in the attached Activity Plan.

**Communication with Members workstream**

5. One of members' key concerns was the lack of consistent available information about activities, services and achievements both in the Council and the wider communities of Nottinghamshire. The response to this has been the development of new "newsroom" pages on the Intranet which have been live since September and which give members a range of information from Council media releases, video releases and marketing campaigns.
6. Members also raised concern about the ability to access information on the move and to be able to direct constituents or Parish Council colleagues to relevant areas of the Council's website via mobile telephone Apps. This has now been developed as the "MyNotts" App and is currently in final testing with a proposed Go Live Launch date in January 2020. It is hoped that this App will encourage the public to engage more frequently with Council services through electronic platforms as many people prefer to access web content through a phone rather than a desktop or laptop computer.
7. In the next stage of this workstream, it is proposed to refresh and relaunch the information pages for members on the Intranet to have access to all information through a single point



of access. Further information for members on a range of specific topics is being developed with one on gritting completed and another on flooding underway. Other information will focus around key Council Plan objectives and budgetary information and will be available in a range of different formats to enable access online or in a variety of settings such as Councillor or Doctor surgeries and at local Libraries.

8. The longer-term plan is to develop a Customer Relationship Management (CRM) system which provides a range of information about Council systems and services, objectives and achievements in an automated “real time” way to reduce staff time in re-presenting information for a range of audiences.

### **Handling Members’ Queries and Complaints workstream**

9. A cross Council benchmarking review has been completed of the way in which complaints and queries raised by elected members are received and dealt with by each Department.
10. This has established that although the majority of areas work in accordance with the Council’s Customer Service Standards when responding to members, each Department has adopted a slightly different process for escalating and resolving such queries and use a variety of systems and procedures in doing so.
11. These departmental approaches have also been compared to those used in the Complaints and Information Team and the Customer Service Centre and in light of this work, a new approach to handling members’ general departmental queries and complaints and is being trialled by the Adult Social Care and Health Department. The new approach involves an element of triage to streamline and apply consistency to how queries and complaints raised by MPs and members are handled and to ensure a prompt and efficient response.
12. Using the insight from the trial period and from best practice elsewhere in the Council to address any remaining issues, an overarching corporate approach will be designed and rolled out as the approved operating methodology for handling all MPs and members’ general enquiries and complaints other than issues which are already addressed through specific systems.
13. In the medium term this approach will be further refined and link into the ongoing work around insight and intelligence in the transformation and digital programmes currently ongoing. The ultimate aim will be to link into the CRM system to provide easier real time access to information for members to respond to their queries and assist in supporting constituents with their complaints or concerns about service related issues.

### **Support for Members workstream**

14. A key aspect of this workstream relates to the members’ telephony and mobile ICT offer. All members will be aware of the pilot testing of new mobile phone devices which has taken place over the summer and autumn. This is now complete with all 4 of the members involved in the pilot indicating their satisfaction as to the fitness for purpose of the new devices. The most recent communication updated members on the plans for migrating email accounts to Office365 on November 16<sup>th</sup> which is the precursor to roll out of the new mobile phones in mid-December and throughout January.
15. Members are always encouraged to minimise the use of paper documentation, with a preference for electronic storage of documents where possible. However, it is recognised

that members do use paper documents in a variety of situations. In order to ensure appropriate secure storage for these papers, it is proposed that a review will commence in January to assess members' storage requirements. Once needs have been assessed, appropriate solutions will then be identified and implemented subject to available budgets.

16. During the review, members will be asked about any paper based legacy documents which they may hold to determine if they need to be retained. For any papers required over the longer term it is proposed that the Council's print services team will scan any information that the members currently hold in paper form, so that it can be stored securely in an appropriate area on the County Council servers. A further piece of scoping work will be necessary with Democratic Services Group support officers to identify appropriate folders/systems into which the legacy information can be stored for each member.
17. The above scoping work will also begin the discovery phase to better understand members' casework needs. As well as internal discussions about members' casework, best practice from elsewhere will be assessed alongside consideration of suitable systems or technology and will inform next steps to improve support for members' casework management over the medium to longer term.
18. Going forward, the intention would be for an initial solution to later be incorporated within the CRM system that would allow a more holistic provision of information for Members that relates to the query or complaint being dealt with.

## **Members' Training and Development workstream**

### Internal Offer

19. Currently, members are offered a detailed induction and refresher programme following their election to the Council at the local County Council elections held every 4 years. The take up of this offer has been variable and has been affected by members' other commitments, including the impact of a general election shortly after the last County Council elections when the bulk of the training programme had been planned.
20. The development offer for new members elected through by-elections is rather more ad hoc and depends on whether the member has experience from another Council and which Committees they are appointed to sit on. In addition to induction training, Councillor Development days are earmarked throughout each year, however which subjects are covered has been rather ad hoc and largely driven by topical issues such as GDPR and Modern Slavery as recent examples.
21. In future it is proposed to develop a more comprehensive rolling programme of development for all members. This would include a number of mandatory topics for all members as well as a range of other subjects which may be of interest to be delivered in both face to face and online settings. It is felt that this should better address a range of member development needs.
22. Members of the Committee have previously flagged the need for Recruitment and Selection training for relevant members and Social Media training for all County Councillors. At the recent Independent Persons Training held on 18 September 2019 and attended by the majority of this Committee's Members, members also suggested that it would be helpful to offer further training to all County Councillors on Conduct and Complaints. In light of this, the emerging topics for the initial internal offering will include:

- a. Members' Personal Safety – 28 January 2020
- b. Information Governance Refresher – 28 April 2020
- c. Social Media – (Date in February/March 2020)
- d. Recruitment and Selection – (Date TBC)
- e. Standards/Code of Conduct – (Date TBC)

23. In the medium term, further discussions between Democratic Services and Human Resources colleagues will look at the most appropriate format and contents of the planned internal rolling programme of training and development for members. This will include the availability of an extensive set of e-learning packages through the Learning Pool portal "My Learning My Career". Committee will recall having previously piloted such training in relation to the General Data Protection Regulations and agreeing that this was an appropriate approach for members going forward.

24. All members have been allocated a Learning Pool licence and can access any of the training available within the portal. It is proposed that colleagues in the HR workforce and organisational development team (HRWOD) will create a dedicated audience space in the portal which will clearly sign post members to learning and development opportunities relevant to their role. Work is currently being undertaken to identify appropriate opportunities that will take members through from induction to role specific opportunities.

25. It is envisaged that development opportunities (which may include toolkits, guidance and other materials as well as online and face to face training) will be identified under the following headings:

- a. Induction
- b. E-learning catalogue
- c. Council and Committee training
- d. Personal development

The programme will be a mix of in-house delivery and external opportunities, as well as access to the e-learning catalogue.

26. The draft programme will then be shared with the Committee as part of the next quarterly update. In the meantime, a simple survey to gather views about other training needs will be conducted alongside discussion with Group Business Managers to inform the programme.

### **Other Options Considered**

27. None - updates on progress of the Member Communication and Engagement Programme are scheduled to be submitted to this Committee on a quarterly basis.

### **Reason/s for Recommendation/s**

28. To enable the Committee to be updated on progress with the Programme.

### **Statutory and Policy Implications**

29. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below.

Where appropriate consultation has been undertaken and advice sought on these issues as required.

### **Financial Implications**

30. At present work is being contained within current resources but work on longer term objectives such as the development of systems is likely to require dedicated resources. During ongoing discovery phases, further clarity about any resources required will emerge and any need for additional budget required will be reported at appropriate stages. To date no project manager support has been called upon but given the wide-ranging nature of the programme with multiple streams and cross council working, some part-time support will be sought from within the programmes and projects team to maintain focus on programme timelines and deliverables.

### **Human Resources Implications**

31. At this stage no, additional staffing resources have been identified but this will be kept under review and further information provided as necessary in future reports.

## **RECOMMENDATION/S**

- 1) That the update on progress with the four workstreams be considered and members agree the actions set out in respect of each workstream and consider any further actions required at this stage.
- 2) That a further quarterly update report be submitted to the Committee meeting on 4 March 2020.

**Marjorie Toward**

**Service Director Customers, Governance and Employees and Monitoring Officer**

**For any enquiries about this report please contact:**

Marjorie Toward, Service Director, Customers, Governance and Employees and Monitoring Officer

### **Constitutional Comments (HD 22/11/2019)**

32. Governance and Ethics Committee is the appropriate body to consider the content of this report.

### **Financial Comments (RWK 04/12/2019)**

33. There are no specific financial implications arising directly from this report. Work on longer term developments is continuing and any requirements for additional budget allocation arising out of this work will be addressed in future reports to the Committee.

### **Background Papers and Published Documents**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- None

## **Electoral Division(s) and Member(s) Affected**

- All

**Progress Report - Delivering Member Communication and Engagement Activity Plan**  
**Period up to 30 November 2019**

<b>WORKSTREAM 1 – COMMUNICATION WITH MEMBERS</b>				
<b>Lead Officer/s: Luke Barrett – Group Manager Communications and Marketing</b>				
<b>Description/Objective: To keep members informed and updated about Council information, activities, achievements and constituency matters with standardised and consistent information at regular intervals</b>				
<b>1A</b>	<b>Short Term Deliverables (July to December/Jan)</b>	<b>Deadline</b>	<b>Status</b>	<b>Comments, Progress &amp; Result Update</b>
<b>1.1</b>	<b>Develop and launch new ‘Newsroom’ pages for weekly reporting:</b>  Provides access to all Council media releases, links to social media, videos (e.g. Shared Lives), marketing campaigns (e.g. Fostering) etc.	December 2019  Ongoing	<b>Completed</b>	Pages available to members from September/October through: <a href="https://www.nottinghamshire.gov.uk/newsroom">https://www.nottinghamshire.gov.uk/newsroom</a>
<b>1.2</b>	<b>My Notts App and Website development and launch:</b>  Developing new App for mobile phones linking to improved functionality and services via website	January 2020	<b>Substantially Complete - on target for launch in January 2020</b>	Development of App and Website design complete. Testing underway.  January launch planned.
<b>1.3</b>	<b>Re-launch ‘Information for Members’ webpages on Intranet</b>  To ensure that members have dedicated space for information, guidance etc	January 2020	<b>On Target</b>	Pages being reviewed to ensure easy access and clear labelling for re-launch. Additional content will continue to be built over time to reflect members’ needs.
<b>1.4</b>	<b>Information Leaflets and online content.</b> To provide sufficient information about specific issues to enable members to carry out their roles	December 2019  <a href="#">Page 127 of 162</a>	<b>Completed</b>	Leaflet on gritting completed. Other topic specific leaflets/online content to be developed over the medium term

1B	Medium Term Deliverables	Deadline	Status	Comments, Progress & Result Update
1.5	<b>Design and implement a standardised summary of Council achievements, activities and information:</b>  For circulation to members for sharing with constituents – rolling programme of topics to address key issues and information of importance for members.	July 2020	On Target	Scoping underway. Further Information leaflets to be delivered (flooding leaflet due January 20) Further content to be based on Council strategy and Budget information. To be made available in different formats including printed and online solutions
1.6	<b>Develop and implement information and insight for members on constituency matters:</b>  To enable members to receive specific data regarding activity and issues in constituencies	January-September 2020	In Discovery	Gathering information about service areas, systems and data which can be drilled down at a divisional level and delivered to members.
1C	Long Term Deliverables	Deadline	Status	Comments, Progress & Result Update
1.7	<b>Procure and implement Customer Relationship Management (CRM) system:</b>  To effectively use available data regarding Council service delivery, issues and achievements to keep members informed on a “real time” basis	Start: January 2020  Implement: December 2021	Not started	This is a long-term objective which links to objectives of the Council’s Digital Programme. It will require significant planning and technical development in advance of undertaking a procurement exercise. Developing a robust business case and specifying operational, technical and legal requirements will be critical to success using a whole Council project managed approach.



## WORKSTREAM 2 – MEMBER COMPLAINTS AND QUERIES

**Lead Officer/s:** Julie Forster– Group Manager Business Support & Marie Rowney – Group Manager Customer Services

**Description/Objective:** To develop and implement a consistent, responsive and effective service to manage and address member and MP queries and complaints

2A	Short Term Deliverables	Deadline	Status	Comments, Progress & Result Update
2.1	<b>Review and map existing approaches to responding to member and MP complaints and queries across individual departments:</b>  To understand the current position, identify gaps and opportunities for improvement	December 2019	Completed	The review identified some inconsistencies between Departments together with a general observance of customer service standards. Information from the review is being used to design a corporate approach (see 2.2 below)
2.2	<b>Design and implement new approach to handling general Departmental member and MP complaints and queries within Adult Social Care and Health (ASCH):</b>  This new approach is being piloted subject to further development and refinement as a corporate approach once testing is complete	ASCH: December 2019	Substantially progressed	New triage and tracking system developed and implemented in ASCH. Testing for effectiveness and any cross dependencies underway.
2B	Medium Term Deliverables	Deadline	Status	Comments, Progress & Result Update
2.3	<b>Refine, design and implement Corporate approach to handling general Departmental member complaints and queries</b>	Corporate: August 2020	On Target	Dependent on learning from 2.2 above, further best practice development, staffing resources and training to roll out a corporate standard across all Departments

2.4	<b>Refine reporting, intelligence and insight approaches to reflect organisational progress with broader transformation programme</b>	December 2020	In Discovery	This is dependent on organisational progress with the wider programme of transformation and digital development. Aim is to automate relevant data flows to members with minimal manual intervention.
2C	<b>Long Term Deliverables</b>	<b>Deadline</b>	<b>Status</b>	<b>Comments, Progress &amp; Result Update</b>
2.5	<b>Procure and implement Customer Relationship Management (CRM) system:</b> (see 1.7 above)	See 1.7 above	Not started	(see 1.7 above)

### WORKSTREAM 3 – SUPPORT FOR MEMBERS

**Lead Officer/s:** Iain Macmillan - Programme Manager, Programmes and Projects & Nick Allars, ICT Technology Partner

**Description/Objective:** To equip members with effective support for them to undertake their roles including roll out of fit for purpose mobile telephony and laptop/tablet devices, storage for confidential items and adequate officer support within available budgets.

3A	<b>Short Term Deliverables</b>	<b>Deadline</b>	<b>Status</b>	<b>Comments, Progress &amp; Result Update</b>
3.1	<b>Pilot testing and roll out of mobile telephones for elected members.</b>  To ensure members have effective connectivity and are able to access information “on the move”.	December 2019	Substantially progressed	Pilot testing completed. All 4 members reported satisfaction with devices. Latest communication with members outlined next steps for roll-out including email transfer to O365 in November and transfer of phones via 1-2-1 meetings from mid-December and throughout January.
3.2	<b>Assess and develop solution to meet members’ storage requirements for confidential information.</b>  To ensure information is stored securely in County Hall and home office environments for both paper and electronic information.	Jan-February 2020	In Discovery	Initial exploratory work has been undertaken to identify potential solutions. Further information is required to understand members’ work styles and needs. Members views will be sought, via Group Business Managers (and directly for non-aligned members).

3B	Medium Term Deliverables	Deadline	Status	Comments, Progress & Result Update
3.3	Identify, test, pilot and roll out suitable replacement laptop/tablet devices for use by members to access work electronically.	May 2021	In Discovery	Work is starting in ICT to explore effective options for these devices with the aim of rolling out replacement devices to coincide with the next County Council elections. Members needs and preferences will be sought as part of the discovery phase together with the views of colleagues in Democratic Services to better inform the exploration of the most suitable devices within available budgets.
3.4	Explore options for members casework tracking and archiving system.  To provide a simple and cost-effective methodology/system for member casework for use by members and their support officers	December 2019 – September 2020	In discovery	There are a range of options from a simple spreadsheet to tools available via the Microsoft Enterprise Licence or the purchase of a bespoke system. Options will be explored and reported back with estimated costs. A full business case and procurement exercise may be required which could extend timescales for delivery.
3C	Long Term Deliverables	Deadline	Status	Comments, Progress & Result Update
3.5	To test and implement members casework system  Once options and costs have been identified a system will need to be developed or procured and then rolled out to members with appropriate user support and training	September - December 2020	Not started	This will depend on the option selected. A full procurement exercise may push timescales for implementation into 2021.
3.6	To develop A CRM system to provide support to members through access to real time information. (see 1.7 above)	See 1.7 above	Not started	(see 1.7 above)

## WORKSTREAM 4 – MEMBER TRAINING AND DEVELOPMENT

**Lead Officer/s:** Heather Dickinson – Group Manager Legal Democratic and Complaints & Keith Ford - Team Manager, Democratic Services

**Description/Objective:** To develop and implement an ongoing, affordable, flexible member-led programme of learning and development using a range of different tools and approaches to reflect different needs and styles

4A	Short Term Deliverables	Deadline	Status	Comments, Progress & Result Update
4.1	Implement initial internal programme of development and training for all members.	September 2019 to April 2020	On Target	<b>Initial internal training identified includes:</b> <b>Independent Persons (18.9.19)</b> Personal Safety (28.1.20) Social Media (date TBC in February / March 2020) Information Governance follow up (28.4.20) Guided user support for ICT devices (blend of face to face and small workshops, as appropriate – ongoing) Recruitment and Selection (date TBC) Standards/ Code of Conduct (date TBC)
4.2	Launch members' learning and development landing page on My Learning My Career Portal	Feb - March 2020	On target	Members have access to the portal (used by some members for online Information Governance training. Will develop dedicated access point to the portal on members' information intranet pages and identify learning opportunities tailored to their needs
4B	Medium Term Deliverables	Deadline	Status	Comments, Progress & Result Update
4.3	Explore and develop options for external training within available budgets.	January - July 2020	In Discovery	Sample and evaluation of learning and development opportunities from Local Government Association, East Midlands Council and Local Government Information Unit to determine which elements to include within future NCC programme. Discussion of needs with members via simple survey and via Group Business Managers.

4.4	Launch blended programme of training and development, tools and techniques	September 2020	In Discovery	This will include elements of internal and external training workshops, use of resources/materials etc.
4C	Long Term Deliverables	Deadline	Status	Comments, Progress & Result Update
4.5	Develop and roll out comprehensive member induction and mandatory training programme for implementation after May 2021 County Council elections	May 2021	Not started	Previous induction programme will be reviewed and built upon to ensure it is fit for purpose for both new and returning members and contains a mixture of information, mandatory training, familiarisation and practical tips and guidance as well as refreshers for returning members.
4.6	Rolling programme of events, workshops, guidance, toolkits, online, interactive and face to face training and development opportunities to meet members' needs within available budgets.	June 2021	Not started	Members will be enabled to develop a personalised package of learning and development including mandatory and discretionary training and the portal will provide records of training and tailored suggestions for future development. Members' input into how available budgets can be apportioned will be an important feature of this work.



17 December 2019

Agenda Item: 11

## **REPORT OF THE SERVICE DIRECTOR, CUSTOMERS, GOVERNANCE AND EMPLOYEES**

### **UPDATE ON USE OF THE COUNCILLORS' DIVISIONAL FUND**

#### **Purpose of the Report**

1. To present Committee with a six monthly update on the use of the Councillor's Divisional Fund (CDF) for the period 1 April 2019 – 30 September 2019 and to share the headline findings of a recent audit undertaken by Democratic Services staff.

#### **Information and Advice**

##### **Background**

2. The CDF is a specific budget which enables each County Councillor to put forward proposals for expenditure in their electoral divisions which accord with the strategic objectives of the Council. Such payments are subject to compliance with the requirements of the CDF Policy.
3. Each Councillor receives an annual allowance of £5,000 to spend within each financial year. Any funds remaining unspent within this budget at the end of the financial year will be returned to corporate balances.
4. As part of the revised CDF Policy agreed by Policy Committee on 18 July 2018, a new requirement was introduced for reports on the use of the CDF to be brought to this Committee on a six monthly basis. This is the third such report and details of the applications received from Councillors during the period April 2019 – September 2019 are included at **Appendix A** (N.B. payments to individuals have been anonymised where relevant).

##### **Audit of Previously Processed Applications**

5. Officers from Democratic Services have recently undertaken an audit of applications from the last financial year, in line with the requirements of the CDF Policy.
6. The officers have been guided by Internal Audit on the scope of this exercise and the Chairman of the Committee has been consulted, in line with the CDF Policy.
7. The audit took a sample of eight applications (the Policy recommends a sample size of between five-ten), This included at least two from each political group and one from a non-



aligned Councillor. Headline findings of the audit, with reference to the Fund's criteria, are as follows-

- a) None of the payments within the sample were below the minimum payment threshold of £50 (a wider audit of all applications since the new higher threshold was introduced revealed that there had been a handful of payments below this threshold but only on account of these being part of a joint payment made by two or more Councillors, with the overall total exceeding the threshold).
- b) No Councillors had exceeded the total £5,000 individual amount available.
- c) All payments in the sample were supported by an application form in the agreed format and appropriate reference had been made to the relevant Council strategic objectives. No interests were declared on the forms included in the sample, although there was evidence of interests being declared by some of the same Councillors for other payments within the wider audit.
- d) The payments were made to individuals or groups that support the local community, with the projects often wider than the Councillor's own Division. They were all single, one-off payments of differing amounts (ranging from £200 to £1300) and did not equate to ongoing financial commitments or running costs. None of the payments related to planning proposals.
- e) Only three of the eight applications in the sample could evidence that the funding had been, or was planned to be, acknowledged in a notice, publication, annual report or minutes (a requirement of the Policy). In light of this finding we have amended the notification e-mails sent to recipient organisations by adding the following text:-

*Please note that one of the conditions attached to this payment is that your organisation promotes it through a notice or one of your publications, annual reports or minutes of a meeting. We may require evidence as part of our auditing processes that this has been done.*

All CDF payments continue to be published on the Council's own website, as well as through these update reports to Governance & Ethics Committee.

- f) Although not requirements of the Policy, six of the eight recipients were able to provide receipts for the relevant expenditure and five of the eight groups were able to provide feedback on how the funding had helped the organisation.
8. None of the applications in the sample referred to match funding. This issue is covered within the Policy as follows:-

*4d) Payment can be made towards projects that are seeking match funding from more than one source. However if the project is not able to progress due to the other sources of funding not being obtained, then the payee is required to notify the relevant Councillor to arrange for the CDF payment to be reimbursed.*

It is felt that the onus should remain with the recipient organisations to highlight the rare occasion where a CDF funded project has not gone ahead, although it is recognised that it

would be helpful to ensure that the next audit sample includes some applications that reference match funding, in order to gain assurances about this issue.

### **New Online Process**

9. The Committee, at its meeting of 18 December 2018, supported the development of a new online process for the application, processing and payment of CDF awards.
10. The online process was developed by the Business Services Centre in conjunction with Democratic Services and has been live since 9 May 2019. Democratic Services Officers from within the Governance Team have been processing applications online on behalf of Councillors. Once input, applications for payment are routed directly to the Account Payable Team who then make payment directly into the recipient's nominated bank account via a BACS bank transfer. This ensures that the recipient is in receipt of their payment 3 days following processing by Accounts Payable. All Councillors receive 7 days' notice prior to a payment being made. Presentation cheques are also available to Councillors if requested.
11. As part of the new process previously agreed, Councillors are enabled to input their own applications directly, with assistance from the Group Support staff where required. It is planned to make this option fully available to Councillors during the next 6 months. This new process will deliver improved efficiency and a reduction in administrative costs.

### **Other Options Considered**

12. None – the report provides an update on expenditure as required in the revised CDF policy.

### **Reason/s for Recommendation/s**

13. To update the Committee in line with the requirements of the CDF Policy and to highlight ongoing issues and future developments.

### **Statutory and Policy Implications**

14. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

## **RECOMMENDATIONS**

- 1) That the Committee considers the CDF expenditure for the period April 2019 – September 2019 detailed in Appendix A and highlights any actions required.
- 2) That Members consider the outcomes of the recent audit exercise and highlight any further information or actions required.
- 3) That the next steps in the agreed development of the new online process be supported.

**Marjorie Toward**  
**Service Director, Customers, Governance and Employees**

**For any enquiries about this report please contact:**

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### **Constitutional Comments (HD – 20/11/19)**

Governance & Ethics Committee is the appropriate body to consider the content of the report.

### **Financial Comments (RWK 04/12/2019)**

There are no specific financial implications arising directly from this report. The total budget for the Councillors Divisional Fund is £329,000.- Any funds remaining unspent within this budget at the end of the financial year will be returned to corporate balances.

### **Background Papers**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- Summary of audit of CDF sample.

### **Electoral Division(s) and Member(s) Affected**

All

**CDF Applications received from Councillors - 1 April 2019 – 30 September 2019**

N.B. Payments to individuals not trading as businesses have been anonymised in line with Access to Information Rules.

<b><u>Councillor &amp; Recipient</u></b>	<b><u>Amount £</u></b>	<b><u>Reason for application</u></b>
<b>Cllr Reg Adair</b>		
Ruddington Parish Council	300.00	Contribution towards the purchase of a 'Ruddy Duck' mascot costume
St Peters C of E Junior School	500.00	Support the school on its recommended READS programme
<b>Cllr Pauline Allan</b>		
British Lung Foundation	250.00	Exercise classes for members of the Breath Easy Group
Gedling Southbank Football Club	250.00	For football hoodies and equipment
Juno Women's Aid	500.00	To help women in need
Nottingham Arimathea Trust	250.00	Training of volunteers in the organisation
Arnold Methodist Church	250.00	To help pay for a holiday club
<b>Cllr Chris Barnfather</b>		
Gedling Borough Council (Locality Co-Ordinator)	300.00	To support Newstead Village Family Fun day which is free for an area of high social deprivation
Bestwood Village Parish Council	300.00	To replace piece of outdated and dangerous play equipment in children's play park
Papplewick Village Fayre Group	200.00	To support Papplewick Village Fayre which is aimed at strengthening community ties and providing social cohesion
<b>Cllr Joyce Bosnjak</b>		
The Peaceful Trust	100.32	To purchase 16 song books for the Memory Café
Mansfield Wildlife Rescue	500.00	Help towards funding for a new community run wildlife rescue centre
Family Action	100.00	To provide trips, outings and parties for families attending the Children's Centre Services at Mansfield Woodhouse
St Edmunds PCC	100.00	To contribute towards the St Chad's Church Roof Restoration Fund
Mansfield CVS	200.00	Funding to support the delivery of the Mansfield Volunteer Awards Ceremony
Mansfield District Corps of Drums	100.00	Contribution towards the hire of a minibus to get the corp to 3 Remembrance Day events

The Peaceful Trust	180.00	To contribute towards school holiday lunch project and transport to a local venue
<b>Cllr Ben Bradley</b>		
Hucknall Leen Valley Community Association	225.00	To support the group in promoting their meetings and fostering community engagement
West Hucknall Safer Neighbourhood Committee	300.00	Help fund a family fun day, go towards a climbing wall, BMX competition and other attractions
Cantamus	100.00	To support the choir to represent Great Britain in Sweden this summer
Watnall Road Baptist Church	167.00	To contribute towards a development day in the community for the Love Where You Live initiative
Rolls Royce Junior Football Club	200.00	To contribute towards the purchase of rain jackets and run out tops
Nottinghamshire Independent Domestic Abuse Service	1,000.00	To contribute towards the running of a 10-week programme
The Lovelace Theatre Group	300.00	To purchase lapel mics to help future productions
<b>Cllr Nicki Brooks</b>		
Burton Joyce Parish Council	200.00	To contribute towards a picnic in the park and the Christmas Fayre 2019
1st Netherfield Guides	200.00	To purchase badges and craft supplies and contribute towards cost of house for sleepover
Netherfield Forum	1,600.00	Contribution towards community Christmas events to provide lunches and presents for children, young mums, the youth club and elderly
Burton Joyce PCC	250.00	Repairs to path to St Helen's Church which is dangerous
Gedling Borough Council (Netherfield Locality Co-Ordinator)	1,000.00	£500 toward new WW1 memorial £500 towards the costs involved in running 2 'Health Fairs' for the community
<b>Cllr Andrew Brown</b>		
PCC of St George's Barton	150.00	To contribute towards an annual coach trip for senior citizens of Barton in Fabis
East Leake Community Care Association	350.00	Hire a room for the Dementia Café
Normanton on Soar Parish Council	400.00	To replace damaged village, notice board
West Leake Village Hall Committee	1,250.00	To provide a defibrillator for West Leake Village Hall

Via East Midlands Ltd	900.00	Drop down curb for the residents of Swan Court, Sutton Bonnington
East Leake Village Hall	250.00	Towards new chairs for village hall
<b>Cllr Richard Butler</b>		
Cotgrave PCC All Saints Church	250.00	Contribution to the cost of a new regulator for the clock at All Saints Church
H C	100.00	Contribution towards 2 young people's kit / equipment, representing Team GB in Karate
Cotgrave & South Notts Art Club	250.00	To purchase equipment and to put on events for the group
Candleby Lane School	430.00	Provide 2 special character recycling bins
Cotgrave Welfare Day Centre Club	100.00	Towards the cost of a Riverboat tea for members
Tollerton Methodist Church	500.00	Contribution to the cost of resurfacing the church car park
Tollerton FC	500.00	To contribute to the cost of installing toilet facilities at the ground
<b>Cllr Steve Carr</b>		
Via East Midlands Ltd	205.00	Double H Bar Abbey Street Beeston
15th Nottingham Lenton Abbey Open Cub & Scout Group	500.00	Enable young people from financially challenging background to attend the annual camp
Beeston Arts Project	250.00	Hire of rooms for arts projects
<b>Cllr John Clarke</b>		
Bags of Blessings	100.00	To provide bags of Christmas gifts for under privileged children within the borough
Arnold Methodist Church	100.00	To purchase materials for therapeutic services, refreshments and social activities for the Mental Health Befriending and Support Group
3rd Woodthorpe Scout Group	300.00	To contribute towards travel costs to attend the World Scout Jamboree in North America
Mapperley All Stars Football Club	200.00	To purchase new equipment and kit for the newly formed U7's team
New Writers UK	250.00	To support the creative writing competition for the children of Nottinghamshire
W K	200.00	To assist with travel and accommodation costs to take part in European Bench Press Championship
<b>Cllr Neil Clarke MBE</b>		

Cropwell Butler & Tithby Village Hall	300.00	Contribution towards a portable PA system
Newton Community Group	350.00	Contribution towards the Newton Streetfest event
Cropwell Bishop Parish Council	300.00	To allow the parish council to buy in additional security for the annual village fair
Cropwell Bishop Youth Club	150.00	Contribution towards the costs of providing a 'Family Fun Day'
R B & I F-C	200.00	Contribution towards cost for two young people to attend the World Scout Jamboree in West Virginia
Langar Cum Barnstone Parish Council	100.00	To contribute towards a bench in memory of 207 squadron based at RAF Langar
Langar Cum Barnstone Parish Council	310.00	To contribute towards a new all-weather play surface in the play area
<b>Cllr John Cottee</b>		
Keyworth Primary & Nursery School	200.00	Contribution towards the funding of The Dare project
Wysall Luncheon Club	100.00	Room hire to provide a meal where elderly diners can come and meet friends £12 per session
Rushcliffe District Scouts	250.00	To assist a young Person to attend the 24th World Scout Jamboree in West Virginia
Keyworth Cricket Club	250.00	Funding towards the hosting of the Primary school Cricket Festival
Hickling Parish Council	300.00	To purchase "No Waiting" cones to use to improve road safety at the Hickling Scarecrow Weekends
Notts County Scouts Council	300.00	To assist a young person to attend the European Scout Jamboree in Gdansk, Poland
Keyworth Primary & Nursery School	350.00	Contribution towards project to promote good attendance for their most vulnerable families
Friends of Crossdale Primary School	200.00	Contribution towards the Crossdale 10K running event on 6th October 2019
<b>Cllr Jim Creamer</b>		
1st Carlton Rainbow Guides	200.00	Educational trip to a farm
Young People in Action	200.00	Support informal education community cohesion and the organisation of events and activities during the Summer holidays
Rushcliffe Avenue Community Centre	200.00	Social fund support for community outings
<b>Cllr Mrs Kay Cutts MBE</b>		
Shelford Parish Council	500.00	Contribution towards play equipment

Radcliffe on Trent Carnival	150.00	Contribution towards marshalling, road closures and new gazebos
A C	100.00	Towards community work in Cambodia Summer 2019
M A	100.00	To provide additional support for the young person's trip to Cambodia, Summer 2019
C D	100.00	To provide additional support for the young person's trip to Cambodia, Summer 2019
G G	100.00	To provide additional support for the young person's trip to Cambodia, Summer 2019
St Mary's Church	1,194.00	To fit a handrail for assistance up the steep steps to the war memorial
C N	100.00	To provide additional support for the young person's trip to Cambodia, Summer 2019
Holme Pierrpont & Gamston Parish Council	150.00	To support the Parish Council's community 'Play Day' on 14th August 2019
Radcliffe Methodist Youth Group	200.00	To support the local Duke of Edinburgh programme being run by the youth club
Radcliffe-on-Trent Parish Council	200.00	To support the Radcliffe-on-Trent Village Show taking place on 8th September 2019
Holme Pierrepont & Gamston Parish Council	250.00	Funding to support the installation of a defibrillator in Holme Pierrepont
K C	100.00	To support fundraising for an individual to attend the European Scout Jamboree in Poland
<b>Cllr Samantha Deakin</b>		
Via East Midlands Ltd	205.00	H Bar, Oaktree Close Sutton in Ashfield
Hillocks Primary School	500.00	To pay for a coach to take KS1 children to see rock pools
From Liam With Love	750.00	To purchase cuddle cots for children who die at birth
<b>Cllr Maureen Dobson</b>		
Collingham & District Cricket Club	400.00	Assist with renovations of the club room
Coddington and Winthorpe Cricket Club	400.00	To assist with furniture for outside, enabling them to raise funds to keep the club going
Collingham and District Men in Sheds	200.00	To help purchase wood to repair Harby station sign
NCC Development & Partnership Team	200.00	Bus Shelter noticeboard at St Helen's Church
<b>Cllr John Doddy</b>		
NONE		
<b>Cllr Boyd Elliott</b>		



M H	450.00	Pollarding 3 Maples and 1 Ash overreaching a play area
J B	60.00	Road signs 'Pass wide and slow' Horse riding awareness campaign
C S	100.00	To purchase gift vouchers for prizes at the Air Ambulance Charity event
Sir John Sherbrooke Junior School	500.00	Provide leavers with a hoodie and room hire for their leaving party
K L	500.00	Support School leaving party and to supply Leavers with hoodies
Rolls Royce Junior Football Club	100.00	To contribute to new footballs for the new season for the Sunday's Youth Team
Derek Todd General Maintenance	500.00	Towards signage and materials to undertake general maintenance in 3 villages
Woodborough Community Association	150.00	Support the project to enable improved access to the telephone exchange building
Calverton Scout & Guides Supporters Association	250.00	Contribution towards costs involved in putting on the 'Village get together' event
R	800.00	Towards the hire of a golf course for the charity golf competition to raise money for Parkinson's UK
Manor Park Infant and Nursery School	200.00	Purchase of Manor Park Teddies for year 2 Leavers
Woodborough Celtic Football Club	150.00	To purchase football equipment
Friends of Lambley Primary School	200.00	To contribute towards Lambley Fun Day
Hucknall Warriors	100.00	To purchase kits for the team for the new season
Nottingham Hospitals Charity	250.00	To contribute towards the cost of literature to raise awareness of Breast Cancer
<b>Cllr Sybil Fielding</b>		
St Luke's Church	200.00	To fund transport from Rhodesia to Shireoaks for Community Activities taking place on Sundays
Shireoaks and District Local History Group	600.00	To fund production of a booklet to promote history of Shireoaks and area to be used as a walking route
Rockware Sports and Social Club	1,000.00	To help fund purchase of benches in changing rooms
Shireoaks Miners Welfare Sports Club	500.00	To help fund a defibrillator for the community
Worksop Miners Welfare Band	200.00	To fund music for the band on Armed Forces Day and Festival of Remembrance

J C (Worksop's Got Talent)	200.00	To help fund the cost of Worksop's Got Talent which takes place November 2019
<b>Cllr Kate Foale</b>		
OWEN Open Water Education Network	200.00	Support programme designed to promote water safety
The Adam Cullen Skating Project	200.00	Contribution towards a mobile skating rink at Beeston Carnival on 13 July 2019
Friends of Beeston Station	200.00	Contribution towards new planter at Beeston Station
Canalside Heritage Centre	200.00	Contribution towards the development of a garden. Community / therapeutic space
2nd Beeston Sea Scouts	200.00	To support training activities for Scout and Guide teachers
SW Notts District Scout Council	200.00	Support the St George's Community Day event at Broadgate Park
Beeston Carers in Mental Health	200.00	To provide guest speakers, self-care taster sessions and day trips for the group
Beeston Guide HQ	200.00	Replace digital projector
Beeston and District Civic Society	150.00	To contribute towards publicising the heritage events in Beeston
Culture, Learning and Libraries	200.00	To support the "History and Imagination Readers' Day" event at Beeston Library
Beeston and District Civic Society	200.00	To raise the profile of the town and improve the Beeston environment through street art
Friends of John Clifford	200.00	To contribute towards the cost of a bike and scooter shed
Beeston Community Resource CIO	200.00	To support the volunteers thank you event
Oxjam Beeston Music Festival	200.00	A donation to support the Oxjam Festival
<b>Cllr Stephen Garner</b>		
St Mark's Toddlers Group	300.00	Defibrillator for the playgroup and wider community in Henley Hall
Big Barn Lane Mother & Toddler Group	250.00	Children play equipment, toys for under 3-year olds
Little Explorers	250.00	Toys and play equipment got under 3-year olds
On Your Doorstep	350.00	To support the 'To Get Fit & Keep Mobile' free activities for the elderly and any costs for programmes, printing and walking maps
<b>Cllr Glynn Gilfoyle</b>		
Sir Edmund Hillary Primary School	1,200.00	Provision for pedestrian safety barrier at school

Fun Club	200.00	Purchase chairs, storage units, curtains, rugs, TV and DVD equipment for new venue
Notts Office of the Police & Crime Commissioner	200.00	Support costs involved to put on the Worksop Bid Charity Market and Emergency Services Day
Nottinghamshire Police Cadets	1,080.00	Train tickets to take Police Cadets to London to visit Parliament and discuss policing with a Member of Parliament
St Augustine's School	100.00	Contribution towards a sensory room
Focus on Young People in Bassetlaw	200.00	Contribution towards costs involved for Golf days, Quiz nights, Competitions. Activities within the community
<b>Cllr Keith Girling</b>		
Magnus Church of England Academy	250.00	To support the Rock Challenge Dance Competition
<b>Cllr Kevin Greaves</b>		
NONE		
<b>Cllr John Handley</b>		
NONE		
<b>Cllr Tony Harper</b>		
Valkyries Netball Club	200.00	To contribute towards transport costs to travel to the Netball World Cup
Eastwood Memory Café	815.00	To contribute towards the running of marketing and fund-raising events
Eastwood Volunteer Bureau	1,000.00	To contribute towards volunteer driving costs and to modernise the computer and telephone system
Moorgreen Colts Football Club	500.00	To provide kit for players and other football equipment
Eastwood Chapter and Verse	500.00	To contribute towards the running of the poetry competition
<b>Cllr Errol Henry JP</b>		
NONE		
<b>Cllr Paul Henshaw</b>		
T G	200.00	Contribution towards cost of expenditure to do community work in Cambodia
Notts Office of the Police & Crime Commissioner	125.00	To fund prizes and entrance fees for young people at a Junior Angling competition being organised by the Police
Ladybrook Enterprises Ltd	676.00	To purchase replacement projector for Conference room and a second projector and screen for the Main Hall
Ladybrook Enterprises Ltd	250.00	To assist a cancer survivors support group to publicise their work using small calling card and to fund a pilot counselling services for members as and when required

<b>Cllr Tom Hollis</b>		
Via East Midlands Ltd	1,334.00	Keep clear road markings Export Drive Hucknall
From Liam With Love	750.00	To purchase cuddle cots for children who die at birth
A S	100.00	Support a young person's trip to Borneo as part of the school curriculum
<b>Cllr Vaughan Hopewell</b>		
Mansfield CVS	200.00	Contribution towards the organising of the Mansfield CVS Volunteer Awards
Holly Primary School	250.00	Contribution towards Chicken and rabbit area as part of the Healthy Lifestyles curriculum
Home Start Mansfield	200.00	Support a Summer trip for under-fives to attend a child friendly event
J B	150.00	To contribute towards travel costs for an individual to represent Team GB in London for Martial Arts
Forest Town Community Council	250.00	Contribution towards the Forest Town Christmas lights
Garibaldi Christmas Lights Fund	150.00	To contribute to the fund to aid the purchase of new and replacement lights for the residents of the "Newlands" estate
<b>Cllr Richard Jackson</b>		
Attenborough St Mary's Parish Church	100.00	Upgrading of notice board for easier placing and removal of pins for displays
<b>Cllr Roger Jackson</b>		
NCC Catering	201.60	Lunch for Lowes Wong School 01.03.19 School Council Visit
Thurgarton Parish Council	300.00	Help to pay towards a new beck monitor to check the water levels in case of flooding
J R P	300.00	To help pay towards Christmas dinner for Burgage Close residents
Southwell Court Care Home	250.00	To provide outdoor games for residents
Epperstone Parish Council	500.00	New village signs
Upton Parish Council	250.00	Buy a new bench
Gunthorpe Parish Council	150.00	To contribute towards a new dog mess bin
Kings Court Community Club	300.00	Christmas lunch for the elderly in the community
Bulcote Parish Council	300.00	New bench for the village
Gunthorpe Women's Institute	200.00	Contribution towards the costs involved to have speakers attend the WI

Nottingham Hospitals Charity	250.00	To contribute towards the cost of literature to raise awareness of Breast Cancer
Caythorpe Parish Council	150.00	Contribution towards V E day celebrations
Lowdham Village Hall	350.00	Contribution towards V E day celebrations
<b>Cllr Eric Kerry</b>		
Attenborough St Mary's Parish Church	100.00	Upgrading of notice board for easier placing and removal of pins for displays
<b>Cllr John Knight</b>		
Home Start Nottingham	500.00	Contribute towards transport costs for families to go on Summer outings
Armed Forces and Veterans Breakfast Club	250.00	Providing up to 10 veterans with a Full English Breakfast once a month
Our Centre	1,000.00	To provide transport, room hire, catering and entertainment for a Christmas show for the Ashfield Community
<b>Cllr Bruce Laughton</b>		
Ossington Parish Meeting	200.00	Establish a website for the village
Bilsthorpe Parish Council	200.00	Green space reformation
Royal British Legion Amicitia	400.00	Towards an outdoor cinema projection system to show news reel film at Forces Day Event
Halam Parish Council	300.00	Pay for Banner for new Village Fete
Sutton on Trent Parish Council	500.00	Window blinds for sports club
North Muskham Parish Council	500.00	Contribution towards cost of a play area
Farnsfield Over 60's Friendship Club	200.00	Support Christmas event
Royal British Legion - Bilsthorpe	250.00	To contribute towards the running of the Community Funday
Weston Parish Council	400.00	Towards the cost of work on the chimes on the clock at All Saints Church, Weston
T W	80.00	To cut down a dead tree in Farnsfield
Farnsfield Methodist Church	300.00	To improve the playground which is used by the church and pre-school
Bilsthorpe Parish Council	500.00	Contribution towards the purchase of Christmas lights
Bathley Parish Council	100.00	Contribution towards a new membership to the National Association of Local Councils
<b>Cllr John Longdon</b>		

Stapleford and District U3A	175.00	To assist with publication of a booklet recording details on gravestones
Trowell Parish Council	150.00	To purchase lamppost poppies for the village
Trowell Parish Council	150.00	To assist in the purchasing of lamppost poppies for the village
Awsorth Parish Council	1,000.00	To assist in car park repairs particularly the entrance
<b>Cllr Rachel Madden</b>		
St Johns Outreach Project	1,000.00	To replace existing and purchase new equipment
Wesley Street Gardening Group	300.00	To purchase specialist action and advice to improve yields / crops
Kirkby Living Memory Group	385.00	To part fund production of new publication & research fees
From Liam With Love	750.00	To purchase cuddle cots for children who die at birth
<b>Cllr David Martin</b>		
Holly Hill Primary School	400.00	Supply football kit for school children
Calligraphy Group	100.00	Supply materials for the group
Selston Parish Council	442.00	Equipment & trip for Outreach Youth Club at Underwood
Selston Parish Council	115.00	Contribution towards Summer Fete for Selston Bowls Club
Selston Community Group	250.00	Trip out for the club of pensioners
Selston Ladies Section	250.00	Outing for the club
Underwood Festival	400.00	Children's entertainment at Village Fete
Tin Hat Writer	150.00	Contribution towards materials and Speakers
St Helen's Estate Pensioners	260.00	Outing to Eckington Hall, 40th Anniversary
Tin Hat Centre	100.00	Materials for the Tin Hat knitting group
Tin Hat Centre	100.00	Text books and CD's for the French class
Allsorts Preschool Underwood	400.00	Provision of sensory play equipment for toddlers at pre-school
From Liam With Love	750.00	To purchase cuddle cots for children who die at birth
Bagthorpe Athletic Football Club	400.00	Training apparatus for football club
Selston Football Club	500.00	Contribution towards the football club's new mini bus
Activity 4 Health	150.00	Towards new bowls and equipment
<b>Cllr Diana Meale</b>		
Mansfield Community & Voluntary Services	250.00	Contribute towards the annual MSCV Awards event which celebrates the work of unpaid volunteers

Via East Midlands Ltd	415.00	5 bags Salt Ladybrook Library, 1 Tonne salt Saundby Avenue, Grit bins at Abbot Lea and Raleigh Road
Schools out for Summer	500.00	Contribution to a project supporting Primary school children in greatest need with meals during the Summer holidays
Notts Office of the Police & Crime Commissioner	125.00	To fund prizes and entrance fees for young people at a Junior Angling competition being organised by the Police
Ladybrook Enterprises Ltd	676.00	To purchase replacement projector for Conference room and a second projector and screen for the Main Hall
Ladybrook Enterprises Ltd	250.00	To assist a cancer survivors support group to publicise their work using small calling card and to fund a pilot counselling services for members as and when required
<b>Cllr John Ogle</b>		
1st East Markham and Askham Scouts	300.00	To provide funding for educational trips
Askham Parochial Church Council	500.00	For installation of a toilet in the church
The Parish of Eaton and Gamston PCC	500.00	To support the improvements to the church, toilets, refreshment area
<b>Cllr Philip Owen</b>		
St Patrick's Flower Festival	500.00	Provide professional entertainment at a community afternoon tea
Kimberley Shotokan Karate Club	500.00	Purchase equipment
Nuthall Bowls Club	350.00	Purchase of equipment
NOWMADS	500.00	Cost of hiring costumes for latest performance
2nd Kimberley Scouts	500.00	To purchase equipment for camping
Kimberley Bowls Club	250.00	Purchase of tanalised boards for green edging
NCC Catering	362.00	Catering & transport costs for School Council Visit by Horsendale School 19.07.19
<b>Cllr Michael Payne</b>		
Nottingham Arimathea Trust	250.00	Training of volunteers in the organisation
Arnold Hill Academy	150.00	To support the Arnold Hill Allotment Project with funding for gardening equipment and starter plants to create a vegetable plot
Arnold Food Bank	250.00	To contribute towards the installation of new kitchen equipment
<b>Cllr John Peck</b>		
Outside the Cave	250.00	Development of community garden, various equipment

Royal Oak Allotment Association	250.00	Improvements to the allotments, including planting trees and hedges
St Mary's Church Rooms	250.00	Purchase light covers for the Church rooms and paving slabs for the garden
Wellow St Swithin's Church School Rooms	200.00	Contribution towards the cost of the opening event of the restored former village schoolrooms
Edwinstowe Handbell Ringers	250.00	To assist with the purchase of additional handbells for new members
3rd Edwinstowe Rainbows	150.00	Purchase Badge and Welcome Rainbows books for the children
Wellow Parish Council	250.00	For a committee group of Wellow residents to carry out a planting scheme
<b>Cllr Sheila Place</b>		
NCC Catering	75.00	Lunch for Harworth & Bircote lunch with Chairman
Serlby Park Academy	400.00	Contribution towards rewards trip
L B	300.00	Contribution towards travel for Team GB ladies' American football to train in Israel
B C	200.00	Contribution towards travelling costs for a young person to compete in swimming competitions
<b>Cllr Liz Plant</b>		
Salaam Shalom Kitchen	150.00	To purchase cooking equipment, utensils, tablecloths and tea towels
Leonard Cheshire Home	200.00	Contribute towards a volunteers thank you party
Moo Haven	200.00	To buy materials to build a chicken coop as part of educational activities for school parties
Lady Bay Primary School	1,000.00	To support the development of a children's garden at the school
<b>Cllr Mike Pringle</b>		
Kirton Brickworks Football Club	250.00	To upgrade training equipment and ground maintenance equipment
G S	250.00	Help towards travel costs to enable 50 people to complete a challenge for charity
Ecologic	250.00	To provide safety equipment for users in our community wildlife garden
Ollerton Friendship Group	300.00	To support with transport costs for day trips
Ollerton & Boughton Age Concern Friendship Club	500.00	To assist with transport costs for away days
<b>Cllr Francis Purdue-Horan</b>		



Orston Garden Club Produce Show	125.00	To assist with one off costs of organising the Orston Produce Show' Including village hall hire, promotion printing and programme leaflets
Aslockton and Orston Football Club	300.00	To contribute towards a new club house door following a break-in. The double-glazed door was completely smashed
<b>Cllr Mike Quigley MBE</b>		
1403 Squadron Welfare Fund	1,000.00	Help towards the funding for a minibus
The Imagination Museum / Made by Katie Green	250.00	To support the activities in Retford and Ranby for the Mayflower 400 Project
North Notts Community First Responders	500.00	Support for equipment and training for new responders
Kettlewells	250.00	Hallcroft Community Group - Coach hire to take children who wouldn't get a holiday to Blackpool
<b>Cllr Alan Rhodes</b>		
Thievesdale Older Persons Group	300.00	To fund activities for elderly people of the group
Carlton in Lindrick Flower Arranging Group	250.00	To assist with the costs of staging the 'Flowers at the Mill' event
Prospect Hill Junior School	500.00	To fund provision of a storytelling seat in the school's sensory garden
Thievesdale Women's Institute	161.00	To assist with funding of an outing for WI members
Ramsden Primary School	300.00	To assist with the costs of a school trip to Trent Bridge
J C	200.00	To assist with travel to Barcelona for EC to compete for Team GB in Roller Hockey
Age UK Notts Men in Sheds CIC	200.00	To purchase equipment and activities to support Men in Sheds to combat loneliness
Worksop Pride (CIC)	200.00	To assist in funding the Worksop Pride event
Fun Club	200.00	To assist with funding activities for children during the school holidays
12th Worksop URC Scout Group	200.00	To support scouting activities in my Division
Carlton Cricket Club	200.00	To fund child safety officer courses, scorebox repair and equipment
Carlton Youth Centre	500.00	Contribution to the cost of activities and replacement equipment
Focus on Young People in Bassetlaw	200.00	Contribution towards costs involved for Golf days, Quiz nights, Competitions. Activities within the community

Church of St John the Evangelist	500.00	Contribution towards the cost of replacing a large quantity of lead on the church roof
<b>Cllr Kevin Rostance</b>		
West Hucknall Safer Neighbourhood Committee	300.00	Help fund a family fun day, go towards a climbing wall, BMX competition and other attractions
Cantamus	100.00	To support the choir to represent Great Britain in Sweden this summer
Watnall Road Baptist Church	166.00	To contribute towards a development day in the community for the Love Where You Live initiative
Rolls Royce Junior Football Club	200.00	To contribute towards the purchase of rain jackets and run out tops
L W	50.00	To sponsor a young person who has been signed by Mansfield Town Football Club
The Lovelace Theatre Group	300.00	To purchase lapel mics to help future productions
<b>Cllr Phil Rostance</b>		
West Hucknall Safer Neighbourhood Committee	300.00	Help fund a family fun day, go towards a climbing wall, BMX competition and other attractions
Cantamus	100.00	To support the choir to represent Great Britain in Sweden this summer
T C	340.00	To contribute towards costs involved for Robin Hood to attend community events and primary schools
Watnall Road Baptist Church	167.00	To contribute towards a development day in the community for the Love Where You Live initiative
Rolls Royce Junior Football Club	200.00	To contribute towards the purchase of rain jackets and run out tops
Over 60s Youthful Group	250.00	To provide a Christmas Lunch for the group
The Lovelace Theatre Group	300.00	To purchase lapel mics to help future productions
Hucknall Tourism and Regeneration Group	500.00	To provide a tour of Southwell, entry fee to Workhouse and sandwich lunch for the Members of Hope Lea
<b>Cllr Mrs Sue Saddington</b>		
Newark District Scout Council	200.00	Contribution towards international camp, 8 Scout groups hosting the event for Scouts from the Czech Republic
Syerston Village Hall	120.00	Contribution towards a plaque to be placed at the refurbished Pinfold
Manners Sutton Primary School	60.00	Contribution towards the DARE project

Children's Bereavement Centre	200.00	Contribute towards the costs involved in putting on support events for children and their families
Rolleston Parish Council	250.00	Contribution towards the senior citizens Christmas Lunch
Averham, Kelham, Staythorpe Parish Plan	200.00	Contribution towards the 'Ask about feeling good' Event
Farndon Parish Council	200.00	To support St Peter's School (Farndon) visit to Derbyshire
<b>Cllr Andy Sissons</b>		
St Mark's Toddlers Group	300.00	Defibrillator for the playgroup and wider community in Henley Hall
Care & Share Support Group	250.00	Contribution towards a software update for the group
<b>Cllr Helen-Ann Smith</b>		
Long Reign Allotment Garden	200.00	Towards a Memorial plaque and costs involved to service garden machinery
From Liam With Love	750.00	To purchase cuddle cots for children who die at birth
Sutton Street Poppy Appeal	200.00	To contribute towards public liability insurance to hold events
Teversal, Stanton Hill and Skegby neighbourhood Forum	170.00	To contribute towards public liability insurance to hold events
Skegby Junior Academy	200.00	To contribute towards the purchase of gardening equipment
<b>Cllr Tracey Taylor</b>		
Ranskill Torworth Scarecrow Village Festival	300.00	To support the costs of staging this event to raise funds for various facilities and groups
Mattersey Thorpe TRA	150.00	Contribution towards costs for Annual Fun Day, with sports, stalls, entertainment and refreshments
Scrooby Show	400.00	Contribution towards costs for Annual Village Show including marquee hire
Beckingham Bowls Club	100.00	Towards set-up costs of Open Pairs Gala Day at this village/community bowls club
<b>Cllr Parry Tsimbiridis</b>		
The Peaceful Trust	100.32	To purchase 16 song books for the Memory Café
Mansfield Wildlife Rescue	500.00	Help towards funding for a new community run wildlife rescue centre
Family Action	100.00	To provide trips, outings and parties for families attending the Children's Centre Services at Mansfield Woodhouse
St Edmunds PCC	100.00	To contribute towards the St Chad's Church Roof Restoration Fund

Mansfield CVS	200.00	Funding to support the delivery of the Mansfield Volunteer Awards Ceremony
Mansfield District Corps of Drums	100.00	Contribution towards the hire of a minibus to get the corp to 3 Remembrance Day events
The Peaceful Trust	180.00	To contribute towards school holiday lunch project and transport to a local venue
<b>Cllr Steve Vickers</b>		
1403 Squadron Welfare Fund	1,000.00	To assist the cadets to purchase a minibus
Ordsall TRA	1,000.00	To support children's trips to Bury, Grimsby, Doncaster & Skegness. Beverley & Melton Mowbray Children's Christmas party
<b>Cllr Keith Walker</b>		
Balderton Art Group	500.00	Towards the cost of hiring a coach to take the group to visit the Fitzwilliam Gallery, Cambridge in September 2019
<b>Cllr Stuart Wallace</b>		
Newark Armed Forces Day	300.00	Towards the costs of 'Newark Armed Forces Day' 25 June 2019 held in Newark Town centre
Magnus Church of England Academy	250.00	Towards to costs for a group of students to attend and compete in the School National Dance Finals
Newark District Scout Council	400.00	To support the Newark Friendship Scout Camp to be held in July
The Newark Co Production	400.00	Support the new allotment group to purchase planters, compost and equipment. Contribution towards a curry& quiz social evening and Christmas lunch
Firecrackers Cheer Squad	400.00	Purchase of specialist tumbling / crash mats and other equipment for development of youngsters
The British Triathlon Federation	500.00	Towards the cost of setting up junior triathlon sessions for 7-9 year olds
<b>Cllr Muriel Weisz</b>		
Gedling Southbank Football Club	300.00	Contribution towards equipment for the U12's team
Haywood Road Community Centre	200.00	Contribution towards the costs of the 'Great Together' event on June 22nd
Fibromyalgia Action Group	200.00	To contribute towards training volunteers to support community events
St James Church Porcester	200.00	To contribute towards the costs of materials for a holiday club
Arnold Food Bank	1,000.00	To refurbish the shelves to contain and store food more efficiently

Arnold Methodist Church	200.00	To contribute towards the cost of special holiday club activities
<b>Cllr Andy Wetton</b>		
Warsop Carnival Committee	1,500.00	To fund new local talent music stage at this year's carnival
6th Mansfield Boys Brigade	261.00	Towards the cost of the Annual Summer Camp, including transport costs
Sport 4 Kidz - Kidz 4 Sport	1,500.00	To assist in purchasing several mountain bikes & equipment to give kids road safety awareness training
Clover Club	1,000.00	Help towards equipment and the cost of transport for trips out for Adult with learning disabilities
Warsop Parish Council	739.00	To pay for road closures/traffic management at the remembrance Sunday parade
<b>Cllr Gordon Wheeler</b>		
D O	175.00	To assist with the cost of providing coach trips for the elderly at St Giles Seniors group
E G R	150.00	To support a young person to go to Zambia with 'Mission Direct' to build a school
South Locality Youth Services	56.00	To purchase sound panels for West Bridgford Young People's Centre
West Bridgford Colts Avengers FC	150.00	To support the cost of extra coaching equipment and pitch hire
Notts Office of the Police & Crime Commissioner	500.00	To purchase cycle locks to support the 'Cycle Theft' initiative in Rushcliffe
West Bridgford Tennis Club	350.00	Purchase equipment for the School & Nursery programme to encourage young people to play tennis
<b>Cllr Jonathan Wheeler</b>		
Via East Midlands Ltd	50.00	5 bags of salt each for Pierrepont & Gamston and Heymann Primary Schools
L F	300.00	To fund costs for a young person to compete in the World White Water Rafting competition
Notts Gymnastics Academy	300.00	Towards a new tumble track
Leahurst Road Pre-school	250.00	Towards new play equipment for the children
R V	250.00	To support a young person in attending a training camp to support his preparation for representing GB in the Men's Canoe Slalom
WEL Medical Limited	1,149.00	To purchase a defibrillator and associated kit to be sited at the Post Office in Edwalton
WEL Medical Limited	1,149.00	To purchase a defibrillator and associated kit to be sited at the Mad Dog Sports shop, West Bridgford

<b>Cllr Yvonne Woodhead</b>		
Gymstarz Provision CIC	150.00	To support young people to stay fit and healthy (purchase equipment)
Sam's Workplace	400.00	Purchase new cooker
Nottinghamshire Mining Museum Ltd	250.00	To purchase cap lamps for children's activities when visiting the museum
<b>Cllr Martin Wright</b>		
Mansfield CVS	200.00	Contribution towards the organising of the Mansfield CVS Volunteer Awards
Holly Primary School	250.00	Contribution towards Chicken and rabbit area as part of the Healthy Lifestyles curriculum
Home Start Mansfield	200.00	Support a Summer trip for under-fives to attend a child friendly event
J B	150.00	To contribute towards travel costs for an individual to represent Team GB in London for Martial Arts
Forest Town Community Council	250.00	Contribution towards the Forest Town Christmas lights
Garibaldi Christmas Lights Fund	150.00	To contribute to the fund to aid the purchase of new and replacement lights for the residents of the "Newlands" estate
<b>Cllr Jason Zadrozny</b>		
S W	500.00	To contribute towards a new bingo machine and equipment for Willetts Court bingo Club
From Liam With Love	750.00	To purchase cuddle cots for children who die at birth



17 December 2019

Agenda Item: 12

## **REPORT OF THE SERVICE DIRECTOR, CUSTOMERS, GOVERNANCE AND EMPLOYEES**

### **WORK PROGRAMME**

#### **Purpose of the Report**

1. To review the Committee's work programme for 2019 - 20.

#### **Information and Advice**

2. The County Council requires each committee to maintain a work programme. The work programme will assist the management of the Committee's agenda, the scheduling of the Committee's business and forward planning. The work programme will be updated and reviewed at each pre-agenda meeting and Committee meeting. Any member of the Committee is able to suggest items for possible inclusion.
3. The attached work programme includes items which can be anticipated at the present time. Other items will be added to the programme as they are identified.

#### **Other Options Considered**

4. None.

#### **Reason/s for Recommendation/s**

5. To assist the Committee in preparing and managing its work programme.

#### **Statutory and Policy Implications**

6. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

### **RECOMMENDATION**

- 1) That Committee considers whether any changes are required to the work programme.



**Marjorie Toward**  
**Service Director, Customers, Governance and Employees**

**For any enquiries about this report please contact:**

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**Constitutional Comments (EH)**

The Committee has authority to consider the matters set out in this report by virtue of its terms of reference.

**Financial Comments (NS)**

There are no financial implications arising directly from this report.

**Background Papers**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

None

**Electoral Division(s) and Member(s) Affected**

All

**GOVERNANCE & ETHICS COMMITTEE - WORK PROGRAMME (AS AT 9 DECEMBER 2019)**

<b><u>Report Title</u></b>	<b><u>Brief summary of agenda item</u></b>	<b><u>Lead Officer</u></b>	<b><u>Report Author</u></b>
<b>22 January 2020</b>			
Review of the Corporate Complaints Procedure		Marjorie Toward	Laura Mulvany-Law
Review of Democratic Services Staffing Structure	To consider the review of the staffing structure previously agreed by the Committee.	Marjorie Toward	Heather Dickinson
National Audit Office Cyber Security and Information Risk Guidance for Audit Committees	To consider a six monthly update and any subsequent actions required.	Nigel Stevenson	Adam Crevald
Update on Use of Resources by Councillors	To consider the six monthly update.	Marjorie Toward	Keith Ford
Update on Local Government and Social Care Ombudsman Decisions	To consider any recent findings of the Local Government Ombudsman in complaints made against the County Council (item to be confirmed).	Marjorie Toward	Laura Mulvany-Law
<b>4 March 2020</b>			
Information Governance Improvement Programme Update	To consider the latest update as agreed by the Committee on 24 July 2019.	Marjorie Toward	Caroline Agnew
External Audit Plan	To provide information on the External Auditors' Audit Plan for the 2019/20 audit.	Nigel Stevenson	Glen Bicknell
Information Governance Action Plan Update	To consider a quarterly update on performance against this new Action Plan.	Marjorie Toward	Caroline Agnew
Update on Local Government and Social Care Ombudsman Decisions	To consider any recent findings of the Local Government Ombudsman in complaints made against the County Council (item to be confirmed).	Marjorie Toward	Laura Mulvany-Law
<b>29 April 2020</b>			
Update on Local Government and Social Care Ombudsman Decisions	To consider any recent findings of the Local Government Ombudsman in complaints made against the County Council (item to be confirmed).	Marjorie Toward	Laura Mulvany-Law

2019/20 Accounting Policies	To outline proposed changes to the accounting policies used for the Authority's Statement of Accounts for 2019/20 for review and approval.	Nigel Stevenson	Glen Bicknell
Statement of Accounts 2019/20 - Informing the Audit Risk Assessment	To provide information on the external auditors' requirement for the provision of information regarding the Council's approach to dealing with fraud, litigation, laws and regulations as part of their audit.	Nigel Stevenson	Glen Bicknell
<b>10 June 2020</b>			
Update on Local Government and Social Care Ombudsman Decisions	To consider any recent findings of the Local Government Ombudsman in complaints made against the County Council (item to be confirmed).	Marjorie Toward	Laura Mulvany-Law
Update on Use of the Councillors' Divisional Fund	To consider the six monthly update.	Marjorie Toward	Keith Ford
Presentation of the 2019/20 Statement of Accounts	To present an overview of the 2019/20 Statement of Accounts.	Nigel Stevenson	Glen Bicknell
<b>21 July 2020</b>			
Update on Local Government and Social Care Ombudsman Decisions	To consider any recent findings of the Local Government Ombudsman in complaints made against the County Council (item to be confirmed).	Marjorie Toward	Laura Mulvany-Law
Update on Use of Resources by Councillors	To consider the six monthly update.	Marjorie Toward	Keith Ford
Approval of the 2019/20 Statement of Accounts	To seek approval for the 2019/20 Statement of Accounts.	Nigel Stevenson	Glen Bicknell
<b>September 2020 – Date TBC</b>			
Update on Local Government and Social Care Ombudsman Decisions	To consider any recent findings of the Local Government Ombudsman in complaints made against the County Council (item to be confirmed).	Marjorie Toward	Laura Mulvany-Law
Annual Audit Letter and Updated Audit Findings	Grant Thornton summarises the findings from the work carried out by the external auditors over the last financial year (2019/20)	Nigel Stevenson	Glen Bicknell