

Governance and Ethics Committee

Wednesday, 13 June 2018 at 13:00

County Hall, West Bridgford, Nottingham, NG2 7QP

AGENDA

- 1 To note the appointment of the County Council on 10 May 2018 of Councillor Bruce Laughton as Chairman of the Committee, and Councillor Andy Sissons as Vice-Chairman
- 2 To note the membership of the Committee: Councillors Nicki Brooks, Steve Carr, Kate Foale, John Handley, Errol Henry JP, Bruce Laughton, Rachel Madden, Mike Quigley MBE, Phil Rostance, Andy Sissons and Keith Walker
- 3 Minutes of last meeting held on 2 May 2018 5 - 8
- 4 Apologies for Absence
- 5 Declarations of Interests by Members and Officers:- (see note below)
(a) Disclosable Pecuniary Interests
(b) Private Interests (pecuniary and non-pecuniary)
- 6 General Data Protection Regulation – Member Development Session
- 7 Information Governance Improvement Programme - Progress Update 9 - 20
- 8 Statement of Accounts – main headlines - presentation
- 9 Local Government Ombudsman Decisions - April and May 2018 21 - 48
- 10 Councillors' Divisional Fund - Revised Policy 49 - 56

11	Review of Outside Bodies	57 - 64
12	Financial Regulations Waivers 2017-18	65 - 72
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18	Work Programme	135 - 138

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 2 May 2018 (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
Tony Harper **A**
Errol Henry JP

Rachel Madden A
John Longdon
Phil Rostance
Keith Walker

OTHER COUNCILLORS IN ATTENDANCE

Councillor Mrs Cutts MBE

Councillor Alan Rhodes

OFFICERS IN ATTENDANCE

Paul McKay Adult Social Care, Health and Public Protection

Rob Disney Keith Ford Jayne Francis-Ward Jo Kirkby Keith Palframan Nigel Stevenson	}	Resources
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OTHERS IN ATTENDANCE

Charles Daybell – Independent Person

1. MINUTES

The Minutes of the last meeting held on 14 March 2018, having been previously circulated, were confirmed and signed by the Chairman.

2. APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor Rachel Madden.

The following temporary changes of membership, for this meeting only, were reported:-

- Councillor John Longdon had replaced Councillor Mike Quigley;
- Councillor Keith Walker had replaced Councillor John Handley.

3. DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

None

4. COMMITTEE FOR STANDARDS IN PUBLIC LIFE – CALL FOR EVIDENCE

Jayne Francis-Ward (Corporate Director, Resources) introduced the report which sought Members' views on the draft response to consultation on the review of local government ethical standards.

During discussions, Members supported the draft response and raised the following issues as aspects that required further consideration nationally:-

- the need to ensure that the outcomes of this review were reflected in the updated Code of Conduct for Councillors and Co-opted Members;
- the importance of allowing Councillors as well as officers to raise concerns anonymously within any Whistleblowing procedures (as per the County Council's current arrangements);
- whether Members who had declared a private and non-pecuniary interest in an agenda item should be allowed to remain in the meeting to discuss and vote on that item, as per the current rules.

Charles Daybell, one of the Council's Independent Persons, felt that it would be helpful if the Independent Persons could submit an annual report to Full Council to give assurance that the existing systems were working correctly. In response it was underlined that Councils could choose to operate such practice aside from any requirements from the Committee for Standards in Public Life.

RESOLVED: 2018/017

- 1) That the response be finalised, with reference to issues raised by Members.
- 2) That authority to finalise the draft response be delegated to the Monitoring Officer, in consultation with this Committee's Chairman.

5. LOCAL GOVERNMENT OMBUDSMAN (LGO) DECISIONS – FEBRUARY AND MARCH 2018

Jo Kirkby (Team Manager – Complaints and Information Team) introduced the report which detailed the LGO complaint decisions received in February and March 2018.

During discussions, Members queried how lessons learnt from such investigations were shared across the Council. It was clarified that the annual letter from the LGO, which would be submitted to this Committee, would highlight trends and issues as well as benchmarking numbers of investigations against other Councils. Members could also request specific updates on individual cases where relevant.

RESOLVED: 2018/018

That the annual letter from the Local Government Ombudsman be submitted to a future meeting of the Committee for Members' consideration.

6. LOCAL CODE OF CORPORATE GOVERNANCE AND ANNUAL GOVERNANCE STATEMENT 2017-18

Rob Disney (Head of Internal Audit) introduced the report which reviewed the Council's Local Code of Corporate Governance and sought approval for the Annual Governance Statement. Mr Disney highlighted that the draft Local Code of Corporate Governance would be updated further to lose reference to the Council's former Conduct Committee with that body's remit in future being undertaken by a sub-committee of Governance and Ethics Committee.

RESOLVED: 2018/019

- 1) That the updated Local Code of Corporate Governance be approved, subject to deleting the reference to the Conduct Committee.
- 2) That the Annual Governance Statement 2017/18 be approved.

7. FOLLOW-UP OF INTERNAL AUDIT RECOMMENDATIONS

Rob Disney (Head of Internal Audit) introduced the report which reported progress with the implementation of agreed management actions to address Internal Audit recommendations.

RESOLVED: 2018/020

That no further, more detailed updates on progress on specific issues were required at this stage.

8. LOCAL GOVERNMENT ASSOCIATION'S BRIBERY AND FRAUD PREVENTION WORKBOOK FOR COUNCILLORS

Rob Disney (Head of Internal Audit) introduced the report which highlighted the introduction of this new workbook by the Local Government Association.

RESOLVED: 2018/021

That the workbook be issued to all County Councillors.

9. MANDATORY INQUIRIES – 2017-18 STATEMENT OF ACCOUNTS

Keith Palframan (Group Manager, Finance Strategy and Compliance) introduced the report which informed the Committee about the External Auditors' requirements for information about the Council's approach to dealing with fraud, litigation, laws and regulations as part of their audit of the Council's accounts and sought Members' views on the draft response to the Inquiries for Those charged with Governance (that is, the Governance and Ethics Committee).

RESOLVED: 2018/022

That the response to the Inquiries for Those Charged with Governance be submitted to the External Auditors.

10. REVIEW OF DEMOCRATIC SERVICES STAFFING STRUCTURE

Jayne Francis-Ward (Corporate Director – Resources) introduced the report which outlined the findings of the review of the revised staffing structure and proposed further amendments to better meet current and future demand.

RESOLVED: 2018/023

- 1) That the revised staffing structure for Democratic Services be approved.
- 2) That the revised staffing structure be reviewed after twelve months to ensure business needs are being appropriately met, with a report submitted to the Committee if that review determines that further changes are required.
- 3) That a request be made to the Finance and Major Contracts Management Committee to approve a contingency allocation of £73,894.

11. WORK PROGRAMME

RESOLVED: 2018/024

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

The meeting closed at 11.20am.

CHAIRMAN

REPORT OF THE CORPORATE DIRECTOR FOR RESOURCES**INFORMATION GOVERNANCE IMPROVEMENT PROGRAMME: PROGRESS
UPDATE****Purpose of the Report**

1. To inform Governance and Ethics Committee of progress in delivering the Council's Information Governance Improvement Programme (IGIP).

Information and AdviceBackground Information

2. The Council's Information Governance (IG) approach is currently undergoing a programme of improvement, approved by Policy Committee in June 2017. The most pressing imperative for improvement is the General Data Protection Regulation (GDPR). This came into force on 25th May 2018 and is supplemented by a new Data Protection Act (2018) in the UK, although this latter had not been passed by UK Parliament at the time of writing.
3. The legislation responds to the digital age and strengthens the control and rights that citizens have over their own personal data. The new law places increased information governance and data protection obligations on the Council (and other data controlling / processing organisations). It also introduces significantly higher, 'disuasive' fines for personal data breaches and failure to evidence compliance with the law, as well as compensation for material and non-material damages suffered by individuals as a result of data mismanagement and breaches.
4. At its meeting in December 2017, Governance and Ethics Committee agreed that it wanted a progress update on the Programme on a six monthly basis, this report being the first such periodic update.

The Programme

5. The Programme has two distinct but complementary phases. Phase One concentrates upon compliance with the GDPR, whilst Phase Two focuses upon a Council-wide approach to document management. Originally the plan had been to run these phases concurrently, but the extent of the work required, resources available and business impact meant that these are being undertaken sequentially. The document management phase, when complete, will greatly enhance the Council's ability to protect data in accordance with the law.

6. The IGIP is multifaceted and touches every part of the Council, recognising that collecting and processing the personal data of service users, employees and others is core to modern day business operations. As the Council's external auditors, KPMG, cautioned in their External Audit Progress Report (November 2017) *'don't underestimate the level of effort [in addressing the requirements of GDPR] – personal information is everywhere in your organisation.'*
7. Perhaps not surprisingly then, the Programme's original scope was underestimated. Some additional significant projects and work streams have been brought into scope, including an exercise to ensure that Council suppliers, which process personal data, have a GDPR compliant contract in place, including a data processing schedule specifying how and why the data will be processed on the Council's behalf..
8. A risk based approach has been used to prioritise tasks within the IGIP. The efforts of the small team supporting this work has therefore been focused where the risks are greatest (typically concentrating on service areas / systems where high volumes of sensitive personal data are processed and where data breaches have occurred).
9. The table at **Appendix A** sets out the specific areas of change / improvement required by the GDPR; comments upon the progress to date in achieving those changes and improvements; and outlines next steps. Overall there has been a good and positive level of engagement from staff at all levels with the aims of the Programme and the specific tasks that have been required of them, albeit that other work pressures sometimes get in the way. Across the Council there are examples of good practice where managers have proactively grasped the agenda and are making positive changes in their day-to-day operations.
10. In undertaking the work on the Programme, good practice from other local authorities has been researched and adopted wherever possible. Collaboration with Essex County Council has been particularly useful given their advanced position on this agenda.
11. As can be seen in the commentary at **Appendix A**, resources have been secured to recruit a small permanent information governance team to support the departments in their data protection efforts. However, individuals with experience and skills in data protection are in scarce supply in the labour market at the moment and recruitment and retention has proved problematic.
12. A lack of subject matter expert capacity continues to present a risk to the Council's ability to support improvement, particularly manifested in the numbers of Data Protection Impact Assessments (DPIAs) that require completion. In the meantime, the small and reducing Programme team has been developing their knowledge and providing some support but expertise and capacity is limited. Once the permanent team is in place, the Programme team will then focus on the second, document management phase.
13. A whole system improvement in information governance has been planned and is being put in place incrementally, taking account of risk, the interconnectedness of specific tasks and available resources. Ongoing effort will need to be expended to maintain performance in this area, particularly in the next few years when significant developments are expected and will need to be responded to such as the passing of the UK Data Protection Act (2018);

emergence of case law; and enforcement actions, fines and guidance from the Information Commissioner's Office (ICO).

Other Options Considered

14. This report advises on progress in delivering the Information Governance Improvement Programme at the request of Governance and Ethics Committee.

Reason/s for Recommendation/s

15. Governance and Ethics Committee has asked for periodic updates reporting progress in delivering improvements in information governance across the Council.

Statutory and Policy Implications

16. 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/S

- 1) That members agree to receive a follow up/update report in the next 6 months and that this be included in the work programme.

Jayne Francis-Ward
Corporate Director for Resources

For any enquiries about this report please contact: Caroline Agnew

Constitutional Comments [SLB 29/5/18]

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

Financial Comments [RWK 30/5/18]

16. 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.

- Establishing and Implementing an Information Governance Improvement Programme – Policy Committee (June 2017)
- Nottinghamshire County Council External Audit Progress Report – KPMG (November 2017)

Electoral Division(s) and Member(s) Affected

All

Information Governance Improvement Programme: Key Developments (as at May 2018)

Please note: data processing means anything which is done with data (e.g. collection; sharing; storing; sending; destroying etc).

What GDPR requires	What has been done	Next steps
GOVERNANCE		
An effective governance regime which ensures roles and responsibilities are clear; timely decisions are made and the information governance regime across the Council is monitored and reviewed	<p>Key roles / decision-makers defined in the new Information Governance Framework.</p> <p>New and revised information governance role descriptors in place (e.g. for Information Asset Owners; System Owners etc).</p> <p>Key Performance Indicators developed and reporting arrangements established (routinely through Information Governance Group at a corporate level and Risk Safety and Emergency Management Groups at a departmental level).</p> <p>Visibility through regular reporting to Governance and Ethics (G&E) Committee.</p>	Regularised and on-going performance and risk reporting to agreed governance bodies to enable the whole system approach to be monitored.
Policies, procedures and standards which reflect the new law and good practice and detail how this will be implemented within the Council	<p>New Information Governance Framework and supporting information compliance, rights and security policies approved by Policy Committee (March 18)</p> <p>New priority procedures approved including CCTV/surveillance; Data Protection Impact Assessments; Information Sharing; Consent etc.</p>	<p>Remaining, lower priority procedures and standards to be drafted and approved by Information Governance Group (IGG) finishing by Sept 2018.</p> <p>Review the need for an Appropriate Policy Document (to augment data protection policies in respect of the processing of special category data) as</p>

	<p>Information security standards approved including patching, passwords, encryption etc.</p> <p>Revised information security standards approved by IGG – encryption; patching; passwords etc;</p>	<p>per the provisions of the Data Protection Act (2018).</p> <p>Policy, standards and procedures suite to be kept under regular (annual) review and updated in accordance with Information Commissioner's Office (ICO) and other guidance, good practice, enforcement, case law etc.</p>
<p>Ensure that the Council can respond to mandatory data breach reporting to the ICO within 72 hours and that technical and organisational improvements are made as a result of breaches</p>	<p>Revised IT Major Incident Procedure and corporate Data Breach procedure in place.</p> <p>Scenario testing by corporate Risk, Safety and Emergency Management Group (RSEMG) of major incident – power outage (March 2018)</p>	<p>Continue to monitor breaches and link their root causes to targeted remediation plans and communications so that systemic improvements are made.</p>
AWARENESS & TRAINING		
<p>Ensure there is awareness of GDPR across the organisation and raise the profile of data protection</p>	<p>Programme Communications Plan in place.</p> <p>Resources library established for staff to access.</p> <p>Numerous meetings attended to showcase and raise awareness of the requirements of GDPR across and at all levels of the organisation.</p> <p>Numerous articles written for Team Talk etc.</p> <p>Chief Executive's Blog has focussed on the new data protection law and the associated programme a few times, demonstrating commitment from the top.</p>	<p>Full revision of Intranet and Internet information governance pages and resources (Autumn 2018)</p>

<p>An information governance/data protection training programme for all staff, with top up, role specific training for staff with a particular requirement for a more detailed understanding (e.g. social care staff; project managers; commissioners; contract managers etc)</p>	<p>Researched, secured and rolled-out new GDPR compliant, local government specific e-learning. Mandatory for all PC using staff to complete, 3919 (of 4898 – 80%) have completed (at 16 May 2018)</p> <p>Elected Members given access to elearning.</p> <p>Developed and rolled out paper-based training for staff who do not use personal computers. Mandatory for all non-PC using staff to complete, 2093 (of 3214 – 65%) have completed (at 16 May 2018)</p> <p>Training information for asset managers (i.e. group/service/team managers) rolled out as part of the information asset register exercise (see below).</p> <p>Developed and agreed training standards for all roles with a specific information governance dimension</p>	<p>Design of role specific training completed and rolled out (June to October 2018).</p> <p>Elected Members training sessions as top-up to elearning, as set out in report to Full Council (May 2018).</p>
RESOURCES		
<p>Appoint Data Protection Officer to assure data protection compliance within the Council and to be the point of contact with the ICO. It is mandatory for the Public Bodies to have a suitably trained DPO</p>	<p>Unable to recruit to DPO in buoyant market.</p> <p>Contingency measures implemented and DPO in place.</p> <p>DPO contact details established, referenced in privacy notice and notified to ICO.</p>	

<p>Ensure an adequate level of resource to maintain performance on an on-going basis.</p>	<p>Business case for additional resources considered and agreed by Corporate Leadership Team (CLT); G&E Committee and approved by Finance and Major Contracts Committee (Jan 2018)</p> <p>Recruitment underway for new staff to become business partners, supporting the information governance efforts of departments.</p> <p>Contingency measures in place to extend the duration of the initial phase of IGIP to cover business as usual support if there is a failure to recruit in the current labour market.</p>	<p>Review of resourcing arrangements due December 2019, with changes arising to take effect from April 2020.</p>
<p>DATA PROTECTION PRINCIPLES & RIGHTS</p>		
<p>Understand what personal information is held, why it is held and what is done with it by developing a record of processing activities, and keeping this under review</p>	<p>Redesigned the Information Asset Register (IAR) to be GDPR compliant. An IAR contains logical groupings of information so that information risks can be assessed.</p> <p>Undertaken pilot and follow-up Council-wide exercise to populate the new IAR. Number of recorded assets has gone from 586 (June 17) under the old register to 2,483 (May 18).</p> <p>Identified risks arising from the IAR and sent individual teams action plans to address those risks.</p>	<p>Monitor and report on the implementation of action plans.</p> <p>Put in place a method and plan to ensure that the IAR is a 'live' document of information assets held by the Council so that risks can continue to be identified.</p> <p>Research options for a better technical solution for maintaining the IAR, preferably an integrated system capable of managing a variety of aspects of information governance.</p>

<p>Put in place Privacy Notices to advise people about the collection and use of their data - what is held; why it is held; what is done with it; who it is shared with; how long it is kept for etc. In line with the data protection principle of transparency.</p>	<p>Researched guidance and good practice from elsewhere to establish an approach to NCC privacy notices (agreed Jan 18).</p> <p>Updated the corporate privacy notice to ensure that it is compliant with the Data Protection Act (1998) in November 2017.</p> <p>Updated the corporate privacy notice to ensure that it is compliant with the GDPR in May 2018.</p> <p>Updated a key service privacy notice (adoption service) as a template for future, service specific notices.</p>	<p>Put in place online, service specific privacy notices by early September 2018 and update business forms, where appropriate, in line with those notices.</p>
<p>Ensure systems and processes are in place to comply with other data protection principles including:</p> <ul style="list-style-type: none"> - Limiting data processed to a minimum - Keeping it for only as long as necessary - Controlling its access - Maintaining its accuracy - Keeping it safe 	<p>Undertaken systems audit of NCC business critical systems. Need for Data Protection Impact Assessments (DPIAs) identified.</p> <p>Systems Level Security Management Procedure approved to ensure that there is a single register of all systems which process personal data within the organisation, with details of how they are used and their security standards.</p> <p>New Retention Schedule drafted, approved and informed IAR exercise.</p> <p>Initial scoping of business requirements needed from a document management system and preliminary research on good practice undertaken</p>	<p>Further diagnostic work to be undertaken on NCC standard and decommissioned systems, with resultant action plan in place to address gaps / risks.</p> <p>Develop and populate the Systems Level Security Register and address gaps / risks identified as a result.</p> <p>Business case for document management system completed (Sept 2018).</p>

<p>Embed Privacy by Design and Data Protection Impact Assessments (DPIAs) into the business to ensure privacy impacts of business change are minimised and there is a robust risk assessment of high risk personal data processing</p>	<p>New DPIA procedure, including register and metrics for monitoring, drafted and approved.</p> <p>DPIA procedure cross-referenced to other business change procedures (e.g. in project management documentation)</p> <p>Training workshops undertaken with key staff (e.g. project managers)</p> <p>List of DPIAs compiled, prioritised and assigned. There will be greater ability to complete DPIAs once staff team in place. Numbers of outstanding DPIAs (over 150) are challenging in terms of capacity to complete and associated risks.</p>	<p>Performance on DPIAs reported regularly to Information Governance Group and departmental Risk Safety and Emergency Management Groups.</p> <p>Procedure reviewed annually and amended for changes in good practice, case law etc.</p>
<p>Ensure systems and processes are in place to comply with new and enhanced data subjects rights, including:</p> <ul style="list-style-type: none"> - responding to Subject Access Requests (SARs) - the right to be forgotten (i.e. data deleted / destroyed) - Higher bar for managing consent to process data 	<p>Revised SAR procedure approved.</p> <p>Consent procedure approved. The Council has duties and powers such that consent should only need to be used as a basis for processing data in exceptional circumstances.</p>	<p>Continue to monitor performance on SARs, with emphasis on response times against new, shorter GDPR requirement of one month (as opposed to 40 days).</p> <p>Examine requirements for procedures around other aspects of data subject rights (right to be forgotten etc.).</p>
<p>SUPPLIERS & THIRD PARTIES</p>		

<p>Ensure suppliers are compliant with the GDPR where processing personal data on the Council's behalf and that there is a contract and data processing agreement in place.</p>	<p>Risk assessed Council suppliers and informed them of intention to vary existing contracts in line with the government's recommended standard.</p> <p>Prioritised plan in place to undertake the contract variation programme.</p> <p>Established data processing requirements of suppliers to inform contract variations.</p> <p>Piloted new procurement criteria and due diligence questions to ensure future suppliers are able to meet GDPR requirements.</p>	<p>Continue to vary contracts with suppliers in line with plan.</p> <p>Monitor implementation of new procurement requirements, particularly in respect of any adverse impacts on supplier availability.</p>
<p>Provide GDPR assurances to those organisations for whom the Council processes personal data (e.g. schools)</p>	<p>Prepared a GDPR statement and provided guidance to enable responses to enquiries from third parties for whom the Council supplies services which involve the processing of personal data.</p>	<p>Put in place a variation to the contract(s) the Council has with schools to supply services which involve the processing of personal data (e.g. payroll services)</p>
<p>Support Nottinghamshire schools in their efforts to become GDPR compliant</p>	<p>Although schools are data controllers in their own right, the NCC Education Improvement Service collaborated with Essex CC to provide a GDPR framework and associated training to Nottinghamshire Schools on a subsidised basis. The DfE has recently released its own Data Protection Toolkit for schools.</p>	<p>Explore the possibility of collaborating with the elearning provider to adapt product for use by schools staff, governors etc.</p>

13th June 2018**Agenda Item: 9****REPORT OF THE MONITORING OFFICER****LOCAL GOVERNMENT OMBUDSMAN DECISIONS - APRIL AND MAY 2018****Purpose of the Report**

1. The purpose of this report is to inform the Committee about the Local Government Ombudsman's (LGO) decisions relating to the Council in the period April – May 2018.

Information

2. The Committee has asked to see LGO decisions 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 in March.
3. The LGO 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 LGO cannot question a Council's decision or action solely on the basis that someone does not agree with it. However, if the LGO finds that something has gone wrong, such as poor service, service failure, delay or bad advice and that a person has suffered as a result, the LGO aims to get the Council to put it right by recommending a suitable remedy.
4. The LGO publishes its decisions on its website (www.lgo.org.uk/). The decisions are anonymous but the website can be searched by Council name or subject area.
5. A total of 4 decisions relating to the action of this Council have been made by the LGO in this period (attached at annex A). One complaint was deemed to be out of the LGOs jurisdiction as the complainant had already been to a tribunal.
6. The first complaint was about the Integrated Children's Disability Service and was partly upheld. The LGO found that there were delays in arranging a specialist occupational therapy assessment, and a failure to source respite care from a befriender service, for a period of 9 months. The LGO recommended a payment of £3000 and also a "back payment" of the personal budget amount for the befriending service.
7. The other two cases related to Adult Social Care, in the first case although some fault was found in how the Council first responded to a safeguarding referral, the LGO also found that this was acknowledged and rectified when the complaint was initially made to the Council and no further action was recommended. The second case was a complex one and involved a

number of different agencies, the LGO found fault with both the Council and the NHS Trust each organisation agreed to a number of remedies including identifying ways to collaborate more closely in future.

8. All actions recommended by the LGO have either been completed or are subject to an action plan to progress.
9. There were no themes highlighted within the complaints; the issues were individual to circumstances of each case.

Statutory and Policy Implications

10. 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

11. The decisions attached are anonymised and will be publically available on the LGO's website.

Financial Implications

12. The financial payments will be made from existing departmental budgets.

Implications for Service Users

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

RECOMMENDATION

That members consider whether there are any actions they require in relation to the issues contained within the report.

Jayne Francis-Ward
Monitoring Officer and Corporate Director Resources

For any enquiries about this report please contact:

Jo Kirkby, Team Manager – Complaints and Information team

Constitutional Comments SLB (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 (SES 16/05/18)

The financial implications are set out in 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

Complaint reference:
16 013 319

Complaint against:
Nottinghamshire County Council

The Ombudsman's final decision

Summary: The Council failed to ensure an OT assessment was carried out on time and that respite care was provided. This caused injustice to Mr and Mrs D and their son. The Council has agreed to pay monies to be used for F's educational benefit. There is no fault by the Council in refusing to reimburse driving costs or in the provision of social care. Other parts of the complaint are out of the Ombudsman's jurisdiction.

The complaint

1. The complainants, whom I will call Mr and Mrs D, complain through their legal advisor (Mrs M) that the Council has not met their son's needs. In particular they complain the Council:
 - a) delayed in seeking appropriate Occupational Therapy advice.
 - b) failed to provide the agreed package of social care.
 - c) failed to appropriately assess and acknowledge the extent of their son's special educational needs.
 - d) failed to follow the correct procedure when issuing their son's statement of special educational needs.
 - e) has not reimbursed driving costs between 23 July 2014 and 15 August 2016.
 - f) wrongly wanted their son to be considered a Looked After Child under Section 20 of the Children Act 1989.
 - g) failed to comply with a Subject Access Request within the prescribed time.
 - h) failed to implement Occupational Therapy recommendations.
 - i) failed overall to meet their son's needs.

What I have investigated

2. I have investigated Mr and Mrs D's complaints a), b), d), e), and f) above. I explain at the end of this statement why I have not investigated the rest of the complaint.

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. The Local Government Act 1974 sets out our powers but also imposes restrictions on what we can investigate.
6. The law says we cannot normally investigate a complaint when someone can appeal to a tribunal. However, we may decide to investigate if we consider it would be unreasonable to expect the person to appeal. (*Local Government Act 1974, section 26(6)(a), as amended*)
7. We cannot investigate a complaint if someone has appealed to a tribunal. (*Local Government Act 1974, section 26(6)(a), as amended*)
8. SEND is a tribunal that considers special educational needs. (*The Special Educational Needs and Disability Chamber of the First Tier Tribunal (‘SEND’)*)
9. We cannot investigate complaints about what happens in schools. (*Local Government Act 1974, Schedule 5, paragraph 5(b), as amended*)
10. 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*)
11. We may investigate complaints made on behalf of someone else if they have given their consent. (*Local Government Act 1974, section 26A(1), as amended*)

How I considered this complaint

12. During my investigation I have:
 - Spoken with Mrs M about Mr and Mrs D’s complaint and considered the supporting evidence they provided.
 - Sent enquiries to the Council and considered its responses including information about F.
 - Considered legislation and guidance as referenced below.
 - Given all parties the opportunity to comment on my draft decision, and issued a second draft decision.

What I found

Relevant legislation and guidance

13. A child with special educational needs (SEN) may have a statement. The statement sets out the child’s needs and what arrangements should be made to meet them. The law and guidance governing statements is the Education Act 1996, the 2001 SEN Code of Practice and the SEN Toolkit. The Children and Families Act 2014 replaced statements with Education Health and Care (EHC) Plans. Everyone receiving support will have transferred from the old system to the new by 2018.

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14. Parents may appeal to SEND against the provision specified in a statement or EHC Plan, including the named placement, or the failure to name a placement.
 15. The Council is responsible for making sure that all the arrangements specified in the statement are put in place. The Ombudsman cannot look at complaints about what is in the statement but can look at other matters, such as where support set out in a statement has not been provided or where there have been delays in the process. The Ombudsman cannot change a statement; only SEND can do that.

What happened

16. The correspondence about this case is detailed and extensive. It is not possible (or necessary) for me to set out everything which has happened. I have set out below the key events.
17. Mr and Mrs D's son, F, was born in 2009. He has been diagnosed with Autistic Spectrum Disorder (ASD). F has significant difficulties due to his ASD including low cognitive function, hyperactivity, high levels of anxiety, and no communication skills. He often demonstrates extreme behaviour including banging his head on walls.
18. In 2013 Mr and Mrs D returned to the UK from overseas. The consultant paediatrician referred F to the NHS Paediatric Occupational Therapy (OT) Service. Following an initial assessment the OT recommended 6 sessions of OT, which F received from early 2014. The Council agreed a package of short breaks to provide respite to the family from November 2013. This was provided by a befriending service using a direct payment.
19. In December 2013 Mr and Mrs D asked the Council to carry out a statutory assessment of F with a view to issuing him with a statement / EHC plan. In April 2014 the short breaks hours were increased.
20. The Council issued F's final statement in April 2014 naming Mr and Mrs D's preferred school (School B). This is a local authority special school for children and young people with ASD. An OT assessment had not been completed but the statement said "F requires urgent assessment by an OT, both functional and sensory" on admission to School B. The covering letter for the statement advised Mr and Mrs D of their right to appeal to SEND. F started at School B in September 2014.
21. Mr and Mrs D told the Council they were struggling to cope. They found the only way to calm F was to drive him around. The Council carried out an initial assessment of F as a child in need. It then increased the hours of short breaks, recommended referral to local support groups for autistic children, a sensory learning and play centre and to purchase a sofa bed and bouncing chair to meet F's sensory needs. Mr and Mrs D disagreed with this and contacted a solicitor (Mrs M).
22. The NHS OT was working with the family and completed a sensory assessment by March 2015. This said F needed "access to linear (forward and backward) movement to help calm him i.e. using a supportive swing or being driven in a car". The consultant wrote to the Council recommending F receive 1 to 1 support. She said F had had little input from the OT service because "the NHS OT only provides for activities of daily living rather than sensory package of care."
23. Mrs M asked the Council to confirm whether F was a child in need. The Council carried out a core assessment in spring 2015. This referred to Mr and Mrs D spending "hours during the day and night, driving for hundreds of miles trying to

calm F and get him to sleep”, which Mrs M said they had to do as the Council was not meeting F’s sensory needs.

24. The Council responded to Mrs M in June 2015. It said that the NHS OT’s assessment “had not been commissioned or agreed by Children’s Social Care and therefore Social Care does not have an obligation to fund the costs its recommendations entail. Our assessment is that this practice on a regular basis is dangerous and places both parents and F at risk and therefore the cost of petrol it incurs will not be refunded.” The Council proposed alternatives including:
 - A review of the current support to see if some of the support offered by the sensory play centre could be moved to the family home.
 - Parents to be supported to look at alternative accommodation or to make temporary changes to enable an intensive sleep pattern for F.
25. The Council also agreed to seek an updated assessment from the pilot sensory OT assessment service. This assessed F’s functional and sensory needs. It was completed in August 2015. It noted that driving F helped calm him, but said “this is passive input and will not bring about positive psychological change. Active input [such as a large sensory rocker] is more effective.” The Council considered a rocking chair would help meet F’s sensory needs and noted School B had the environment to provide this.
26. In September 2015 an amended statement was issued. Mr and Mrs D appealed to SEND in November 2015. They wanted the Council to name School C. School C is an independent special school for children with ASD. Mr and Mrs D wanted F to attend School C on a residential basis for 52 weeks a year. They considered F’s sensory needs were not being met in School B or outside of normal school hours.
27. The Council considered F was making progress at School B and argued the tribunal should balance the educational benefits of School C against the additional cost of the school to the public purse. In May 2016 SEND found that School B and social care provision could not meet F’s needs. It found that only School C could meet his needs. It ordered the Council to name School C in part 4 of F’s statement. In July 2016 the Council issued a final amended statement for F naming School C. F started at School C in August 2016.
28. Mr and Mrs D told the Council they intended to pursue judicial review with regard to financial compensation for the driving costs and also reimbursement for petrol costs for visiting F at School C. The Council therefore considered it would be inappropriate to take a complaint through their complaint procedures as some issues were for SEND and there was a possibility of judicial review. In December 2016 Mr and Mrs D complained to the Ombudsman.

Analysis

29. I have considered each of Mr and Mrs D’s complaints in turn.
 - a) **The Council delayed in seeking appropriate Occupational Therapy advice.**
30. Mrs M complains that F’s April 2014 statement said an Occupational Therapy assessment would take place on admission to School B in September 2014, but it was not completed until August 2015.
31. The Council says when F was referred to the NHS OT in 2013 there was a waiting list. The OT’s sensory assessment was therefore not completed until spring 2015.

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32. The Council did not have any control over the waiting time for an NHS OT assessment. However, it had a duty to ensure the provision in the statement (a sensory and functional OT assessment from September 2014) was delivered and it failed to do this. This is fault.
33. A sensory OT assessment was completed by March 2015. In my first draft decision I found that the delay from September 2014 to March 2015 had not caused significant injustice to F or Mr and Mrs D. This was because the NHS OT was working closely with the family during 2014 and OT sessions were provided. F was attending School B from September 2014 and the Council says at no point did School B advise it could not meet F's needs. The April 2014 statement sets out a variety of provisions to meet F's sensory needs and there is no evidence these were not being provided. In addition I cannot say that the outcome of the sensory assessment would have been any different if it had been completed in September 2014.
34. In response to my draft decision, Mrs M said significant injustice had been caused by the delay because the March 2015 assessment was not sufficient to meet the requirements of the April 2014 statement. I have considered this again. The April 2014 statement required a functional OT assessment as well as a sensory one. The functional element was not completed until August 2015, after the Council had commissioned an updated assessment by the sensory OT service in spring 2015. There was therefore a longer delay of 11 months in meeting the requirement for a functional OT assessment.
35. I have looked at how this affected F and Mrs and Mrs D. I realise Mr and Mrs D say School B was not meeting F's sensory needs. It is not my role to determine whether F's needs were being met. However, I consider the delay in completing the functional OT assessment would have caused uncertainty about whether F was receiving appropriate support between September 2014 and September 2015.
36. The second assessment recommended a minimum of 30 weekly OT session of 45 minutes. This is an increase on what was set out in the April 2014 statement, which required support from an OT. F therefore lost the opportunity of this extra provision.
- b) The Council failed to provide the agreed package of social care.**
37. F's April 2014 and September 2014 statements say the family should be provided with respite opportunities and that advice should be sought from social services, to determine whether their service has a role supporting the family.
38. The Council then agreed a package of care to meet F's assessed social care needs. This included support from a befriender, which was provided by the sensory play centre. However, this support ended in August 2015 following a dispute about payments. In April 2016 the Council's in-house sitting and befriending team took on the care.
39. I have considered the Council's actions. Between September 2015 and January 2016 it contacted nine possible providers but they did not have capacity or were unable to provide the service required. The Council tried to use its own befriending service, but staff were not available. It provided personal budgets for horse-riding and hydrotherapy sessions.
40. Mrs M says the Council also agreed a personal budget for horse riding therapy for 1 hour per week and an additional hour during school holidays. Mrs M says despite numerous requests, no funds were provided between 20 August 2015

and 1 November 2015. The Council says “numerous attempts” were made to obtain horse-riding sessions but only one could be found before the centres stopped over the winter.

41. The Council assessed and reviewed F’s needs, developed a care plan and made efforts to find suitable providers. When the support provided by the sensory play centre broke down F was left without the full package of care. My initial view was that this did not amount to fault because of the efforts the Council had made to secure provision. Mrs M disagreed. She said the Council had a legal duty to ensure services are provided. I have considered this again. The failure to provide respite care from a befriender service from August 2015 to April 2016 was fault. This caused injustice to Mr and Mrs D as they were without support whilst they were struggling to cope with F’s needs.

d) The Council failed to follow the correct procedure when issuing their son’s statement of special educational needs.

42. Mrs M says Mr and Mrs D’s appeal to SEND was registered on 11 November 2015. But in response to comments from Mr and Mrs D the Council issued a proposed amended statement on 11 November 2015. Mrs M says any amendments should have been made through SEND.
43. In response to my enquiries the Council said Mrs M did not tell it about the appeal until 23 November 2015. SEND told the Council about the appeal on 3 December 2015. There is no evidence of fault.
44. In response to my first draft decision, Mrs M said the Council had delayed issuing the final statement. She said the annual review had been held in March 2015; the final statement was issued on 28 September 2015.
45. The government advice on managing the 2014 changes to the SEN system says councils must give regard to the 2001 SEN Code of Practice for those with statements. The Code does not set timescales for issuing a proposed amended statement following an annual review. It says councils “must make that amendment within eight weeks of sending the amendment notice to the parents.”
46. Following the March 2015 annual review the Council sent Mr and Mrs D a proposed amended statement on 22 July 2015. This was not fault. It then issued the final statement on 28 September. This was nine weeks later which is a delay of one week. I do not consider this caused significant injustice.

e) The Council has not reimbursed driving costs between 23 July 2014 and 15 August 2016.

47. Mrs M says F’s sensory needs were not being met. She says because of a lack of space in the family home for a swing, the only way to calm him was for his parents to drive him for long distances, approximately 820 miles per week. Mrs M complains the Council has refused to reimburse the costs of this.
48. F’s statements identify his sensory needs and say that until these “are addressed, he will not be able to learn.”
49. I asked the Council how it ensured F’s sensory needs were being met. It said F was attending School B, which is the “recognised specialist school in Nottinghamshire with a specialist knowledge and integral sensory based curriculum for children and young people with ASD and sensory needs.” It said at no point did School B say it could not meet F’s needs. The Council said it provided Mr and Mrs D with a Personal Budget to access a specialist sensory short break provider. It had also offered to support Mr and Mrs D with a move to a

different property so F could access “space and sensory equipment outside of school”.

50. The Ombudsman cannot say what F’s needs are or how they should be met. The role of the Ombudsman is to consider if the Council delivered the content of F’s statement.
51. Although the OT’s sensory assessment in March 2015 had acknowledged driving calmed F, the Council had said it disagreed with this as a suitable way to meet F’s needs. F’s statement does not say he needs to be driven. The statement instead contains a number of general provisions to meet his sensory needs and the Council has explained how these were met. There was therefore no duty on the Council to provide for F to be driven or to fund this. I do not find fault with the Council for refusing to reimburse Mr and Mrs D’s driving costs.
52. I realise Mr and Mrs D disagreed with the content of the statement, but this is not something I can consider. This is because the content of statement could be (and was) appealed to SEND.

f) The Council wanted their son (F) to be considered a Looked After Child under Section 20 of the Children Act 1989.

53. On 12 August 2016 (the Friday before F was due to start at School C) the Council emailed Mrs M. The email said “it is the local authority’s position that F must, upon commencing the placement at School C, become a looked after child...[because]... But for this placement the local authority would be providing high levels of social care support via other channels, so it cannot be said that the decision has been reached purely on educational grounds.”
54. Mrs M responded on the same day. She referred the Council to case law and SEND’s decision in order to argue against the Council’s claim. The Council replied on the Monday and said it would not pursue making F a looked after child.
55. Mrs M says this shows a misunderstanding of the law and caused unnecessary stress to Mr and Mrs D.
56. The case notes from the Council show that on 11 August 2016 a manager had reviewed the case and decided F should be made a looked after child. The manager recorded that “F is a child who clearly has social care needs....It is highly unlikely that parents would have ever been able to manage his care without ongoing support.” The Council received legal advice the following evening which said F should not be made a looked after child. This was because the tribunal’s decision for F to attend a residential school was based only on F’s education needs.
57. The role of the Ombudsman is to identify fault leading to significant personal injustice. There was fault by the Council in initially appearing to misunderstand the tribunal’s decision. I appreciate the Council’s email may have caused some distress to Mr and Mrs D, but the Council quickly amended its decision. I consider that to be an appropriate response and that no significant injustice was caused.

Agreed action

58. I have found fault causing injustice as set out in paragraphs 33-36 and 41.
59. The Council should apologise to Mr and Mrs D:
- for the delays in completing the functional OT assessment, which meant that F missed out on six months of OT provision during the 2014/15 academic year.

- for the failure to secure respite care from a befriender service from August 2015 to April 2016
60. Where fault has resulted in a loss of provision, the Ombudsman's guidance on remedies recommends a payment to acknowledge the impact of that loss.
61. The Council should therefore also pay £3,000 and the personal budget amount for the befriender service that was not provided from August 2015 to April 2016, to be used for F's educational benefit.

Final decision

62. The Council failed to ensure an OT assessment was carried out on time and that respite care was provided. This caused injustice to Mr and Mrs D and their son.
63. I have not found fault causing injustice in the rest of the complaint. Some parts of the complaint are out of the Ombudsman's jurisdiction.
64. The Council has agreed to my recommended actions and I have completed my investigation.

Parts of the complaint that I did not investigate

c) The Council failed to appropriately assess and acknowledge the extent of their son's special educational needs.

65. Mr and Mrs D complain the Council did not assess F's SEN needs properly. The issue of whether the Council had met F's sensory needs formed a key part of the appeal to SEND. This means the Ombudsman cannot consider this matter. Where a complainant has exercised their right of appeal in any court of law the Ombudsman has no discretion to investigate (*Local Government Act 1974, section 26(6)(a)*). This is the case even if the appeal may not provide or have provided a complete remedy for all the injustice claimed. (*See R v The Commissioner for Local Administration ex parte PH (1999) EHCA Civ 916.*)

g) The Council failed to comply with a Subject Access Request within the prescribed time.

66. This is not a matter for the Ombudsman. It is instead a matter for the Information Commissioner's Office (ICO). The ICO deals with complaints from members of the public who believe that an authority has failed to respond correctly to a request for information. I can see no reason why Mr and Mrs D could not refer the matter to the ICO.

h) The Council failed to implement Occupational Therapy recommendations.

67. Mrs M complains the recommendations in the August 2015 OT report were not acted on. She says that the Council failed to confirm until the SEND hearing that it agreed with the recommendations or that it had found an OT to work with F during the school day. She also complains the Council refused to confirm whether the OT would attend the hearing.
68. These are not issues the Ombudsman can consider. If Mr and Mrs D felt the OT's report should be included in the statement, they had the right to appeal to SEND. They did this in November 2015. As I explain above this prevents me from considering this matter.
69. Mrs M has asked the Ombudsman to consider reimbursing costs incurred by Mr and Mrs D as a result of their appeal to SEND. But this is not a matter the

Ombudsman can consider. This is because the issue of costs has already been considered by SEND in July 2016.

i) There was an overall failure to meet their son's needs.

- 70. Mrs M says "There was overwhelming evidence available to the Local Authority as to the extent of F's needs and the provision / type of school placement that he required to meet these needs. However, the failure of the Local Authority to acknowledge these and to name School C in Part 4 of F's Statement of SEN, meant they failed to meet his needs."
- 71. Mr and Mrs D appealed the school named in F's statement to SEND. So this is not a matter the Ombudsman can consider.

Investigator's decision on behalf of the Ombudsman

The Ombudsman's draft decision

Summary: Ms X complains the Council failed to carry out a safeguarding investigation and wrongly told her to refer the matter to another local authority. Errors in how the Council allocated the referral caused delays and it was its responsibility to investigate the matters reported. The Council has already taken action to put right the faults including completing the safeguarding investigation and apologising to Ms X.

The complaint

1. Ms X complains the Council failed to carry out a safeguarding investigation and wrongly said she should refer the matter to another local authority.

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. 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

4. As part of the investigation, I have:
 - considered the complaint and the documents provided by the complainant;
 - made enquiries of the Council and considered the comments and documents the Council provided;
 - discussed the issues with the complainant;
 - sent my draft decision to both the Council and the complainant and taken account of their comments before making my final decision.

What I found

5. Ms X made a safeguarding referral to the Council in June 2017. She had concerns about her mother, Mrs Y, saying she was subjected to controlling behaviour by her sister, Ms Z.
6. The Council accepted the referral and decided it met the criteria for a safeguarding investigation though it was not an urgent case. An officer phoned Ms X to discuss the issues in more detail. Ms X was particularly concerned about Ms Z's financial control and that she was preventing Mrs Y seeing a close friend she previously lived with.
7. The Council referred the matter to its older adults team. Due to staffing problems it did not immediately allocate the case to a social worker. A team manager decided to allocate the case to herself as a temporary measure. However, she did not have the required computer access so allocated it to the previous team manager, officer B.
8. When Ms X contacted the Council about the progress of her safeguarding referral, she was told it was being dealt with by officer B. This officer did not know that officer B no longer worked for the Council and so provided her email address and telephone number. Ms X sent emails and left voicemail messages but got no response.
9. After making a complaint, the case was referred to a social worker. He contacted Ms X on 11 September and found out Mrs Y was now living in Wales with Ms Z. The social worker took the decision the safeguarding concerns would need to be investigated by the local authority in Wales. He also advised Ms X to contact the Office of the Public Guardian about concerns relating to the misuse of Mrs Y's finances.
10. A social worker from Wales advised Ms X and the Council that it could not investigate alleged abuse that happened in Nottinghamshire. The case was then referred to a team manager for consideration.
11. The Council wrote to Ms X on 6 October 2017 in response to her complaint about the delays and poor handling of her referral. As well as explaining the reasons for the delay and providing an apology, the Council also provided details of its safeguarding investigation and outcome.
12. In the letter, the Council explained it had reviewed Mrs Y's records. This included a mental capacity assessment from April 2017 carried out by an independent social worker. This found Mrs Y had capacity to make decisions about where she lived. It found she did not have capacity to make financial decisions.
13. As part of its investigation the Council also spoke to Mrs Y, Ms Z and Mrs Y's close friend. It also considered information provided about the process by which Mrs Y signed a Lasting Power of Attorney (LPOA). As part of this process Mrs Y met with a consultant from an estate planning company. Information was also provided from a solicitor involved in producing Mrs Y's will.
14. The Council concluded that while there was evidence of an ongoing family dispute (between Ms X and Ms Z) there was no evidence to show Mrs Y was being forced to make decisions against her will. The Council closed the safeguarding case as unsubstantiated and with no evidence of any ongoing risk to Mrs Y.

Analysis

15. There is fault in how the Council responded when Ms X made a safeguarding referral in June 2017. It delayed in allocating a social worker and then compounded this delay by allocating it to a former worker. This meant the Council did not realise its mistake until Ms X made a formal complaint.
16. I note the Council accepted its fault when responding to Ms X's complaint on 6 October 2017. It provided an apology for the delays and it has reviewed procedures to ensure a similar mistake does not happen again. The Council was wrong to say Ms X should refer the matter to Wales as the referral made in June met the safeguarding criteria. The Council has corrected this by conducting a safeguarding investigation.
17. Ms X is dissatisfied with the safeguarding investigation saying a more thorough investigation is required. I am satisfied the Council did carry out a proper investigation of Ms X's concerns. It spoke to Ms X more than once about her concerns. It reviewed Mrs Y's file. It spoke to Mrs Y, Ms Z and Mrs Y's close friend to get more information about the move to Wales, whether Mrs Y had the mental capacity to make such a decision and about whether she was forced into decisions. The Council then used its professional judgement to decide no abuse was taking place. I can see no basis to criticise this decision.
18. Regarding any financial abuse, Ms Z holds the LPOA for Mrs Y. The Council has quite correctly advised Ms X that she should contact the Office of the Public Guardian if she has concerns that Ms Z is misusing Mrs Y's finances.

Final decision

19. I will complete my investigation as the Council has already taken action to put right the fault that occurred in this case.

Investigator's decision on behalf of the Ombudsman

Complaint reference:

16 013 060
C2029788

Complaint against:

Nottinghamshire County Council
Nottinghamshire Healthcare NHS Foundation Trust



The Ombudsmen's final decision

Summary: The Council delayed completing capacity assessments for a vulnerable adult about their social care. The Council failed to keep the daughter informed at certain stages. The various bodies involved did not co-ordinate well in the best interests of the service user. This led to increased upset for the service user's daughter.

The complaint

1. The complainant, who we will call Ms B says:
 - a) The Council failed to act in the best interests of her mother (Mrs D).
 - b) The Council wrongly said Mrs D had capacity to decide not to have works to her bathroom. Ms B says because the works were not completed Mrs D could not shower and did not wash properly. Mrs D was sat covered in urine which soaked into her clothes and slippers and resulted in a hospital admission for sepsis.
 - c) The Council did not include Ms B in the decision not to do the works to the bathroom.
 - d) The Council delayed taking action to deal with mice and potentially other pests at Mrs D's property.
 - e) The Council failed to take action about Ms B's sister in law (Mrs F) removing items from Mrs D's house.
 - f) The Council failed to complete a carers assessment for Ms B.
 - g) The Council said it would respond to the complaint by 25 May 2017 and failed to do so.
 - h) District nurses failed to alert the GP that Mrs D's legs were getting worse, or arrange further treatment.
 - i) Mrs D contracted sepsis because of poor care.

The Ombudsmen's role and powers

2. The Local Government and Social Care Ombudsman investigates complaints about adult social care providers. We decide whether their actions have caused an injustice, or could have caused injustice, to the person making the complaint. Where something has gone wrong we refer to those actions as 'fault'. (*Local Government Act 1974, sections 34B, and 34C, as amended*)

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3. The Health Service Ombudsman investigates complaints about 'maladministration' and 'service failure' in the delivery of health services. We use the word 'fault' to refer to these. If there has been fault, the Health Service Ombudsman considers whether it has caused injustice or hardship. (*Health Service Commissioners Act 1993, section 3(1)*)
 4. If the actions of a health and social care provider have caused injustice, the Ombudsmen may suggest a remedy. Our recommendations might include asking the organisation to apologise or to pay a financial remedy, for example, for inconvenience or worry caused. We might also recommend the organisation takes action to stop the same mistakes happening again.

How we considered this complaint

5. We considered:
 - Information provided by Ms B, and discussed the complaint with her.
 - Responses to our enquiries from the Council and NHS Trust.
 - The Mental Capacity Act 2005, and the associated 'Code of Practice' produced by the Department for Constitutional Affairs.
 - The Mental Health Act 1983.
 - The Care Act 2014 and associated statutory guidance.

What we found

6. Mrs D lived alone at home. Mrs D had dementia, chronic leg ulcers, and deafness, among other conditions. Ms B was Mrs D's main carer, alongside care workers coming in a few times a day arranged by the Council.
7. Due to Mrs D's dementia, she could not manage her finances. The Court of Protection appointed the Council as her deputy for property and finances.
8. Mrs D had incontinence, which she failed to accept and would not wear continence products. Because of this she often had accidents, which meant she was sat in urine. This made her already sore legs worse. The District Nurses were involved at various stages to care for the sores on Mrs D's legs.
9. Mrs D also received support from the NHS Trust's mental health services.
10. Mrs D died in hospital on 25 November 2016.

Mental capacity

11. Mental capacity is the ability to make a decision. When we talk about 'a person who lacks capacity' it means a person who lacks capacity to make a particular decision or take a particular action for themselves at the time the decision or action needs to be taken. People may lack capacity for some decisions but not for others. Some people may lack capacity to make a decision at a certain time, but may be able to make that decision at a later date.
12. The Mental Capacity Act 2005 (MCA) provides the legal framework for acting and making decisions on behalf of individuals who lack the mental capacity to make particular decisions for themselves.
13. The five statutory principles are:
 - Every adult has the right to make their own decisions if they have the capacity to do so. Family carers and healthcare or social care staff must assume that a

person has the capacity to make decisions, unless it can be established that the person does not have capacity.

- People should receive support to help them make their own decisions. Before concluding that individuals lack capacity to make a particular decision, it is important to take all possible steps to try to help them reach a decision themselves.
- People have the right to make decisions that others might think are unwise. A person who makes a decision that others think is unwise should not automatically be labelled as lacking the capacity to make a decision.
- Any act done for, or any decision made on behalf of, someone who lacks capacity must be in their best interests.
- Any act done for, or any decision made on behalf of, someone who lacks capacity should be an option that is less restrictive of their basic rights and freedoms – as long as it is still in their best interests.

Capacity assessments regarding works to bathroom and continence

14. The NHS Trust's Intensive Recovery Intervention Service (IRIS), which is part of its mental health services for older people, recommended that Mrs D might benefit from a wet room. This was referred to the Council to consider doing the works under a disabled facilities grant; which the Council agreed in May 2016.
15. In June 2016, the Council's deputyship officer asked for a best interest decision regarding works to the bathroom and associated costs. As a deputy, you're responsible for helping someone make decisions or making decisions on their behalf. You must consider someone's level of mental capacity every time you make a decision for them, you can't assume it's the same at all times and for all kinds of things.
16. Two occupational therapists from the Council visited Mrs D to complete a test of capacity about installing a walk-in shower. They also discussed replacing a chair and carpet in the living room. They record the deputy had received reports the items were a risk due to their declining state. However, it is clear from correspondence on file the concerns were around incontinence and resultant staining of the chair and carpet. The Council also had information that Mrs D's feet would get covered in faeces and her legs were ulcerated and being treated by the District Nurses.
17. When assessing ability to make a decision the MCA guidance says you should consider:
 - Does the person have a general understanding of what decision they need to make and why they need to make it?
 - Does the person have a general understanding of the likely consequences of making, or not making, this decision?
 - Is the person able to understand, retain, use and weigh up the information relevant to this decision?
 - Can the person communicate their decision?
18. The Council assessed Mrs D using the above criteria and decided she had capacity to decide about installing the walk-in shower and replacing a chair and carpet. Mrs D decided she did not want these items.

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19. Ms B is aggrieved that she was not involved in the decision making. It was appropriate for the Council to assess Mrs D's capacity free of any other influence. As the Council decided Mrs D had capacity to make the decision there was no need for it to include any other party. Mrs D could make decisions that Ms B, and involved professionals, may consider unwise.
 20. The Council would only be required to involve Ms B in the decision making if Mrs D did not have capacity and it needed to make a decision in Mrs D's best interests. In those circumstances MCA guidance recommends involving relevant family and professionals.
 21. However, the focus about the chair and carpet at this assessment was on them being a hazard because of their declining state. Three months later the Council assessed Mrs D's capacity about managing continence. The Council assessed Mrs D did not have capacity to decide about her continence management. The Council completed a best interests decision, including Ms B and relevant professionals. The Council decided the chair and carpet should be replaced in Mrs D's best interests.
 22. The Council had the information about continence concerns when it made the earlier capacity decision. In our view, the capacity assessment for continence should have been carried out sooner. Especially given concerns from healthcare professionals and Ms B.
 23. Because capacity is time and decision specific we cannot know what the result might have been three months earlier. Mrs D may have had capacity at that time to decide about her continence; even if her decisions were considered unwise by others. But, it leaves uncertainty about whether the Council and NHS Trust could have improved Mrs D's circumstances. Had they changed the chair and carpet it could have alleviated some of the concerns about Mrs D's living conditions and impact on her health and wellbeing. Ms B understandably felt the Council and NHS Trust were ignoring her concerns as nothing was happening to improve her mother's situation.
 24. Changing the chair and carpet was not completed after the Council assessed Mrs D did not have capacity, as she died while arrangements were advancing.
 25. In addition to the Council completing capacity assessments, the NHS Trust was concerned about Mrs D's living situation so carried out mental capacity assessments with a view to detaining her under the Mental Health Act. The NHS Trust decided Mrs D had significant impairment that was impacting on her life, but did not consider her to be at a stage that required detention. In the NHS Trust notes it is evident they felt Mrs D did not have capacity about her problems and the associated risks. Ms B says a Doctor told her that Mrs D did not have capacity. However, there is no evidence that NHS staff completed a capacity assessment about any individual specific decisions at a specific time to enable it to say Mrs D did not have capacity about that issue. The conflicting information given to Ms B caused real distress, and an unfair view that the Council was wrong in its actions.

Safety of property

26. Following a call to Mrs D's property the ambulance service referred to a local fire station for a fire safety assessment of Mrs D's home. The ambulance service did not advise any other body. The fire service contacted the Council for Ms B's contact details to arrange the inspection.

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27. The fire service completed the inspection and had concerns about the safety of the electrics. It graded the property as high risk until the electrical system could be upgraded.
 28. A planned multi agency meeting did not go ahead due to staff sickness. Despite all the concerns about Mrs D's welfare, the Council did not rearrange the meeting.
 29. Mrs D did not accept any works were needed to her property and did not wish to leave. The Council sought legal advice. The legal advice said if incapacity is established then the Council must do a best interests decision to establish whether it would be the least restrictive for the person to be supported in their own home or that they need residential/nursing care. If a person is to be removed against their wishes then the Council must seek authority from the court of protection. If the removal needs to take place urgently then an urgent application can be made to the court of protection. The Council would have to evidence why it was urgent and why the person could not be supported by other means until the application could be considered by the usual route. Only if there was a significant risk of imminent harm or death could the Council remove the person without the protection of the court or the Mental Health Act.
 30. Ms B sought electrician quotes. The first quote advised the electrics in the utility were not safe to be used; the care workers could no longer complete laundry. Ms B said she would take the risk and do it in the meantime.
 31. The Council assessed Mrs D's capacity about having electrical works done, and decided she did not have capacity on this issue. However, this was six weeks after the fire officer said the property was high risk. And a month after the legal advice which said the first step was to find out capacity on the issue. Given the safety concerns we would have expected the Council to progress matters quicker than it did.
 32. The next day Mrs D was admitted to hospital. The Council took this opportunity to try and arrange the electrical works, and works to chair and carpet, while Mrs D was out of the house. Unfortunately, Mrs D died in hospital within that week.

District Nurses

33. A district nurse will visit and treat patients in their own home. The district nurses were involved with Mrs D to care for wounds on her legs. In February 2016, a care worker reported a wound to Mrs D's leg that needed dressing. The NHS says the district nurses visited daily, and on occasions every four days, depending on clinical need. However, the records show on several occasions when it is noted to visit the next day there is no record that it happened. This leaves doubt over whether Mrs D was getting the visits she needed.
34. The wounds to Mrs D's legs were made worse by her refusal to accept she was incontinent and to wear incontinence products. Mrs D would urinate where she was sitting, and the urine would soak down her legs and feet. The district nurses were essentially managing a continuing problem that was unlikely to improve unless there was a change in the continence issue.
35. The records show on 19 November 2016 the district nurses visited to change dressings, which were wet through with exudate fluid (which may come from areas of infection or inflammation). The district nurse cleaned the wound and redressed it. On 21 November 2016, the district nurses visited and noted the wounds on the back of both legs looked sloughy (skin was coming off), but it was difficult to see as Mrs D could not lift her legs up properly while in the chair. The district nurse records she did not ask Mrs D to stand up. It would have been

prudent to ask Mrs D to stand to try and assess her legs fully, of course Mrs D may not have been agreeable to comply. The district nurse cleaned the wound and redressed it.

36. On 22 November 2016 Ms B called the district nurses to say her mother had gone to hospital following a fall, so did not need the visits at present. The hospital diagnosed an infection. Mrs D died three days later due to sepsis, which is a rare but serious complication of an infection.
37. The district nurse records were available for Mrs D's GP to review electronically. The NHS says there was no indication that the patient had sepsis or any underlying infection that could have developed into sepsis.
38. Ms B says she and the carer's noted the day before that Mrs D was sleepy and not her normal self. However, the NHS website does not list tiredness as a sign of sepsis. Being tired would not be something in itself which would require care workers or NHS staff to seek medical attention.
39. The ambulance crew recorded that Mrs D was very hot, this is not listed as a sign of sepsis. The tiredness and temperature could have been a sign of the infection which caused the sepsis, but there is no evidence that care workers or NHS staff should have taken any action sooner than they did. The ambulance was called following Mrs D falling, which was appropriate and which identified an underlying issue which was not obvious prior to the fall.

Pest control

40. Mrs D saw her GP about possible bites, the GP noted spots which may have started as insect bites. The care agency workers and the health care workers failed to tell the Council about this issue; the Council found out by a report from Ms B. The Council says it referred the matter to the district council's Environmental Health team though I have seen no evidence of that.
41. The Council asked Ms B to catch one of the bugs and bring it to its office to examine. Ms B tried but could not even see the bugs to be able to catch one. Ms B also raised a concern about mice.
42. Six weeks later an Environmental Health officer (EH officer) visited the property. The EH officer found no evidence of a mite, flea or insect infestation, but did find evidence of mice. The EH officer advised Ms B to block up the hole where mice were getting in. The district council's website says once you lodge a request for pest control it aims to carry out any treatment within two working days. The delay of six weeks is fault; it is unclear when the county council made the referral to EH, and whether it chased the matter.

Safeguarding

43. Ms B and her sister in law raised various concerns with the Council about the other. This meant the Council had a duty to consider those concerns under its safeguarding policy.
44. A council must make necessary enquiries if it has reason to think a person may be at risk of abuse or neglect and has needs for care and support which mean he or she cannot protect himself or herself. It must also decide whether it or another person or agency should take any action to protect the person from abuse or risk. (*section 42, Care Act 2014*)
45. Ms B raised concerns about her sister in law removing a letter from Mrs D's property, and does not feel the Council took appropriate action in response.

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46. The Council's procedure says that feedback should be given to the referrer and other relevant individuals.
47. The Council wrote to Ms B and said the threshold for social care involvement was not met. The letter said further investigation was needed to establish any evidence to support the allegation. The Council would investigate it as part of an ongoing investigation.
48. The Police were involved and interviewed Mrs F who denied the allegation. The Police identified there was no eye witness, and there were also two care workers and Mrs D's grandson at the property that day.
49. The Council interviewed Mrs F about the allegations made by Ms B, both about the missing letter and various other issues. The Council decided there was not enough evidence to substantiate a safeguarding investigation. It was one person's word against another.
50. Although the Council closed Ms B's enquiry, it should have updated her of the overall result as a relevant individual. Its failure to do so left Ms B feeling that no action was taken. However, I consider Ms B's injustice is limited, the Council's letter said to contact it for any further advice on the matter; I have seen no evidence Ms B did this.

Carers assessment

51. Where an individual provides or intends to provide care for another adult and it appears the carer may have any needs for support, local authorities must carry out a carer's assessment. Carers' assessments must seek to find out not only the carer's needs for support, but also the sustainability of the caring role itself. This includes the practical and emotional support the carer provides to the adult. (*Care and Support Statutory Guidance 2014*)
52. When Ms B found out she may be entitled to support as a carer for her mother she asked the Council for an assessment.
53. The Council failed to complete a carers assessment for Ms B because of a current safeguarding investigation in which she was the alleged perpetrator. If the Council had upheld the safeguarding then it may have decided Ms B was not a suitable person to provide care for her mother, and the carers assessment would become irrelevant.
54. While we accept this reasoning, the Council knew for many years that Ms B was providing informal support to her mother. The Council should have recognised Ms B as a carer and offered her a carers assessment much earlier, and without her needing to ask for it. This means Ms B may have missed support she was eligible for.

Complaint handling

55. Councils should have clear procedures for dealing with social care complaints. Regulations and guidance say they should investigate a complaint in a way which will resolve it speedily and efficiently. A single stage procedure should be enough. The Council should say in its response to the complaint:
- how it has considered the complaint; and
 - what conclusions it has reached about the complaint, including any matters which may need remedial action; and
 - whether the responsible body is satisfied it has taken or will take necessary action; and

- details of the complainant's right to complain to the Local Government and Social Care Ombudsman.

(Local Authority Social Services and National Health Service Complaints (England) Regulations 2009)

56. The Council's website says social care complaints will follow the complaints process, which says in most cases it will deal with the complaint and respond within 20 working days. In adult social care cases like this one, the Council says it aims to reach a resolution within six months. Individual correspondence with complainants gives details about response times.
57. We recognise that Ms B made complaints in a piecemeal way, which made it slightly harder for the Council to deal with. But, the Council often missed deadlines which it gave, this exacerbated Ms B's upset and frustration with the Council's service. However, we also recognise the Council did keep Ms B updated of changes to timescales.
58. It took the Council seven months to provide a final response which directed Ms B to the Ombudsman, this is outside of its aim of six months to resolve adult social care complaints. We find its published information is not clear on the procedure it will follow, and gives insufficient information on what to expect.
59. Ms B says she did not receive the Council's final response. I note the Council says it sent it by letter on 25 May 2017; all previous correspondence was sent by e-mail and letter. Ms B had previously asked for correspondence by e-mail so that she could keep it all in one place. The Council failed to comply with Ms B's preferred communication method, which resulted in her not receiving its final response. Ms B says she did not chase it as she had given up by that stage, and came to the Ombudsmen.

Conclusions

60. Many different bodies were involved in Mrs D's care. They did not co-ordinate well together to act in Mrs D's best interests. Ms B received conflicting information regarding her mother's capacity, which led her to believe the Council was not acting correctly.
61. We fully understand Ms B's concerns for her mother's welfare and how distressing it must have been seeing her mother living in those conditions. Ms B would know, as did the professionals involved, that Mrs D's refusal to manage her incontinence was not in Mrs D's best interests. The professionals involved could have taken action about this sooner than they did, as the concerns were known several months before the Council completed its mental capacity assessment and best interests decision about continence.
62. Although Ms B wanted immediate change, as she was concerned for her mother, the professionals involved had to follow due process. They could not force something upon Mrs D that she did not want if she had the capacity to choose. The professionals also had to weigh up the impacts on Mrs D of making major changes to her home environment, and of any move from her property. So, even if the capacity assessment about continence was completed sooner, it still would have taken some time to make appropriate arrangements.
63. We must say that this would be a distressing situation even if there was no fault involved, but we recognise the actions in this case exacerbated Ms B's upset.
64. The Ombudsmen cannot say Mrs D contracted sepsis solely because of the actions of the Council and NHS Trust.

Agreed actions

65. To acknowledge the impact of the identified failings the involved bodies have agreed to the following actions:
- a) The Council apologises for its delays, failures to keep Ms B informed, and failures to co-ordinate fully with the various bodies involved. The Council should pay £400 to recognise the impact of its failings on Ms B. It should complete this within one month of the Ombudsmen's final decision.
 - b) The NHS Trust apologises for its failure to co-ordinate fully with the various bodies involved. This should be completed within one month of the Ombudsmen's final decision.
 - c) The Council should look at the reasons for its delays in this case, consider what improvements could be made, and advise the Ombudsmen accordingly within three months of the final decision.
 - d) The Council look at the reason it failed to send the complaint response of 25 May 2016 by e-mail in line with Ms B's preference. If it does not have a system in place, it should consider how it can accurately record someone's communication preferences and ensure they are met. The Council should complete this within three months of the Ombudsmen's final decision, and report back to the Ombudsmen on the action taken.
 - e) The NHS Trust considers why all district nurse visits are not recorded. It should remind staff of the importance of maintaining accurate and contemporaneous records. It should complete this within three months of the Ombudsmen's final decision, and report back on the actions taken.
 - f) Both bodies consider ways of better collaborative working. The Council and NHS Trust could agree a lead officer in cases such as this. The lead officer would take responsibility for providing information to relatives and professionals to ensure a consistent approach. The Council and NHS Trust should complete this within six months of the Ombudsmen's final decision, and report back on actions taken.

Final decision

66. I have completed my investigation on the basis the agreed actions are sufficient to acknowledge Ms B's injustice and prevent future problems.

Investigator's decision on behalf of the Ombudsmen

The Ombudsman's final decision

Summary: The Ombudsman cannot investigate this complaint about a Penalty Charge Notice because the complainant appealed to the tribunal.

The complaint

1. Mr B disagrees with the fine the Council issued when he parked in an area where there was a loading restriction. Mr B wants the Council to answer his questions and to waive the fine.

The Ombudsman's role and powers

2. The Local Government Act 1974 sets out our powers but also imposes restrictions on what we can investigate.
3. We cannot investigate a complaint if someone has appealed to a tribunal or a government minister or started court action about the matter. (*Local Government Act 1974, section 26(6), as amended*)

How I considered this complaint

4. I considered the information provided by Mr B and the Council. This included copies of all documentation relating to Mr B's penalty charge notice.
5. Mr B had the opportunity to comment on a draft of this decision.

What I found

What happened

6. The Council issued Mr B, who has a blue badge, with a penalty charge notice because he was parked in a street when loading/unloading restrictions were in force.
7. Mr B challenged the penalty charge notice but the Council refused this challenge.
8. Mr B appealed to the Traffic Penalty Tribunal. It said that whilst blue badge holders may park on single or double yellow lines, they may not park where there is a loading restriction. The Tribunal took into account the civil enforcement officer's photographs which showed there was a clearly marked parking restriction.
9. The tribunal adjudicator dismissed the appeal and said the contravention occurred.

Analysis

10. I cannot start an investigation because Mr B appealed to the Tribunal. The law says the Ombudsman cannot investigate any matter that has been considered by a Tribunal. This restriction applies even if Mr B disagrees with the outcome of the appeal and with the Penalty Charge Notice.

Final decision

11. The Ombudsman cannot investigate this complaint. This is because Mr B has appealed to the Tribunal.

Investigator's decision on behalf of the Ombudsman

13 June 2018**Agenda Item: 10****REPORT OF THE MONITORING OFFICER****COUNCILLORS' DIVISIONAL FUND – REVISED POLICY****Purpose of the Report**

1. To consider a revised policy on the use of the Councillors' Divisional Fund (CDF)

Information

2. The CDF is a fund provided to each elected member to support their communities. Organisations and individuals in their individual electoral divisions. Each member has £5,000 per annum at their disposal to award within their division.
3. The policy has not been reviewed since May 2014 and in light of changes in internal practices a review is necessary to bring the policy in line with current operational practices.
4. The suggested revised policy is attached as Appendix A :
5. The main changes proposed are
 - Minimum award amount has been increased to £50.00 (para 2g)
 - Increased requirements on declaring pecuniary or private interests to ensure transparency (para 3b)
 - Members need to ensure accuracy of information on all applications. (para 4a)
 - Payments will only be made by BACS transfer or internal transfer to reduce costs of processing (para 4b)
 - Clarification on match funding awards to simplify processes (para 4d)
 - Reports to the Governance and Ethics Committee on the use of CDF will be brought on a six monthly basis, with updated expenditure reports to be given to Business Managers and non-aligned members on a monthly basis. (para 4g)
 - End of financial year applications must be submitted by the Friday in the first week of March or the 7th March whichever is the later. (para 6)

Other Options Considered

6. The policy could remain unaltered but this would not be the most cost effective way of administering this fund.

Reason/s for Recommendation/s

7. To update the CDF policy as set out in Appendix A

Statutory and Policy Implications

8. 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

Application forms may contain sensitive personal information and as such a Data Protection Impact Assessment on this process has been undertaken.

Financial Implications

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

RECOMMENDATION/S

- 1) That the revised policy for the Councillors' Divisional Fund be recommended to Policy Committee for approval.

Jayne Francis-Ward
Monitoring Officer and Corporate Director Resources

For any enquiries about this report please contact:

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0115 9773962

Constitutional Comments (SLB 01/06/2018)

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

Financial Comments ([RWK 04/06/2018])

11. The financial implications are set out in paragraph 9 of 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.

- The existing CDF Policy

Electoral Division(s) and Member(s) Affected

- All

Revised Policy on Councillor's Divisional Fund
Governance and Ethics Committee 13th June 2018

1. Background

- a) The Councillor's Divisional Fund (CDF) is a specific budget to enable each Member to, subject to compliance with the requirements of the scheme put forward proposals for expenditure in their electoral divisions which accord with the strategic objectives of the Council.
- b) Each Member will receive an annual allowance of £5,000 to spend within each financial year. Any funds remaining and unspent within this budget at the end of the financial year will be returned to corporate balances.
- c) Applications will be processed through Democratic Services, who will also give advice on the operation of the fund and whether proposals meet the requirements of the scheme. A record of all expenditure under the scheme will be maintained and will be publicly available on the Council's website.

2. The Scheme

- a) The fund is designed to allow members to offer financial support to those individuals, organisations and groups within their division who actively support the community.
- b) Proposals should be for one-off items of expenditure and not for anything which could create an on-going financial commitment, e.g. administrative support.
- c) Funding is not available for the direct employment of staff, or for rent or general running costs of the organisation.
- d) Funding is not available for general charitable donations where there are no specific and identifiable benefits to the particular division.
- e) Funding cannot be given to any request which supports any matter which is contrary to County Council Policy - additionally funding cannot be provided to oppose or support any proposal including planning proposals which the County Council has a legal obligation to determine.
- f) Two or more members may agree a joint proposal for the whole or part of their divisional budgets provided the proposals meet the requirements of the scheme.
- g) Any awards made should be in excess of £50.00 in order to ensure that the administration costs of arranging the payment do not exceed the payment itself.

3. Declarations of Interest

- a) The Council's Code of Conduct and the Nolan Principles and usual rules on declarations of interest apply to the CDF. Members must not place themselves in a position where their honesty and integrity may be questioned and should exercise their responsibility for the stewardship of the council's resources properly.
- b) If a Member has a private or pecuniary interest in a proposal it is essential that they declare it on the application form. No funding will be given when a Member directly benefits financially from the award. If a pecuniary interest is declared advice from the Monitoring Officer must be sought before payment is made.

4. Administrative Procedures

- a) Proposals for expenditure must be made on the agreed pro-forma application form and submitted to Democratic Services. Members need to ensure accuracy of information on all applications.
- b) Payments will be made by BACS transfer or internal transfer.
- c) If other County Council funding for the same project has been applied for, agreed or previously provided, such details must be included on the application form.
- d) 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.
- e) The Council's Grant Aid strategy directs applicants for grant aid requests below £500 to make applications for the Divisional Fund. Applications under the grant aid scheme must demonstrate how the project for which funding is requested meets the strategic objectives of the Council. Funding proposals/requests under the Divisional Fund Scheme must also demonstrate how the project meets the Council's Strategic Objectives.
- f) Between 5 -10 applications annually will be the subject of an audit which will include ensuring that the monies provided have been spent in accordance with the application made. The applications to be audited will be agreed with the Chairman of Governance and Ethics Committee and the results of the audit reported to that Committee.
- g) Reports on the use of the Divisional Fund will be brought to Governance and Ethics committee on a six monthly basis. Expenditure reports will be given to the Group Business Managers and Non-aligned members on a monthly basis.

5. Publicity

- a) CDF funding is intended to have a direct benefit for the community. It is important that this is transparent and that the contribution made by the Council is recognised appropriately.
- b) In order to ensure funding is recognised –
 - i) a list of awards made will be maintained on the Council's website
 - ii) reports on the use of the Divisional Fund will be brought on a six monthly basis to Governance and Ethics Committee.
- c) In addition to this, the organisations in receipt of the award will be expected to acknowledge the County Council's funding. This may include a notice stating the project was funded via the Divisional Fund, or acknowledged in the organisations publications, annual reports or meeting minutes. Individual Councillors should not be named in any permanent notices or plaques. Advice on suitable publicity is available to Members from the Communications Team.

6. Review

The Scheme will be kept under review in accordance with all Council policies.

6. End of financial year.

All applications for CDF funding in a Non-Election year must be submitted by the Friday in the first week of March. Any applications received after this date will not be processed.

7. Pre-Election Periods

In the year of a County Council election, no requests for funding, payments or publicity relating to this scheme will be proposed or permitted from the end of February until after polling day.

13 June 2018**Agenda Item: 11****REPORT OF THE MONITORING OFFICER****REVIEW OF OUTSIDE BODIES****Purpose of the Report**

1. To consider possible options in relation to the review of outside bodies including the establishment of a cross party working group to consider and recommend options to committee.

Information

2. Policy Committee has requested that Governance and Ethics Committee undertakes a review of outside bodies and recommends an on-going process of feedback and review that allows the Authority to maintain an up to date and relevant approved list of outside bodies.
3. A large number of elected members are nominated by the Council to sit on a wide variety of outside bodies (see Appendix A).
4. Whilst the Council receives regular feedback on the activities of some of these outside bodies, for example, East Midlands Council, in a large number of instances there is no feedback received. It is therefore difficult to gauge whether these bodies should remain on the approved outside bodies list, what benefit elected members gain from attendance, what benefits the outside body gains and, perhaps most importantly, it is hard for members to make connections between the work of the bodies and that of the Council.
5. The last cross party working group set up by the Governance and Ethics Committee to revise the Code of Conduct for Councillors and Co-opted Members was very successful and it is proposed that a similar cross party group be established to consider how the Committee could most effectively and efficiently monitor and review attendance and involvement in outside bodies.

Other Options Considered

6. Officers could prepare a process for review but it is suggested that elected members have a far better understanding of what is required from outside bodies and the issues that should be considered and reviewed.

Reason/s for Recommendation/s

7. Policy Committee requested the Governance and Ethics Committee to review the list and the appointments process.

Statutory and Policy Implications

8. 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.

Financial Implications

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

RECOMMENDATION/S

- 1) That members agree to establish a cross party working group to consider a revised process for appointments to and the review of outside bodies.
- 2) That a report be brought back to this committee containing the recommendations of the cross party working group within the next six months.

Jayne Francis-Ward
Monitoring Officer

For any enquiries about this report please contact:

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0115 9773962

Constitutional Comments (SLB 31/05/2018)

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

Financial Comments (RWK 04/06/2018)

11. The financial implications are set out in paragraph 9 of 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.

- Approved outside bodies list.

Electoral Division(s) and Member(s) Affected

- All

Appendix A

Outside Body List with Notts. County Council appointments (*Non-councillors eligible)

Organisation	Appointees
Age Concern - Arnold Old People's Welfare Committee	Cllr Pauline Allan
Age Concern Chilwell	Cllr Eric Kerry
Age Concern Eastwood & District	Cllr Tony Harper
Arc Partnership	Derek Highton, Jon Hawkette
Bassetlaw Public and Third Sector Partnership	Cathy Harvey
Brunts Charity	Cllr Stephen Garner
Campaign to Protect Rural England (CPRE)	Cllr Bruce Laughton
Chesterfield Canal Partnership	Cllr Sybil Fielding
Constable's Field Foundation	Cllr Chris Barnfather
Cotgrave Strategic Board	Cllr Richard Butler
County Councils Network (CCN)	Cllr Mrs Kay Cutts MBE, Cllr Reg Adair, Cllr Richard Butler, Cllr Alan Rhodes
Creswell Heritage Trust	Cllr John Cottee
CSP: Bassetlaw, Newark & Sherwood Community Safety Partnership	Cllr Keith Walker
CSP: Mansfield & Ashfield Community Safety Partnership	Cllr Phil Rostance, Cllr Martin Wright, Cllr Andy Sisson
CSP: South Nottinghamshire Community Safety Partnership	Cllr John Longdon, Anthony Shardlow
D2N2 Commission	Cllr Reg Adair
D2N2 European Structural Investment Fund (ESIF) Sub Committee	Cllr Reg Adair
D2N2 Infrastructure & Investment Board (IIB)	Cllr Mrs Kay Cutts MBE, Cllr Richard Jackson
D2N2 Local Area Partnership	Cllr Mrs Kay Cutts MBE
Diana Eyre's Educational Foundation	Cllr John Ogle
Doncaster Sheffield Airport Consultative Committee	Cllr Mike Quigley
East Midlands Airport Independent Consultative Committee	Cllr Andrew Brown, Cllr Reg Adair
East Midlands Councils	Cllr Mrs Kay Cutts MBE, 'added place' appointed by East Midlands Council: Cllr Reg Adair, Cllr Philip Owen, Cllr Kate Foale
East Midlands Councils Executive Board	Cllr Mrs Kay Cutts MBE
East Midlands Councils Regional Migration Board	Cllr Philip Owen
East Midlands Lead Member Network: Adult Social Care and Health & Wellbeing	Cllr Stuart Wallace, Cllr Steve Vickers
Faith Clerkson Trust	Cllr Stephen Garner
Family Care	Cllr Tracey Taylor
Focus on Young People in Bassetlaw	Cllr Tracey Taylor
Futures Advice, Skills and Employment Ltd	Cllr Boyd Elliott, Cllr Kevin Rostance
Grantham Canal Partnership	Cllr Jonathan Wheeler
Greenwood Community Forest Partnership	Cllr John Cottee
Groundwork Cresswell, Ashfield & Mansfield	Cllr Jim Creamer
Groundwork Greater Nottingham	Cllr Jim Creamer
HS2 East Midlands Strategic Growth Board	Cllr Mrs Kay Cutts MBE, Cllr Reg Adair
Holme Pierrepont Leisure Trust	Cllr Mrs Kay Cutts MBE
Hucknall Partnership Group	Cllr Phil Rostance
Inspire	Cllr John Cottee, Cllr Glynn Gilfoyle
Joint Planning Advisory Board	Cllr Kevin Rostance, Cllr Gordon Wheeler
Keyworth Platt Lane Playing Fields Committee	Cllr John Cottee
Lamb's Charity	Cllr Mrs Sue Saddington, Cllr Tracey Taylor, Cllr Boyd Elliott, Cllr Phil Rostance, Cllr Vaughan Hopewell

LGIU	Cllr Bruce Laughton, Cllr Reg Adair
Liaison Committee Besthorpe Quarry	Cllr Maureen Dobson, Mike Hankin
Liaison Committee Bestwood 2 Quarry	Cllr Chris Barnfather, Mike Hankin
Liaison Committee Dorket Head	Cllr Michael Payne, Cllr Boyd Elliott, Mike Hankin
Liaison Committee Girtton Quarry	Cllr Maureen Dobson, Mike Hankin
Liaison Committee Langford Lowfields	Cllr Maureen Dobson, Mike Hankin
Liaison Committee On-Farm Green Composting Facility at Stragglethorpe	Cllr Richard Butler, Cllr Mrs Kay Cutts MBE, Debbie Wragg, Tim Turner
Liaison Committee Staple Landfill	Cllr Keith Walker, Mike Hankin
Liaison Committee Staythorpe Power Station	Cllr Mrs Sue Saddington
Liaison Committee Two Oaks Farm Quarry	Councillor Samantha Deakin, Jonathan Smith
Liaison Committee Vale Road Quarry	Cllr Joyce Bosnjak, Cllr Parry Tsimbiridis, Oliver Meek
Liaison Committee Welhcroft Incinerator	Cllr John Knight, Cllr Rachel Madden, Cllr Jason Zadrozny, Tim Turner
Lilley & Stone Charity Trust	Cllr Stuart Wallace, Cllr Tony Roberts MBE
Local Authorities Energy Partnership (LAEP)	Cllr Kevin Rostance
Local Authority Pension Fund Forum (LAPFF)	Cllr Eric Kerry, Nigel Stevenson
Local Government Association (LGA) General Assembly	Cllr Mrs Kay Cutts MBE, Cllr Reg Adair Cllr Alan Rhodes, Anthony May
Local Government Flood Forum	Cllr Bruce Laughton, Clive Wood
Lowland Derbyshire & Nottinghamshire Local Nature Partnership	Cllr Reg Adair
Mansfield BID	Cllr Andy Sissons
Magnus Educational Foundation	Cllr Stuart Wallace
Manor Park Residents Association Limited	Cllr Reg Adair
Mansfield & Ashfield Economic Development Partnership	Cllr Martin Wright
Mansfield Educational Foundation	Cllr Andy Sissons, Cllr Martin Wright
Mansfield Woodhouse Community Development Group	Cllr Joyce Bosnjak
Marketing Nottinghamshire Ltd	Cllr Mrs Kay Cutts MBE
Mid Nottinghamshire Alliance Leadership Board	Cllr Stuart Wallace, David Pearson
Mid Nottinghamshire Alliance Operational Oversight Group	Cllr Dr John Doddy
Municipal General Charity	Cllr Stuart Wallace
NET Partnership Board	Cllr Gordon Wheeler, Chris Charnley
Norwell Educational Foundation	Cllr Bruce Laughton
Nottinghamshire Building Preservation Trust	Cllr Roger Jackson
Nottinghamshire Clubs for Young People	Cllr Boyd Elliott
High Sheriff Community Safety Forum	Cllr Gordon Wheeler
Nottinghamshire Federation of Young Farmers Clubs	Cllr Roger Jackson
Nottinghamshire Fire Authority	Cllr N Brooks, Cllr Andrew Brown, Cllr John Clarke, Cllr John Handley, Cllr Vaughan Hopewell, Cllr John Longdon, Cllr Michael Payne, Cllr Francis Purdue-Horan, Cllr Mike Quigley MBE, Cllr Parry Tsimbiridis, Cllr Jonathan Wheeler, Cllr Jason Zadrozny
Nottinghamshire Healthcare NHS Foundation Trust	Cllr Stuart Wallace
Nottinghamshire Local Access Forum	Cllr Chris Barnfather, Cllr Francis Purdue-Horan, Ashfield Independent TBA
Nottinghamshire Roosevelt Travelling Scholarship	Cllr Mrs Sue Saddington
Nottinghamshire Skills & Employment Board	Cllr Neil Clarke MBE
PATROLAJC – Parking & Traffic Regulations Outside London Adjudication Joint Committee & BLASJC - Bus Lane Adjudication Service Joint Committee	Cllr John Cottee

Queen Elizabeth's Endowed School Trust	Cllr Phil Rostance, Cllr Andy Sissons *Hon Ald John Carter, *Hon Ald Terry Butler, *Mr James Ellsey
Reads Exhibition Foundation (educational charity)	Cllr John Ogle
Rural Community Action Nottinghamshire (RCAN)	Cllr Jim Creamer
Rural Services Network	Cllr Bruce Laughton
Rushcliffe Borough Council - Bingham Local Growth Board	Cllr Francis Purdue-Horan
Rushcliffe Borough Council - Cotgrave Local Growth Board	Cllr Richard Butler
Rushcliffe Borough Council - East Leake Local Growth Board	Cllr Andrew Brown
Rushcliffe Borough Council - Radcliffe on Trent Local Growth Board	Cllr Neil Clarke MBE
Rushcliffe Borough Council - Strategic Growth Board	Cllr Reg Adair
Rushcliffe Borough Council - West Bridgford Local Growth Board	Cllr Jonathan Wheeler
SACRE	Cllr Boyd Elliott, Cllr Phil Rostance, Cllr Vaughan Hopewell
Scape Group Ltd	Cllr Reg Adair, Cllr Richard Jackson, Cllr John Ogle, Cllr Richard Butler
Sherwood Forest Hospitals NHS Foundation Trust	Cllr Dr John Doddy
Sustainable Urban Development Strategic Advisory Committee.	Cllr Reg Adair
Transport for the North (TfN) Board	Cllr Richard Jackson
The Crossing SEC Ltd	*Emma Auckland Sub: vacant
Trent Regional Flood and Coastal Committee	Cllr Roger Jackson
Via EM	Mr Anthony May, Mr Nigel Stevenson
Waste Partnering Agreement Board (Joint Waste Management Committee)	Cllr Kevin Rostance

June 2018**Agenda Item: 12****REPORT OF SERVICE DIRECTOR – FINANCE, PROCUREMENT &
IMPROVEMENT****FINANCIAL REGULATIONS WAIVERS 2017/18****Purpose of the Report**

1. To inform Members about requests to waive the Financial Regulations (waivers) in the Period 1st April 2017 - 31st March 2018.

Information

2. The Council's Financial Regulations set out the procedures and standards for financial management and control that must be followed by officers.
3. The Council may only contract with external parties within the legal framework for Local Authority procurement. However there are occasions where it is not practical or possible to procure contracts in accordance with the standard contract procedures. In such instances officers may seek exemption through a waiver. The waiver process acts as a peer challenge to such requests to ensure there is a valid reason for approval.
4. Waiver requests are considered by the Council's Section 151 (S151) Officer who determines whether they can be approved or not. The S151 Officer may also refer any request for a waiver to the Group Manager Legal Services.
5. There are four categories of exemption where the rules for obtaining quotations or running tenders can be suspended. These are:-
 1. The Section 151 Officer, after consulting with the Group Manager for Legal Services where appropriate, may vary, waive or suspend any financial regulation,
 2. The works to be executed or the goods or materials to be supplied consist of repairs to, or parts for, existing proprietary machinery, where such repairs or parts are specific to that machinery or upgrades to existing software packages.,
 3. Works, supplies or services are urgently needed for the immediate protection of life or property, or to maintain the immediate functioning of a public service for which the Council is responsible. In such cases the contract must only last as long as is reasonably necessary to deal with the specific emergency,

4. The Corporate Director, in consultation with the Group Manager for Procurement, decides that special circumstances make it appropriate and beneficial to negotiate with a single firm or that a single tender be invited and that best value for the Council can be achieved by not tendering.

6. The tables below summarise the number of waivers granted in 2017/18 (Table1) compared to the previous year by directorate and value, full details for those waivers are contained in Appendix 1.

Table 1	2017-2018				2016-2017			
Directorate	Number Waivers	Total Value	No. Rejected	Value Rejected	Number Waivers	Total Value	No. Rejected	Value Rejected
Resources	6	244,336	2	£65,306	8	£369,475	3	£173,000
Adult Social Care (ASC) Health & Public Protection & Public Health	2	122,986	0	£0.00	11	£1,041,042	4	£368,254
Children, Families & Cultural Services (CFCS)	3	£114,208	2	£105,000	4	£107,521	2	£89,521
Place	7	£702,612	3	£449,024	3	£78,829	1	£17,200
Schools	0	0	0	0	0	0	0	0
TOTAL	18	£1,184,142	7	£619,330	26	£1,596,867	10	£647,975

7. The total number of waivers has decreased since last year with an overall reduction of 30%. In 2017-18 38% of requests received were rejected, there has been a significant reduction in waiver requests from ASC, the number received from both Resources and CFCS remain consistent but there has been an increase in the number of requests from the Place department.
8. The largest number of high value waivers was for the Place Department, and is a significant increase of the value from the previous financial year, this can be attributed to new projects coming on line.
9. Category Managers continue to work with the directorates to develop procurement category strategies that will aid the continued reduction of waiver requests.

Statutory and Policy Implications

10. This report has been compiled after consideration of implications in respect of crime and disorder, finance, human resources, human rights, the public sector equality duty, safeguarding of children and vulnerable adults, service users, sustainability and the environment and ways of working and 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 of the Governance and Ethics Committee to support the detail contained in the report Financial Regulations Waivers 2017/18 and the continued progress in keeping waivers to a minimum.

Nigel Stevenson

Service Director – Finance, Procurement & Improvement

For any enquiries about this report please contact:

Clare Winter - Group Manager, Procurement

Constitutional Comments (KK 30/05/2018)

11. The proposal in this report is within the remit of the Governance and Ethics Committee.

Financial Comments [RWK 30/05/2018]

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

Background Papers and Published Documents

13. 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

Appendix 1

Waiver Details

Ref	Exemption	Subject	Value	Department	Waiver Details	Approved/Rejected
FR264	4	Provision of community learning	£9,208	CFCS	The waiver received sought the approval to continue the engagement of a training provider to deliver some additional training courses to the end of July 2017.	Approved - The waiver was approved on the basis that supplier was already delivering this service through a compliant contracting route, and the training programme was already established, this request was not for a new requirement but to allow the training provision to continue to end July.
FR265 did not proceed.						
FR266	4	Education Improvement Service fully hosted portal for schools	£85,000	CFCS	The waiver sought approval to direct award a contract to a supplier to provide an outward facing training solution to schools	Rejected – The waiver was rejected on the basis that there is a market for this type of service and a compliant procurement route should be explored.
FR267	1	Clinical support to the Assessment Beds	£64,986	ASC	The waiver sought the approval to direct award of funds to the CCG to commission a GP service for a one off short term care facilities for a period of 12 months.	Approved - The waiver was approved on the basis that effectively this is a joint procurement with funding from the County Council and the CCG via the Better Care Fund.
FR268	4	Age Friendly Nottinghamshire Pilot	£30,000	Place	The waiver sought to appoint a local university to undertake some analysis work of a pilot project that was being run.	Rejected – The waiver was rejected on the basis that the need for this piece of work was known at the commencement of the pilot 6 months prior to the waiver being requested.
FR269	4	Non Violent resistance training for family service staff	£21,580	Resources	The waiver sought to direct award to one supplier some funding for them to deliver some Non-violence Resistance training	Approved - The waiver was approved on the basis that this was a one off arrangement and once this training was concluded there would be no further approvals.

FR270	4	Property Purchase	£30,000	Resources	The waiver sought to direct award to one supplier to deliver some legal work for a property purchase	Approved - The waiver was approved on the basis that the legal firm had already done work for a previous perspective buyer and therefore could facilitate a quick purchase.
FR271	4	Use of a recruitment agency	£159,000	Place	The waiver sought the appointment of a specialist recruitment agency to appoint at an executive level	Approved - this was approved on the basis that the agency had worked successfully with the council in the past and had a good understanding of our requirements.
FR272	4	Hospital discharge Pilot project	£58,000	ASC	The waiver sought the approval of a pilot programme that worked with the local hospitals around care home assessments for hospital discharges.	Approved - the waiver was approved on the basis that this is a time limited pilot that could deliver longer term benefits.
FR273	4	Development of a housing infrastructure bid	£19,024	Place	The waiver sought to employ the services of a consultant to develop and submit a bid for some grant funding.	Rejected - The waiver was rejected on the basis that the request was retrospective and the work had already been completed
FR274	4	Conservation Action Plan	£14,700	Place	The waiver sought to employ the services of a consultant to develop and submit a bid for some funding.	Approved – The waiver was approved on the basis that previous support with this had been tendered and unfortunately the person had resigned from the project and an urgent replacement was required.
FR275	4	Innovation Centres	£400,000	Place	The waiver sought approval to extend the current arrangements of the innovation centres post the contract expiry date.	Rejected – The waiver was rejected on the basis that the request was retrospective.
FR276	4	Agency employment	£29,306	Resources	The waiver sought to appoint a maternity leave cover employee for a period of time from December 2017.	Rejected – The waiver was rejected on the basis that the value of the request would breach procurement law.
FR277 did not proceed						
FR278	4	Children's Mental Health Support	£20,000	CFCS	The waiver sought to appoint a provider to deliver children's mental health support	Rejected – The waiver was rejected on the basis that the request was retrospective

FR279	4	PFI Review	£19,888	Place	The waiver sought to appoint a provider to undertake a value for money assessment of a PFIs	Approved - The waiver was approved on the basis that the supplier are the leading advisors in the PFI marketplace. The market for this type of advice is very limited and specialist.
FR280	4	Information Governance	£100,000	Resources	The waiver sought to commission some support from another local authority with regard to GDPR	Approved - The waiver was approved on the basis that the supplier has the expert knowledge required to provide the support.
FR281	4	GDPR Internal Training	£27,450	Resources	The waiver sought to direct award a contract for some eLearning training	Approved - The waiver was approved on the basis that the supplier had the required expertise to deliver the training.
FR282	4	Project Support	£60,000	Place	The waiver sought a joint service agreement with the government department regarding a major infrastructure project.	Approved - the waiver was approved on the basis that the provider could deliver the expertise required.
FR283	4	Career Development Portal	£36,000	Resources	The waiver sought to direct award a contract for some eLearning training	Rejected - The waiver was rejected on the basis that there is a market for the learning and it is not a specialist offer and should be competed in the market.

13 June 2018**Agenda Item: 13****REPORT OF SERVICE DIRECTOR, FINANCE, PROCUREMENT &
IMPROVEMENT****REVISED APPROACH TO INTERNAL AUDIT PLANNING****Purpose of the Report**

1. To propose a revised planning approach for Internal Audit.

Information

2. It was agreed by Committee at its meeting in March 2018 to consider alternatives to the current annual approach to the Internal Audit Plan and to bring a recommendation through to the July 2018 meeting. Since considerations have been completed earlier than anticipated, a proposal is set out in this report. If approved, this would enable transition to the revised arrangement to commence as soon as possible.
3. The current, annual approach is mapped out in Appendix 1. This shows the consultation process Internal Audit carries out with senior officers in putting the annual plan together, alongside the timing of progress reporting and the other regular reports the Committee receives from Internal Audit during the year. In presenting a draft annual plan for 2018/19 at the March 2018 meeting, some drawbacks with the current approach were flagged up:
 - Each year, the Annual Plan is implemented flexibly to respond to emerging priorities, and this means that, each year, the list of audits delivered by the end of March can be significantly different to those planned for in April. This suggests that a year perennially proves to be too long a period over which the number and focus of internal audit jobs required can be forecast with a reasonable degree of accuracy. As a consequence, the worth and status of the Annual Plan is diminished.
 - The changing composition of the Annual Plan presents difficulties in terms of monitoring the performance of Internal Audit. The Annual Plan set at the start of the year does not represent a realistic and achievable target for the service as, in effect, it becomes a 'moving target' during the year.

For these reasons, it was agreed that an Internal Audit Plan based around a shorter term may prove more attuned to, and formally recognise, the responsive manner in which the service is delivered.

4. Since the meeting in March 2018, the Head of Internal Audit has considered three alternatives to the annual plan: half-yearly; four-monthly; and quarterly. The proposal presented in this report is for a four-monthly plan, to be termed as a 'Termly Plan'. It is considered that this option fits more readily with the established Committee schedule of meetings, and it strikes an appropriate balance in terms of the additional reporting requirements through to the Committee. Appendix 2 sets out the proposed termly approach.
5. The proposal includes a suggested reduction in the frequency of follow-up reports to the Committee on the implementation of agreed management actions arising from Internal Audit reports. Currently, four updates are presented each year, but the proposal is to reduce this to two. When implementing the revised approach to the follow-up of management actions, the previous year's recommendations were brought in to the process. This initial load of actions have now been cleared, and the process is more settled on a routine flow of new actions into and out of the procedure. Coupled with the very positive levels of evidence coming through that actions are being taken, it is suggested that six-monthly updates will provide for an appropriate interval between updates.
6. It should also be noted from Appendix 2 that the revised approach would necessarily require a continuous process to keep the Audit Planning Risk Assessment up to date. It is, of course, best practice that this should be the case, and under the current arrangements for the Annual Plan, emerging risks are evaluated against existing planned work to determine whether a change in the composition of the Plan is warranted. However, this re-evaluation tends to be completed outside of the more formal and documented consultation process that is currently performed just once a year. The termly approach would require that the Planning Risk Assessment is viewed as a live document for the service, continually refreshed and continually used to identify priorities, and so determine where Internal Audit's resources should be deployed for the best impact. A further outcome from this should be that Internal Audit develops even stronger levels of engagement with senior officers and Members. In this way, the relevance and effectiveness of Internal Audit's input should be bolstered, as its service should hopefully be viewed as responsive and up-to-date with the current risk profile of the authority.
7. The Public Sector Internal Audit Standards (PSIAS) require that the Head of Internal Audit presents a formal, annual report on the work of the service each financial year. The current year's annual report is included on the agenda for this June 2018 meeting. Moving to a rolling, termly arrangement would not remove this requirement, therefore Appendix 2 flags up that the scheduled update report from the Head of Internal Audit in July each year would need to incorporate the requirements of the annual report, most notably to deliver an annual opinion on the effectiveness of the Council's arrangements for risk management, governance and control. In order to deliver this opinion, the Head of Internal Audit will need to ensure that, over the course of each financial year, the three termly plans cover a sufficient number of the Council's core systems and procedures. Many of these systems are likely to be picked up through the termly updates to the Audit Planning Risk Assessment. However, as a safeguard, it is proposed that a number of core systems and procedures will be scheduled for coverage on a periodic basis, rather than on a pure risk basis, with all scheduled to be covered at least once in each three year period. The procedures that are proposed to be treated in this way are the following:

- Corporate governance
- Business continuity
- Counter-fraud & counter-corruption
- Health & safety
- Information governance
- Risk management
- Service planning & performance management
- ICT external assurance
- ICT access controls
- ICT networks
- Learning, development & workforce planning
- Budgetary control
- Commissioning
- Employee controls - recruitment, remuneration, attendance management, etc
- Payment card industry (PCI) compliance
- Procurement to Pay
- Accounting clearing house
- Payroll
- Pensions
- Corporate financial management
- Accounts receivable
- Asset management

8. If approved, the proposal is that the revised termly approach should come into force for Term 2 of 2018/19, ie August 2018 to November 2018, and should continue on a rolling, four-monthly basis thereafter. This would mean that the current Term, April 2018 to July 2018, should be considered a transition period. Consultations with senior officers have already commenced concerning priorities for Term 2, and this would enable a formal proposal for a Term 2 Plan to be brought to the July 2018 meeting of the Committee.

Other Options Considered

9. The Head of Internal Audit considered a half-yearly and a quarterly approach and he sketched out the schedule for these options, in the same vein as those presented in Appendices 1 and 2. The Head of Internal Audit did not favour these alternative options, for different reasons:
- Half-yearly – this is judged not to represent a significant enough shortening of the audit planning period, therefore it would be prone to the same drawbacks as the current annual plan, albeit to a lesser degree.
 - Quarterly – this would be difficult to manage from a scheduling point of view, as the demands in terms of the frequency of reports and consultations with senior officers and Members would be overly burdensome.

Reason for Recommendation

10. To formalise and bolster the flexibility with which Internal Audit conducts its work.

Statutory and Policy Implications

11. 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) Approval is given for the Internal Audit service to convert to a termly, four-monthly plan, to take effect from August 2018.
- 2) A formal proposal for a Term 2 Plan for 2018/19, for the period August 2018 to November 2018, is presented to the Committee at its next meeting in July 2018.
- 3) The current period, April 2018 to July 2018, is considered a transition period, with the outcome of Internal Audit's work in this period being reported through to the Committee.

Nigel Stevenson

Service Director – Finance, Procurement & Improvement

For any enquiries about this report please contact:

Rob Disney

Head of Internal Audit

Constitutional Comments (KK 15/5/18)

12. The proposals in this report are within the remit of the Governance and Ethics Committee.

Financial Comments (SES 16/05/18)

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

Background Papers and Published Documents

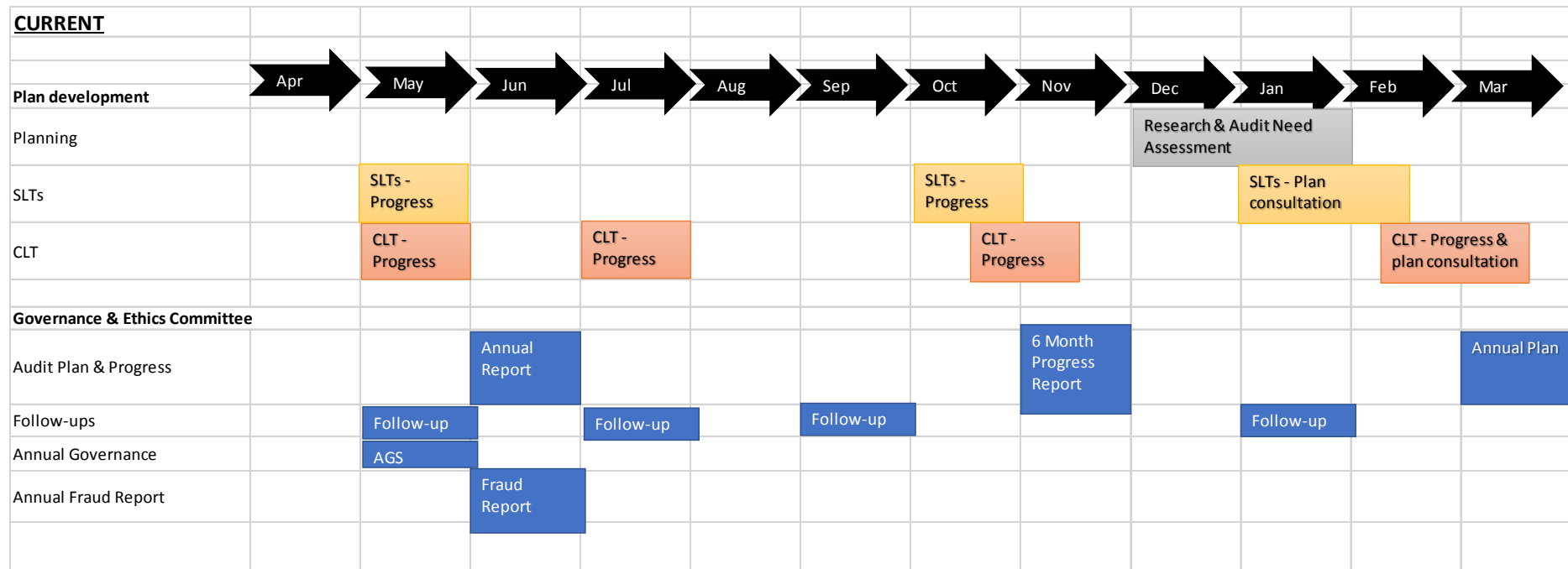
Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- None

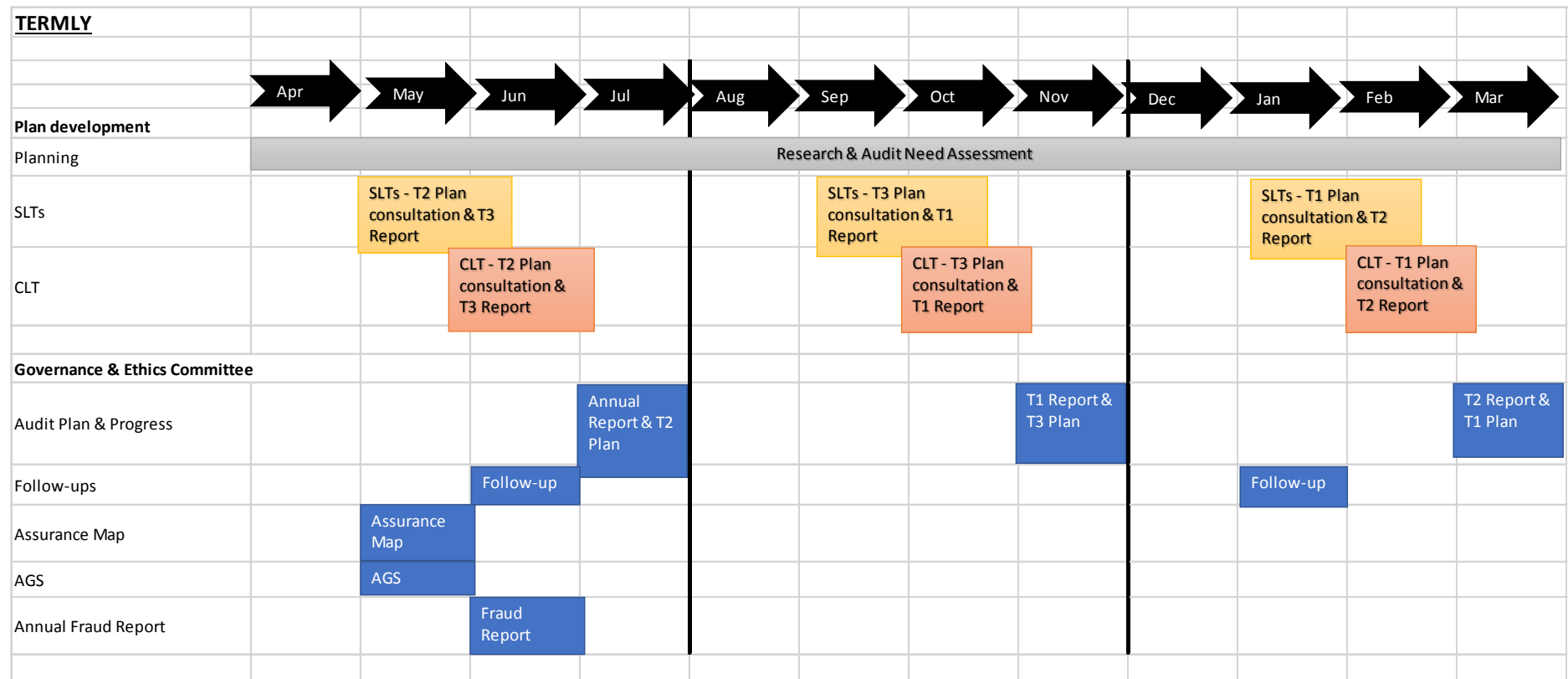
Electoral Division(s) and Member(s) Affected

- All

Current Audit Plan Structure- Annual



Proposed Audit Plan Structure- Termly



13 June 2018**Agenda Item: 14****REPORT OF SERVICE DIRECTOR, FINANCE, PROCUREMENT &
IMPROVEMENT****INTERNAL AUDIT COLLABORATION****Purpose of the Report**

1. To propose a collaborative working arrangement for Internal Audit with Assurance Lincolnshire.

Information

2. The Head of Internal Audit has recently held consultations with neighbouring authorities to explore the opportunities to collaborate in the provision of the internal audit service. Discussions have been held with the corresponding Head of Internal Audit for Derbyshire County Council and Lincolnshire County Council. The discussions with Derbyshire identified some scope to work collaboratively on an ad hoc basis, as and when mutually beneficial opportunities arise. In the case of Lincolnshire, however, the discussions identified a more definite and developed opportunity to progress in the shorter term.
3. The internal audit service for Lincolnshire County Council is delivered by the in-house service, known as Assurance Lincolnshire. The service also delivers an internal audit service to a number of other public sector clients, including district councils. Newark & Sherwood District Council is currently one of Assurance Lincolnshire's clients.
4. Assurance Lincolnshire has an existing collaboration arrangement in place, which it has operated for a number of years with other internal audit providers. Currently, the in-house internal audit services at Lincoln City Council and East Lindsey District Council are members of the collaboration group. Leicester City Council's internal audit service was also a member until recently, but it left the arrangement to enter into a more consolidated shared service with Leicestershire County Council's internal audit service.
5. The primary aim of the Assurance Lincolnshire collaboration is encapsulated in the following extract from the collaboration agreement:
To share information, training, experience, methodologies underpinning software, policies, strategies, materials and skills to learn from each other and develop effective working practices, work collaboratively to identify solutions, eliminate duplication of effort, mitigate risk and reduce cost.

The working protocol elaborates further:

Working together will improve the overall quality of the service provided through:

☐ *Sharing of knowledge and experience*

☐ *Adoption of leading audit techniques and methods*

☐ *Pooling resources across the organisations to make savings, improve efficiency and offer greater value for money to our clients through streamlining our audit plans to audit / research specific areas of common interest.*

6. The manner in which the collaborative partnership operates is set out in its '*Partnership Working Protocol and Terms of Reference*'. Key features of this protocol may be summarised as follows:

- Each member of the partnership retains its own identity. Joining the partnership would not mean that the internal audit service to Nottinghamshire County Council would be delivered by Assurance Lincolnshire; this is simply the title of the partnership arrangement
- A steering group oversees the strategy and direction of the partnership and an operational management group monitors the delivery of services.
- The Council would be free to serve 12 months' notice to leave the partnership.
- Joining the partnership would not alter the local arrangements at the Council for the Internal Audit service to agree its coverage, deliver services and report outcomes.
- Joining the partnership would open up the opportunity to pool resources, to deliver services jointly where appropriate, and to learn from each other in terms of sharing and jointly developing knowledge, techniques and approaches.
- Aside from modest travel expenses to attend routine meetings of the partnership's steering group and operational management group, membership of the partnership would not involve additional costs for the County Council.

7. The key benefits from joining the Assurance Lincolnshire Partnership are considered to be the following:

- a) It is an open ended arrangement, which is free to join and to leave
- b) Assurance Lincolnshire is a progressive and well-respected provider of internal audit services, benefiting from a number of areas of expertise to which this Council's in-house service would have access. It would also be an opportunity to work together to jointly fund the procurement of specialist internal audit resources, where risk assessments and competency assessments demand it.
- c) This Council's in-house internal audit team and the Assurance Lincolnshire in-house team both use the same audit automation software, Pentana. This would provide mutual opportunities to develop approaches to its use and to maximise its potential.
- d) The partnership would provide opportunities for this Council's in-house team to collaborate in future commercial opportunities to deliver internal audit services to other public sector organisations.

Other Options Considered

8. The in-house service could continue with its present arrangements, seeking to collaborate on an ad hoc basis, forging closer links with neighbouring and regional partners without a formal agreement. This may lengthen the timescale over which progress might be expected to be realised.

Reason for Recommendation

9. To actively seize opportunities to develop the effectiveness and efficiency of the audit service through collaboration with respected partners.

Statutory and Policy Implications

10. 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.

Financial Implications

If approved, it is anticipated that the collaboration arrangement will strengthen the value for money delivered to the Council by its in-house internal audit service.

RECOMMENDATION

- 1) The Governance & Ethics Committee endorses the proposal to enter into the Assurance Lincolnshire Partnership and that it recommends this course of action to the Policy Committee for formal approval.

Nigel Stevenson

Service Director – Finance, Procurement & Improvement

For any enquiries about this report please contact:

Rob Disney

Head of Internal Audit

Constitutional Comments (KK 15/5/18)

11. The proposal in this report is within the remit of the Governance and Ethics Committee.

Financial Comments (SES 16/05/18)

12. 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.

- Assurance Lincolnshire's collaboration agreement.

Electoral Division(s) and Member(s) Affected

- All

13 June 2018**Agenda Item: 15****REPORT OF SERVICE DIRECTOR, FINANCE, PROCUREMENT &
IMPROVEMENT****INTERNAL AUDIT ANNUAL REPORT 2017-18****Purpose of the Report**

1. To inform Members of the Head of Internal Audit's Annual Report on the work carried out by Internal Audit in 2017/18, and based on this work, his opinion on the adequacy of the County Council's internal control environment.

Information

2. The Authority has a statutory responsibility to undertake an adequate and effective internal audit of the County Council's operations. This responsibility is discharged by the Internal Audit Service which has unrestricted access to all activities undertaken by the County Council.
3. The Audit Service worked to the Public Sector Internal Audit Standards (PSIAS) during 2016/17. One requirement of the standards is that the Head of Internal Audit should provide an annual, written report to those charged with governance. The report must:-
 - a) deliver an annual internal audit opinion that can be used by the organisation to inform its governance statement
 - b) conclude on the overall adequacy and effectiveness of the organisation's framework of governance, risk management and control
 - c) incorporate the opinion, a summary of the work that supports that opinion, and a statement on conformance with the Public Sector Internal Audit Standards and the results of the quality assurance and improvement programme.
4. The Head of Internal Audit has set out the work completed during 2017/18, provided an analysis of the Audit Opinions reached in individual audits during the year, identified all those reports where the Opinion was that the level of internal control was for limited assurance, and come to a conclusion on the overall system of internal control.
5. The Head of Internal Audit's conclusion is that the **overall system of internal control was satisfactory during 2017/18.**
6. The Annual Report also sets out an analysis of the Audit Section's performance during 2017/18. The service achieved many of its service delivery targets, and it is of particular note

this year that the service received an excellent outcome from its external quality assessment. This confirms a high degree of compliance with the required standards, and confirms that appropriate actions are being taken to improve the service further.

Other Options Considered

7. The Internal Audit Section worked to the Public Sector Internal Audit Standards during 2017/18. This report meets the requirement of the Standards to provide an Annual Report. No other option was considered.

Reason for Recommendation

8. To set out the Annual Report of the Head of Internal Audit for 2017/18.

Statutory and Policy Implications

9. 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) Arising from the content of this report, Members determine whether they wish to see any actions put in place or follow-up reports brought to a future meeting.

Nigel Stevenson

Service Director – Finance, Procurement & Improvement

For any enquiries about this report please contact:

Rob Disney

Head of Internal Audit

Constitutional Comments (KK 14/5/18)

10. The proposal in this report is within the remit of the Governance and Ethics Committee.

Financial Comments (SES 15/05/18)

11. 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.

- None

Electoral Division(s) and Member(s) Affected

- All

Internal Audit Annual Report 2017/18

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Purpose of the Report

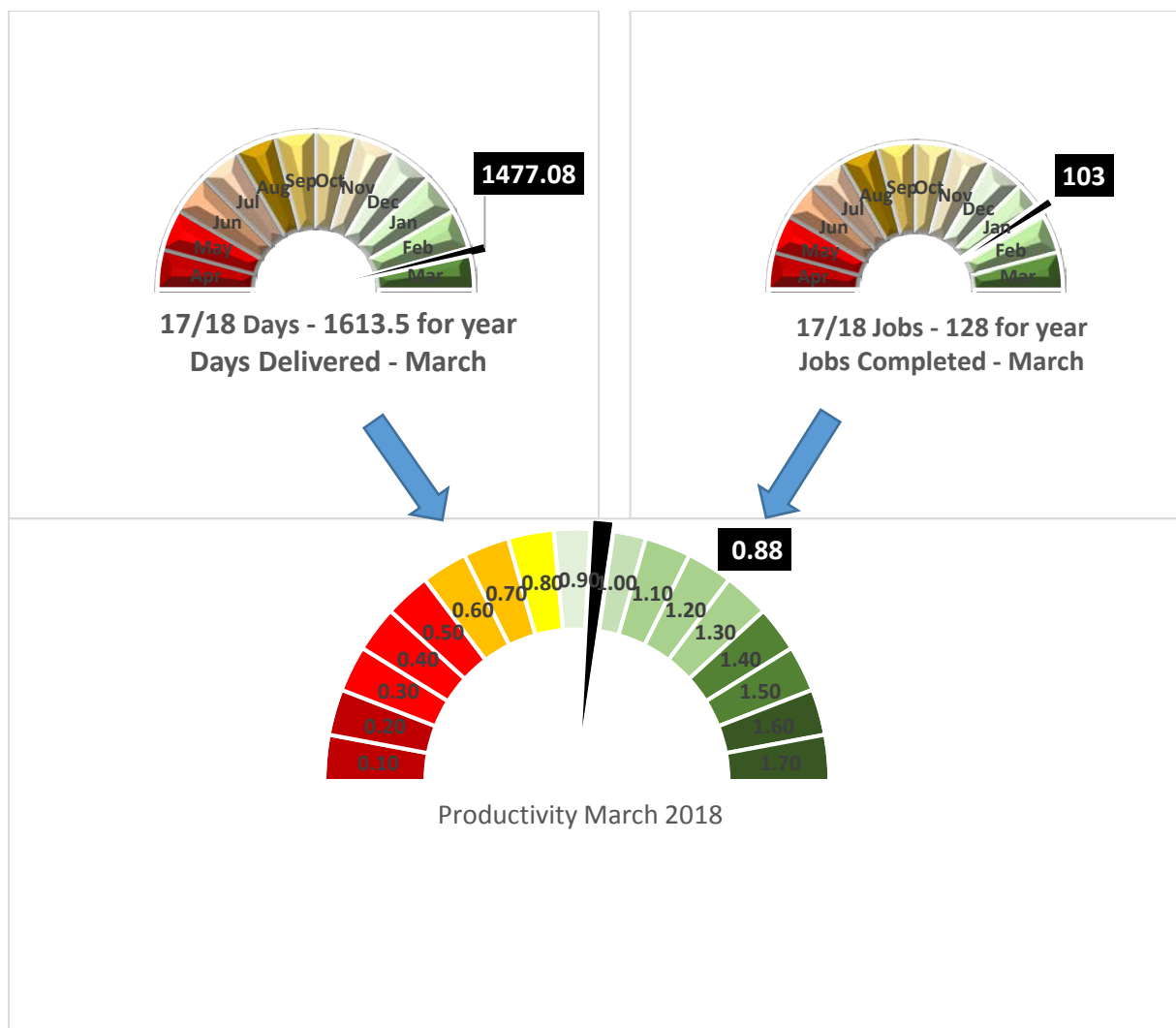
1. To set out the work carried out by Internal Audit during 2017/18 and, based on this work, to provide an opinion on the adequacy of the County Council's internal control environment.

Information and Advice

2. The Authority has a statutory responsibility to undertake an adequate and effective internal audit of the County Council's operations. This responsibility is discharged by the Internal Audit Service which has unrestricted access to all activities undertaken by the County Council.
3. The work carried out by Internal Audit involves reviewing and reporting on the control environment established by management to:-
 - a) determine and monitor the achievement of the Authority's objectives
 - b) identify, assess and appropriately manage the risks to achieving the Authority's objectives
 - c) facilitate policy and decision making
 - d) ensure the economical, effective and efficient use of resources
 - e) ensure compliance with established policies, procedures, laws and regulations
 - f) safeguard the Authority's assets and interests.
4. Internal Audit's work is planned to cover these areas and to provide an independent assessment of whether the Authority's systems and procedures are working appropriately. The work of Internal Audit is carried out in compliance with the Public Sector Internal Audit Standards (PSIAS). It is good practice to provide progress reports on Internal Audit work to senior management (Corporate Leadership Team) and the Board (Governance & Ethics Committee) and this report satisfies this expectation.

Summary of Internal Audit Work for 2017/18

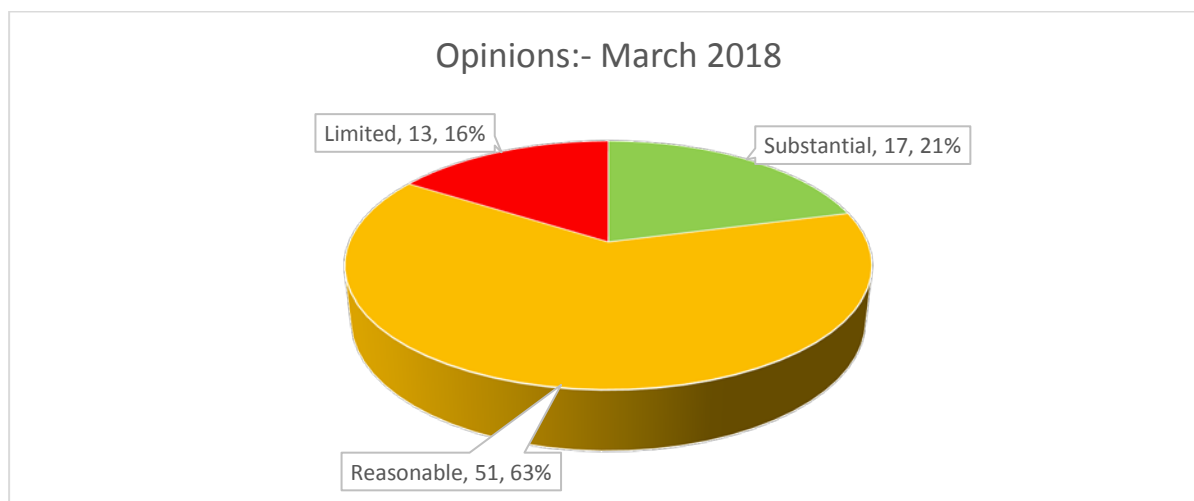
5. The following charts depict progress against the audit plan for the first half of 2017/18. Progress is expressed in terms of the following:
 - Inputs – the number of audit days delivered against the plan. Each segment in the chart represents 1/12th of the annual plan.
 - Outputs – the number of jobs completed against the plan. Each segment in the chart represents 1/12th of the annual plan.
 - Productivity indicator – the target score is 1, indicating that all jobs have been completed on time and using the planned allocation of days.



6. The number of days delivered was above the target of 90% of the planned days, but the number of jobs completed fell short of that anticipated at the start of the year; this gave rise to the productivity level of 0.88, meaning that fewer jobs than planned were completed within the days utilised. The key factors behind this are mostly concerned with the flexible approach taken to implementing the audit plan, to ensure the service responds to changes in the risk profile of the Council. In recognition of this, a revised approach to audit planning is proposed in a separate report to the Governance & Ethics Committee.
7. A wide range of audit work was completed during the year. **Appendix 1** sets out details of all final reports, draft reports and written advice, covering the following key types of Internal Audit input:
 - Assurance audits, for which an audit opinion is issued
 - Advice and consultancy – often relating to key developments and initiatives
 - Counter-fraud – including the investigation of suspected fraud and whistleblower reports
 - Certification audits – generally small jobs to sign off returns and accounts.
8. Most of Internal Audit's assurance work results in the issue of an opinion on the financial controls and procedures in place, categorised as follows:-

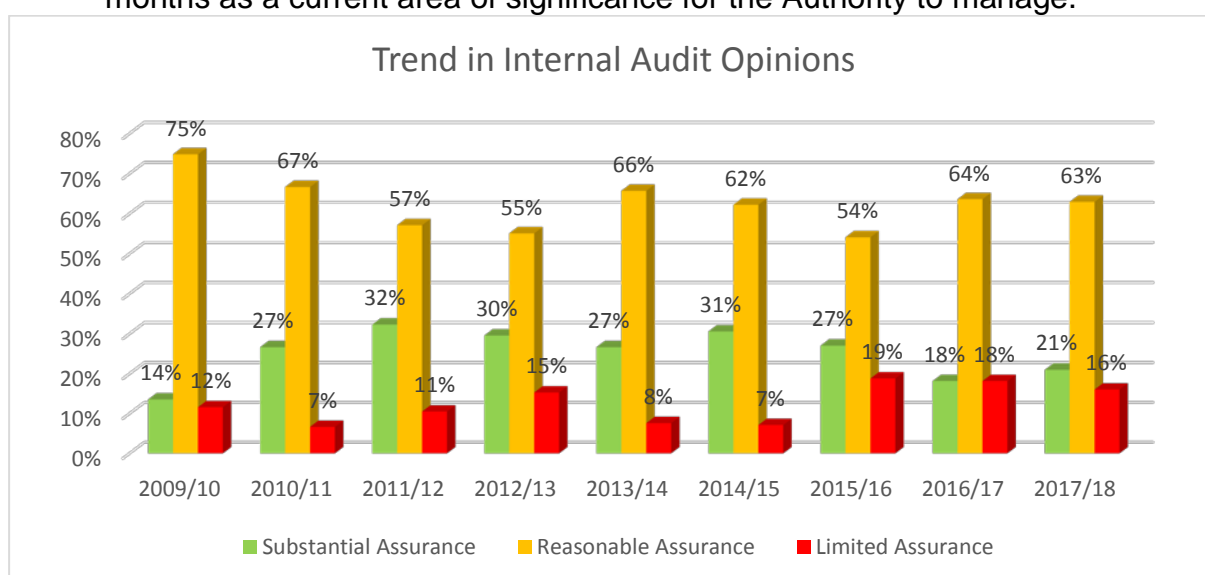
- *Substantial Assurance* – there are no weaknesses or only minor weaknesses
- *Reasonable Assurance* – most of the arrangements for financial management are effective, but some weaknesses have been identified
- *Limited Assurance* – there is an unacceptable level of risk which requires the prompt implementation of the recommendations made to correct the weaknesses identified.

9. Analysis of the opinion-based assurance work shows the following distribution of opinions issued during 2017/18. Based on this, I can conclude that **a satisfactory level of internal control is in operation in the Council.**



10. The work in 2017/18 has identified some areas in which internal controls need to be strengthened, most notably in the 13 areas for which a 'limited assurance' opinion was issued. Details of these reports are presented in **Appendix 2**. The weaknesses can largely be traced back to failures to comply with some aspect of the Council's Financial Regulations. The findings in 2017/18 emphasise a particular need for focus on the following:
- compliance with procurement regulations
 - strengthened budgetary control and contract management procedures
 - prompt and effective response to indicators of potential fraud
 - effective property management arrangements.
11. Reports to the Governance & Ethics Committee over the past year to update progress made by management in implementing agreed actions arising from audits has provided strong assurance that the agreed improvements are being put in place. This is good evidence that the Council remains responsive to the work of Internal Audit and the contribution it makes towards the authority's overall governance, risk and control arrangements.
12. The trend in the incidence of audit opinions over the past few years is illustrated in the graph below. This shows that, in percentage terms, the incidence of limited assurance opinions increased in 2015/16 and it has remained at a similar level in 2017/18. As stated above at paragraph 9, Internal Audit's opinion remains that the overall level of internal control in the Council is satisfactory. Nonetheless, the Annual Governance Statement for 2017/18 draws attention to

this downturn in the level of assurance provided by the reports over the past 12 months as a current area of significance for the Authority to manage.



13. Internal Audit provided advisory input to a number of key developments in the Council during the year; these are included in Appendix 1 as 'Advisory and consultancy' input to each department. This type of input ensures that timely advice is delivered by the Section while new and changed systems are being designed and implemented, and it helps to maintain the influence the Section has to retain a proper focus on control issues. Informal feedback from senior officers indicates that this type of input is valued.
14. Internal Audit was involved with a number of irregularity investigations during the year. Details of this work are incorporated in the Annual Fraud Report for 2017/18, which is the subject of a separate report to the Governance & Ethics Committee.

Annual Governance Statement

15. The Accounts and Audit Regulations 2011 require the Authority to publish an Annual Governance Statement with its Accounts. The Statement focuses on the Authority's system of governance and internal control which facilitates the effective exercise of its functions and the achievement of its objectives. Internal Audit's work contributes to the assurance process detailed in the Annual Governance Statement.
16. The individual audit opinions set out in paragraph 9 combine to form the basis of the overall Internal Audit opinion on the adequacy of the Authority's internal control system. The chart at paragraph 9 shows that 84% of the audits undertaken identified that appropriate controls were in place, therefore Internal Audit's overall opinion is that the Authority's system of internal control is satisfactory. However, 16% of the activities audited were found to provide limited assurance, and the reports on these areas feature a higher proportion of

Priority 1 recommendations. Internal Audit's follow-up procedures focus on Priority 1 management actions to ensure that agreed improvements are realised, or continuing concerns are reported to the Governance & Ethics Committee. The evidence from the update reports to the Governance & Ethics Committee on the follow-up of Internal Audit recommendations provides very positive assurance that actions are taken to address the control weaknesses.

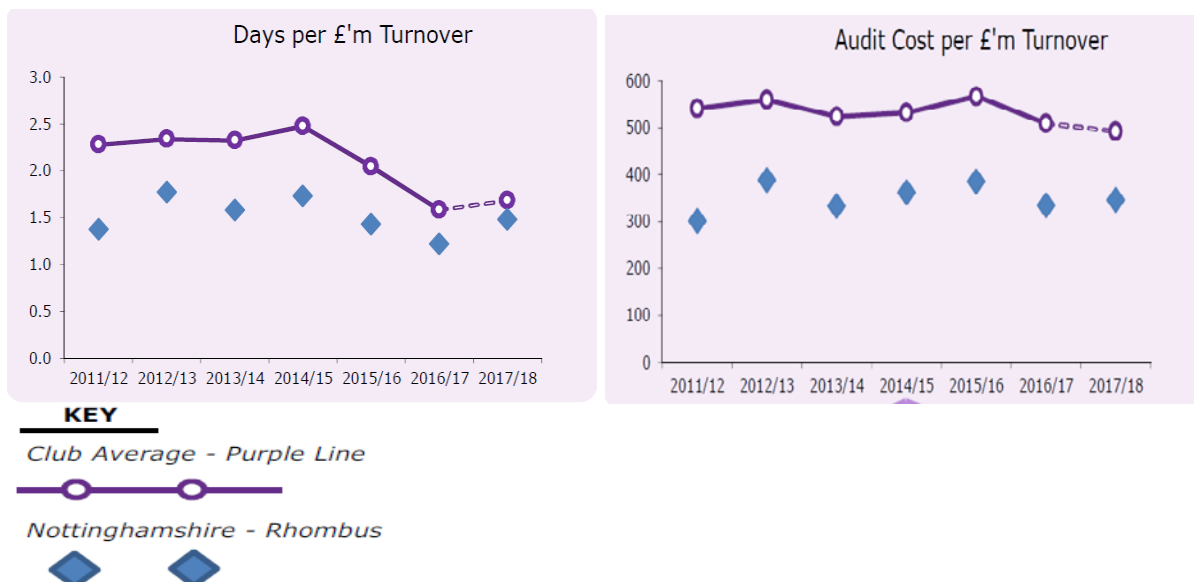
Internal Audit Performance Indicators

17. Progress against the Section's performance indicators, as at 31 March 2018, is detailed in the following table:

Performance Measure/Criteria	Target	Outcome as at 31/3/18
1. Risk-aware Council		
Completion of Audit Plan - Days - Jobs	90% 90%	✓92% ✗80%
Regular progress reports to: - Departmental Leadership Teams - Corporate Leadership Team - Audit Committee	3 pa 3 pa 2 pa	✗2/3 ✓3 ✓2
Publication of periodic fraud/control awareness updates	2 pa	✗1 – 'Top 10' issues in schools on schools portal
2. Influential Audit Section		
Recommendations agreed	95%	✓100%
Engagement with the Transformation agenda	Active in 5 key projects	✓Engaged with 6
3. Improved internal control & VFM		
Percentage of high, medium & VFM priority recommendations implemented	75%	✓Priority 1 – 81% ✓Priority 2 – 90%
4. Quality measures		
Compliance with the Public Sector Internal Audit Standards	Compliance achieved	✓Substantial compliance
Reliance placed on Internal Audit work	External Audit place reliance	✓No concerns raised at 16/17 audit and reliance was placed on IA work for some systems
Positive customer feedback through Quality Control Questionnaire (QCQ) scores	Feedback good or excellent (where a score of 1 is excellent and a score of 2 is good)	✓Average score 1.51

18. The audit work completed continues to be carried out in compliance with the required standards, and clients continue to respond well to the recommendations made and to the audit approach.
19. During the year, the section continued to use a customer satisfaction questionnaire, and has maintained very positive results. All recommendations made have been agreed for implementation.

20. The Section participates in the Chartered Institute of Public Finance and Accountancy (CIPFA) benchmarking club for internal audit services. Extracts from the latest benchmarking report received in December 2016 show the Council's Internal Audit Section (plotted 'X's) is below the comparator average (trend line) in terms of the cost of the Internal Audit service per £1m of the Council's turnover. The net budget for 2017/18 is £345k.



Quality Assurance and Improvement Programme (QAIP)

21. The Public Sector Internal Audit Standards require Internal Audit Sections to develop a QAIP to ensure that appropriate quality standards are being applied. An updated QAIP has been developed and is attached as **Appendix 3**, providing an update on progress against the action plan for 2017/18, revised timescales where required, and the addition of new actions arising from the latest assessment against the standards.
22. This year, the QAIP has been informed by an external assessment of the Internal Audit Section. It is a requirement of the Public Sector Internal Audit Standards (PSIAS) that Internal Audit providers undergo an External Quality Assessment (EQA) at least once every five years. This is to provide an independent evaluation of each provider's level of compliance with PSIAS. An EQA of NCC's in-house service was carried out in March 2018 by TIAA Ltd, who were appointed by the s151 officer following a tender exercise. The outcome of the EQA was very positive, the key highlights of the report being the following:
- The service is assessed to be compliant with the standards to a very high degree (96%), as summarised in the table below.

Aspect of standards	No. of requirements in the standards	Standards not applicable at NCC	No. of applicable standards assessed	Compliance assessment		
				Yes	Partial	No
Definition of internal auditing	3		3	3		
Code of ethics	13		13	12	1	
Attribute Standards						
Purpose, authority & responsibility	23		23	23		
Independence & objectivity	35	2	33	30	3	
Proficiency & due professional care	21		21	20	1	
Quality assurance & improvement programme	27		27	25	2	
Performance Standards						
Managing the internal audit activity	47	1	46	44	3	
Nature of work	26		26	24	1	1
Engagement planning	44		44	44		
Performing the engagement	22		22	22		
Communicating results	45	3	42	42		
Monitoring progress	4		4	4		
Communicating the acceptance of risks	2		2	2		
Totals	312	6	306	295	11	1
				96.41%	3.59%	0.33%

- The action plan picks up and endorses a number of actions the service is already taking to improve compliance with the standards. This includes actions around the development of assurance mapping, the use of data analytics and meeting target deadlines for timely reporting. The action plan, and the Head of Internal Audit's response to the recommendations, is also set out in Appendix 4.
 - The additional actions that the assessor has identified relate to the areas of partial compliance. These are concerned with the content of the Internal Audit Charter, providing the opportunity to declare any potential conflicts of interest prior to each assignment commencing, and arrangements for periodically rotating the Audit Managers' lead areas of responsibility. Action will be taken to implement each of the recommendations.
 - The single action assessed as being non-compliant concerns the completion of an audit of the Council's ethics. This audit is currently in progress.
23. The outcome of the assessment provides significant assurance to the Council that the Internal Audit service conducts its work with due professional care. It confirmed the following in respect of the work carried out by the service in 2017/18:
- a) The service applied a systematic, risk-based approach to the assurance work it delivered
 - b) Internal Audit staff performed their duties with due regard to the code of ethics set out in the standards
 - c) There were no impairments to the independence and objectivity of the service during the year,

24. The external quality assessment has also recognised the changes the service has been implementing over the past two years and endorses the progressive actions being taken to improve the service.

Conclusion

25. The work undertaken by Internal Audit during 2017/18 has covered key systems in the Authority and has identified that the controls in the majority of systems and procedures continue to operate satisfactorily. Of the systems and procedures reviewed, 16% were found to provide limited assurance. Action plans have been agreed to address these concerns and follow-up audit work will be carried out to ensure that all Priority 1 actions are addressed.

Rob Disney CPFA
Head of Internal Audit
Nottinghamshire County Council

		ASSURANCE REVIEWS		
		LIMITED ASSURANCE	REASONABLE ASSURANCE	SUBSTANTIAL ASSURANCE
COUNCIL-WIDE			ASDM Composite report (at draft stage) Strategic risk management Procurement of suppliers Invoicing & debt management Capital programme Health & safety compliance Imprest accounts	Quarterly action tracking (Jun 17, Sept 17, Feb 18) Annual Governance Statement Budget monitoring & forecasting
ASCH	Procurement of suppliers & providers Direct payments HM Coroner's service		Delayed transfers of care Short breaks Care home admissions County Enterprise Foods Protection of property & pets and funeral arrangements	
C&F			Schools statutory reserve Allowances & fees to foster parents Reductions in school staffing School pupil place planning	
PLACE	Innovation Centres Vacant property management		Clayfields improvement works ASDM Arc (some elements limited assurance) ASDM Via	ASDM Inspire Travel Solutions Hub Waste management
RESOURCES			Competency Centre	ICT external assurance Corporate bank accounts
SCHOOLS	6 primary schools 2 follow-ups		27 primary schools (including 4 from external providers) 4 follow-ups	6 primary schools (including 1 from external provider) 2 follow-ups
		ADVISORY WORK	COUNTER-FRAUD	CERTIFICATION
COUNCIL-WIDE	Information Governance Improvement Group ASDM reviews		Transparency Code fraud data Annual Fraud Report Serious & Organised Crime Threats	
ASCH	Ollerton Day Centre imprest account Mosaic cutover arrangements Tendering for homecare		Access Independent whistleblower Solutions 4 Health - smoking cessation service	
C&F	Young people's accounts guidance			Beeston Youth & Community Centre account
PLACE			Community Safety concerns	Platt Lane playing field account Carbon reduction certificate Bus service operators' grant Trading Standards pro-active operations - 3 certificates
RESOURCES	Payroll to pensions data-matching Debtor refund authorisations			

**Audit Reports issued to date in 2017/18 which had a “Limited Assurance”
Audit Opinion**

a) County Council processes

2017- 90 ASCH Dept – Procurement of suppliers & providers (July 2017)

This audit followed a review in 2016/17 of compliance with Financial Regulations for the procurement of the interim homecare service. It reviewed the procedures followed to procure the most significant suppliers to Adult Social Care services within the department. Around ¾ of the sampled providers were properly procured, but we found the Council's procurement regulations had not been followed in the remainder of cases, representing approximately £6.8m of expenditure. Recommendations to address the issues highlighted were accepted for implementation. A further audit is currently in progress to assess compliance with the procurement regulations across the rest of the Council.

2016-40 ASCH Dept (now Place Dept): HM Coroner for Nottinghamshire: NCC contributions

The audit examined the budget arrangements for HM Coroner's service in Nottinghamshire, which is jointly funded by Nottinghamshire County Council and Nottingham City Council. The County Council's budget for its annual contribution has shown been overspent for a number of consecutive years. Whilst the report noted some positive aspects of joint working between the two councils and the Coroner's service, there is scope for improved budgetary controls to be put in place. Central to this is the setting of a realistic budget for the contribution, with improved information sharing to enable in-year variations to be actively challenged promptly and effectively.

2016-50 ASCHPP Dept: Direct Payments

The focus of this review was the policies and procedures for monitoring and auditing the use of direct payments to service users. This has been an area of significant effort within the department to pro-actively root out and deal with cases of suspected misuse of these payments. In support of this, the report makes a number of recommendations to build on the progress being made. Scope is identified to strengthen guidance to service users, alongside more robust, internal procedures to take prompt and effective action to follow through cases picked up by trigger alerts of potential misuse.

2017-58 Place Dept: Innovation Centres

The audit reviewed the contract management procedures in place, with particular emphasis on the controls to confirm the veracity of financial and performance information provided by the service contractor. The recommendations in this report are future-focused, as the current service contract approaches the end of its life. Going into the next tender process, the audit identified scope to improve procedures for dealing with contract variations, information to support key performance indicators and fraud risk assessments.

2017-94 Vacant property management

This audit was carried out in response to two separate fire incidents at vacant properties. The report highlights a number of issues in the Property Service's procedures, most notably a disconnect between its strategy for progressing the disposal of surplus sites and its strategy for securing vacant premises; there was no evidence to show that problems

arising with the progress of one of these strategies for a particular site prompted a review of thinking with the other. Urgent improvements were also identified to ensure health and safety requirements are met and that insurance considerations are promptly taken into account.

b) School Budget Share audits

The programme of school visits has identified six schools for which a limited assurance audit opinion was provided. Two follow-up visits also returned an opinion of limited progress having been made with implementing the agreed actions. The audits of school budget share cover a broad range of areas including: governance; expenditure; income; assets; and information. Reports are provided to the Headteacher and the Chair of Governors for action.

Analysis of all school reports issued during the year identifies the 'Top Ten' issues raised in audit reports, see below. These were brought to the attention of all schools through a bulletin on the schools' portal, to ensure that those schools which haven't recently received an audit visit have the opportunity to self-assess their own controls and to make improvements where required.

Rank	Control area	Issue
1	Purchasing	A purchase order should normally be raised in advance and sent to the supplier, for all goods and services.
5		For purchases between £5,000 and £25,000 three quotations should be invited. If, in exceptional circumstances, this is impractical, the reasons why should be reported to the governing body and recorded in its minutes.
2	Data Security	Passwords to access the computer system and FMS accounting system should be changed on a regular basis, at least termly.
3	Payroll & Personnel	A self-employment assessment form should be completed prior to making gross payments, without deduction of tax, to an individual who is considered to be self-employed.
6		Additional Pay Claims should be supported by a form which is signed by the claimant and the authorising officer.
7		Payroll costs should be regularly reviewed by someone independent of payroll administration. This should be done after the payroll has been processed to ensure that what has actually been paid is what is approved. BMS report FI034 is particularly suitable for this purpose.
4	Purchase card	Both the Card Holder and the Card Manager should sign the monthly statements to confirm that the expenditure was properly incurred and is authorised.
9		Purchase card transactions should be supported by receipts or invoices, including VAT where appropriate.
8	Budgetary Control	Multi-year budget forecasts should be prepared annually for the next three years, and presented to Governors for review and approval.

10 =	School Meals	Invoices for school meals from the Council's Catering Service should be checked back to the school's own records of meals served.
10 =	Governance	The register of business interests should be kept up to date for governors and staff involved in financial decisions and procedures.

1. Update on progress against the 2017/18 QAIP

	Audit Standard	Gap in meeting standard	Action Required	Officer responsible	Timeline	Progress as at June 2018
<i>Reviewing the effectiveness of Internal Audit</i>						
1617 – 4	A formal external review of Internal Audit must be completed once every five years, with the first being due by the end of 2017/18	External review has yet to be commissioned	Evaluate options for the external review of Internal Audit and seek approval of Governance & Ethics Committee	Governance & Ethics Committee to consider options presented by the Head of Internal Audit	March 2018	The approach to engaging an external assessor was approved by the Governance & Ethics Committee. An assessor was appointed following a tender exercise and the assessment was completed in March 2018.
<i>Policies and Procedures</i>						
1617 – 6	Maintaining an audit manual to guide staff in the performance of their duties in compliance with the PSIAS	The current Audit Manual requires updating	Update the Audit Manual	Head of Internal Audit	August 2017	The Audit Manual has been refreshed and is now maintained on-line as a matter of routine.
<i>Nature of audit coverage</i>						
1617 – 7	Review the organisation's ethics-related objectives, programmes and activities	Coverage as part of some planned audits, but no audit dedicated to this topic	Include a cross-cutting review of the organisation's culture and ethics as part of a future planning period	Head of Internal Audit	As part of the 2017/18 audit plan	An audit of ethics commenced towards the close of 2017/18 and is currently being progressed.
1617 – 8	Review the effectiveness of the organisation's risk management processes	The Head of Internal Audit is a member of the Risk Safety & Emergency Management Board, but a dedicated audit	A dedicated cross-cutting review of risk management is included in the 2016/17 audit plan	Head of Internal Audit	Report in the first quarter of 2017/18	The audit of risk management was completed and the final report issued.

	Audit Standard	Gap in meeting standard	Action Required	Officer responsible	Timeline	Progress as at June 2018
		of this topic has not been carried out recently				
General efficiency and effectiveness of the service						
1617 – 11	Identifying opportunities to improve the efficiency and effectiveness of the service	The Internal Audit Service Plan for 2016/17 includes actions to improve some aspects of the service	Implement revised time-recording and performance management module	Head of Internal Audit	Second quarter of 2017/18	Sustained progress is now being made following the implementation of a system upgrade. Targeted for completion by the end of July 2018.
Proficiency						
1718 - 1	Auditors have sufficient knowledge of the appropriate computer-assisted audit techniques that are available to them to perform their work, including data analysis techniques	There is scope to make the use of these techniques more routine and embedded in the section's day-to-day work	Provision of training and refresher training on the tools currently available. Instil a data-analysis approach wherever it is relevant and appropriate for the work planned in 2017/18.	Head of Internal Audit	For all audits in the 2017/18 audit plan	Good progress is being made with this action. Data analytics is a regular item at Team Meetings to allow experience in its use and development to be shared and encouraged. A dedicated data analytic review of payroll is currently being completed. This action will remain a work in progress for 2018/19.
Assurance mapping						
1718 - 2	The application of assurance mapping in relation to the following: <ul style="list-style-type: none"> The risk-based plan takes into account the 	There is scope to strengthen the current approach to assurance	Design and implement an assurance mapping process for the work of the Governance & Ethics Committee and for	Head of Internal Audit	Initial proposals targeted for	An approach to assurance mapping was proposed to the Corporate Leadership Team and the Governance & Ethics Committee. It was

	Audit Standard	Gap in meeting standard	Action Required	Officer responsible	Timeline	Progress as at June 2018
	<p>organisation's assurance framework</p> <ul style="list-style-type: none"> The CAE shares information and coordinates activities with other internal and external providers of assurance and consulting services The CAE's annual opinion takes account of the risk or control framework or other criteria used as a basis for the overall opinion 	<p>mapping at a number of levels:</p> <ul style="list-style-type: none"> Corporately in relation to the work of the Governance & Ethics Committee Relating to Internal Audit's planning process Delivery of internal audit engagements 	<p>corporate governance processes.</p> <p>Carry out a mid-year review of the 2017/18 Audit Plan to assess any required changes in light of the assurance map. Future opinions of the CAE on the overall effectiveness of the control framework to be based on all available sources of assurance.</p>		<p>September 2017</p> <p>Mid-year review of the Internal Audit plan for 2017/18</p> <p>Annual opinion of the CAE in 2017/18</p>	<p>agreed to implement the approach as a pilot for three aspects of governance in 2018/19. The pilot will be carried out in four stages, to be completed and reviewed by March 2019.</p>

2. New actions for 2018/19

	Audit Standard	Gap in meeting standard	Action Required	Officer responsible	Timeline	(Progress – to be updated for 2018/19)
External Quality Assessment						
1819-1	Undergo an external quality assessment and respond to any improvements identified.	The assessment has identified some areas of partial compliance with the standards, as set out in the report's action plan.	The external assessor's action plan sets out the recommended actions.	Head of Internal Audit	Per the timescales identified in the response to the external assessor's action plan.	



Nottinghamshire County Council

Assessment of Compliance with PSIAS and the LGAN 2017/18

Assessment of Compliance with PSIAS and the Local Government Application Note 2017/18

INTRODUCTION

1. CIPFA and the Chartered Institute of Internal Auditors (IIA) have jointly developed new Internal Audit Standards – the Public Sector Internal Audit Standards (PSIAS) replacing the CIPFA Code of Practice. The new standards provide a coherent and consistent internal audit framework for the whole of the public sector and came into effect from 1 April 2013. Periodically reviews are performed to assess the level of compliance against this code.
2. This review has been undertaken by TIAA to independently assess compliance of the Internal Audit department of Nottinghamshire County Council with the Attribute and Performance Standards contained in the Public Sector Internal Audit Standards (PSIASs). In addition the review has also considered compliance with the Local Government Advisory Note (LGAN), where this has requirements in addition to those contained in the PSIAS.
3. The Standards are intended to promote further improvement in the professionalism, quality and effectiveness of internal audit across the public sector. They reaffirm the importance of robust, independent and objective internal audit arrangements to provide senior management with the key assurances they need to support them both in managing the organisation and in producing the Annual Corporate Governance Statement.
4. The Accounts & Audit (England) Regulations 2015 require that the Council must perform a review of the effectiveness of its internal audit at least once a year. The findings of the review must be considered as part of the system of internal control by the Governance and Ethics Committee when assessing the effectiveness of the Council's overall system of internal control.
5. The standards require periodic self-assessments which the Head of Internal Audit has conducted annually and reported the findings and action plan through to the Governance and Ethics Committee. These were last undertaken by the Head of Internal Audit in May 2016 and April 2017.
6. The checklist of conformance with the PSIAS and the LGAN has been used as the basis for the self-assessment and is designed to assess the performance of internal audit against the following categories: (*See Appendix 1 for results of the assessment*).
 - Code of Ethics -Integrity, objectivity, confidentiality and competency
 - Attribute Standards
 - Performance standards
7. A further requirement of the Standards is for an external assessment to be undertaken every five years.

SCOPE AND LIMITATIONS OF THE REVIEW

8. The review was carried out through a process of interview (see Appendix 4) and examination of key documents including the Internal Audit Charter, reports to the Governance and Ethics Committee and related supporting documentations.
9. A total of fifteen internal audit reviews, including four reviews rolled over from 2016/17 were reviewed on the audit management system- Pentana with assistance from the assigned auditor. The results are summarised in Appendix 3.
10. The following appendices are included for reference:
 - Appendix 1 - Checklist for Assessing Conformance with the PSIAS and the Local Government Application Note
 - Appendix 2 – Action Plan
 - Appendix 3 – Summary of findings from file review on the audit management system- Pentana
 - Appendix 4 – List of interviewees

SUMMARY AND ACTIONS FOR CONSIDERATION

11. The assessment has shown that the Internal Audit Service is comprised of a team of dedicated professional auditors who are passionate of the service that they deliver. Whilst there are some areas of partial conformance, these are not considered to be significant to affect the overall scope or operation of the internal audit activity, and are currently being managed through appropriate governance and reporting arrangements. It is proposed that the areas for improvement can be addressed during 2018/19 and that continued conformance and progress be reported during the year to the Governance and Ethics Committee.
12. The main areas for partial conformance and related proposed actions identified as part of the peer review to further strengthen conformance with standards are listed in Appendix 2.

RELEASE OF REPORT

13. The table below sets out the history of this report.

Date draft report issued:	25 th April 2018
Date management responses recd:	
Date final report issued:	

Appendix 2

Checklist Ref:	Audit Standards/Question	Finding/Gap Identified	Action Required	Officer Responsible	Timescale
1a	<i>Ensure that the internal audit activity is Independent.</i>	Discussion with the s151 Officer and Leader of the Council identified that the HoIA has direct access and freedom to report to the Chief Executive and senior management. Whilst this is referenced in section 11.6 of the Revised Internal Audit Charter, September 2017 consideration to incorporate that the HoIA also has direct access and reports in their own name to the Governance and Ethics.	Charter to be refreshed and incorporate statement that the HoIA has unrestricted access to Senior Management and Members particularly the Leader of the Council, the Chair of the Governance and Ethics Committee/ Chief Executive, Directors and Heads of Service, and maintains segregation from operations. Further the Head of Internal Audit reports in own name.	Head of Internal Audit	July 2018
1b	<i>Ensure that the internal audit activity is Objective</i>	All auditors are required to declare annually any issues that would affect their independence and objectivity in performing individual reviews in order that any conflicts are avoided. All interviewees emphasised the importance of these aspects of audit behaviour. The annual report did not, however, confirm no impairments to independence during the year.	Point for consideration, that each auditor (inc contractor) complete a declaration of interest and objectivity statement contained in the Audit Working Papers (AWP) in Pentana for each audit review undertaken and to be reviewed by the Audit Manager. Include a statement to confirm that independence has not been impaired in the past year in the Internal Audit Annual Report	Head of Internal Audit Head of Internal Audit	July 2018 June 2018
2	<i>Code of Ethics- Integrity</i>	All staff are required to complete an annual declaration individual objective statement. These were made available as part of the review, for all staff in post.	Annual Declaration to be refreshed and include cross ref to Standard 1000 Purpose, Authority and Responsibility and specifically with PSIAS 1120 – Individual Activity and 1130 – Impairment to Independence and Objectivity	Head of Internal Audit	June 2018

Checklist Ref:	Audit Standards/Question	Finding/Gap Identified	Action Required	Officer Responsible	Timescale
2	<i>Code of Ethics- Competency Do internal auditors have regard to the Nolan Committee's Standards of Public Life's, Seven Principles of Public Life?</i>	Although not explicitly stated, reference is included in the Audit Charter, Section 6 Proficiency and Due Professional Care.	Audit Charter to be refreshed to incorporate, "Internal Auditors will also have due regard to the Seven Principles of Public Life – Selflessness; Integrity, Objectivity; Accountability; Openness; Honesty; and Leadership."	Head of Internal Audit	July 2018
3.1 (1000)(h)	<i>Identify internal audit's contribution to the review of effectiveness of the control environment, as set out in the Accounts and Audit (England) Regulations 2011?</i>	One minor point Section 4.3 of the Audit Charter refers to guidance; "The Accounts and Audit (England) Regulations 2011	Audit Charter to be refreshed and reflective of The Accounts and Audit Regulations (2015) and not 2011.	Head of Internal Audit	July 2018
3.1(1000)(m)	<i>Include arrangements for avoiding conflicts of interest if internal audit undertakes non-audit activities?</i>	The arrangements for undertaking non-audit activities and to maintain independence referred to in Section 4 of the Charter is explicit in stating that any "The nature and extent of work for external clients is kept under review to ensure: a) it does not impinge on the audit work carried out for the Council, and; b) there is no conflict of interest or impairment of independence arising from this work. Internal Audit aims to limit its consultancy and irregularity work to approximately 10% of its available resource." Details of consultancy work undertaken are disclosed in the Annual Report	Consideration of a section in the Charter re Consultancy which is reflective of the point that due to its detailed knowledge of County Council's systems and processes Internal Audit is well placed to provide advice and support to services on issues of value for money and process re-engineering. Consideration also to provide PSAIS definition of Consulting as follows: "Advisory and client related service activities, the nature and scope of which are agreed with the client, are intended to add value and improve an organisation's governance, risk management and control processes without the internal auditor assuming management responsibility. Examples include counsel, advice, facilitation and training."	Head of Internal Audit	July 2018

Checklist Ref:	Audit Standards/Question	Finding/Gap Identified	Action Required	Officer Responsible	Timescale
3.2(1130) LGAN	<i>Impairment to independence and Objectivity - Are assignments for ongoing assurance engagements and other audit responsibilities rotated periodically within the internal audit team?</i>	All managed audit exercises are regularly rotated within the team and the Lead Auditor role for external clients are also changed.	To further embed conformance, departments managed at the Audit Manager level be considered for rotation to other team members	Head of Internal Audit	The transition of services from the Resources Department to a new Chief Executive's Department may have implications for the structure of Internal Audit. Lead responsibilities will be rotated at this time, potentially in the second half of 2018/19.
3.3 (1210)	<i>Proficiency - Do internal auditors have sufficient knowledge of the appropriate computer-assisted audit techniques that are available to them to perform their work, including data analysis techniques?</i>	Whilst staff are knowledgeable in the use of Excel, this has been identified by the HoIA as part of the self-assessment and reported to the Governance and Ethics Committee in June 2017 as an area for improvement and embed use of data analysis techniques as a matter of routine in Internal Audit's work. It is noted that both assurance mapping and data analytics are areas that are standing agenda items at the monthly section meetings and that the HoIA is developing a draft strategy to develop this across the audit process.	Staff continue to consider assurance mapping and use of data analytics at the planning stage with lead auditor/ Audit Manager and engagement process with auditees. Where applicable detail of data analytics be cited in the engagement letter.	Head of Internal Audit	The assurance mapping is being progressed for three aspects of governance in 2018/19. The increased focus on data analytics is gaining momentum and this will be continued through section meetings, 1-to-1 reviews and routine supervision of auditors' work.

Checklist Ref:	Audit Standards/Question	Finding/Gap Identified	Action Required	Officer Responsible	Timescale
4.5 (2440)	<i>Disseminating Results - Has the CAE communicated engagement results to all appropriate parties?</i>	Results are communicated through exit meetings and issuance of draft reports and final reports. Whilst this works well conformance can be strengthened through timely reporting.	To further embed conformance and timely reporting staff be required to arrange exit meeting dates at the opening meeting, noting detail of any potential delays.	Head of Internal Audit	This was introduced in 2017/18 and compliance will continue to be monitored throughout 2018/19 to ensure this becomes the established practice.

13 June 2018

Agenda Item: 16

REPORT OF SERVICE DIRECTOR, FINANCE, PROCUREMENT & IMPROVEMENT

ANNUAL FRAUD REPORT 2017/18

Purpose of the Report

1. To present to Members the Council's Annual Fraud Report, and to invite feedback on its content.

Information

2. The Council's strategy for countering fraud and corruption includes the requirement for an Annual Fraud Report to be submitted to the Governance & Ethics Committee. This requirement is included in the strategy with a view to demonstrably strengthening the counter-fraud culture at the Council.
3. The attached report represents the third edition of the Annual Fraud Report. It sets out an update regarding the known fraud risks facing the County Council, the incidence of fraud picked up over the past 12 months, and an assessment of the Council's resilience to attacks. The report also reviews progress against the fraud related actions planned for delivery in 2017/18, along with those to be pursued in the coming year to ensure the Council's defences against fraud are maintained.

Other Options Considered

4. None, since the requirement to publish an Annual Fraud Report is a feature of the Council's refreshed strategy for countering fraud and corruption.

Reason for Recommendation

5. To inform the Committee of the Council's current arrangements for tackling fraud and corruption and to invite suggestions for how those arrangements can be improved.

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 the Committee notes the content of the Annual Fraud Report 2017/18.
- 2) That the Committee offers its feedback on the adequacy of the Council's current and planned arrangements for tackling fraud and corruption.

Nigel Stevenson

Service Director – Finance, Procurement & Improvement

For any enquiries about this report please contact:

Rob Disney

Head of Internal Audit

Constitutional Comments [SLB 29/05/2018]

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

Financial Comments [RWK 30/05/2018]

There are no specific financial implications arising directly from the 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

ANNUAL FRAUD REPORT 2017/18

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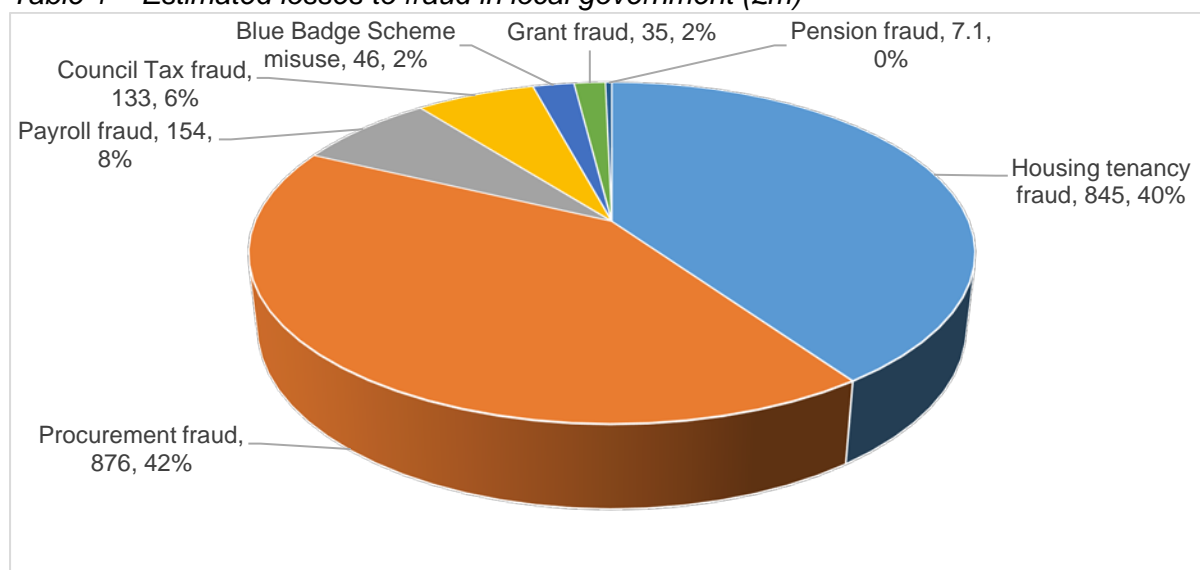
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1. UNDERSTANDING THE FRAUD THREAT

National picture

- 1.1 The CIPFA Counter Fraud Centre (CCFC) publication, 'Fighting Fraud Locally', is a local government strategy for countering fraud and corruption. Using estimates prepared by the National Fraud Authority, 'Fighting Fraud Locally' estimates fraud losses across all sectors in the UK to be £52 billion. Of this total, £20.6 billion is thought to be perpetrated against the public sector. Local government losses are considered to be around £2.1 billion, the breakdown of which is shown in Table 1.

Table 1 – Estimated losses to fraud in local government (£m)



- 1.2 Serious and organised crime continues to be a threat to our national security. The Government's Serious and Organised Crime Strategy, published in 2013, reports that it costs the UK more than £24 billion a year.
- 1.3 The United Kingdom – Anti-Corruption Strategy 2017-2022 sets out a vision of a safer, more prosperous and more confident future based on concerted UK action against corruption. It establishes an ambitious and long-term framework for tackling corruption. The strategy builds on the UK's 2014 'Anti-Corruption Plan' and the considerable work already being taken forward across government, in particular through the National Security Strategy, the Serious and Organised Crime Strategy, the Action Plan for Anti-Money Laundering and Counter-Terrorist Finance, and the Fighting Fraud and Corruption Locally Strategy.
- 1.4 The CIPFA Counter Fraud Centre (CCFC), launched in July 2014, was created to fill the gap in the UK counter fraud arena following the closure of the National Fraud Authority (NFA) and the Audit Commission, and the subsequent transfer of benefit investigations to the Single Fraud Investigation Service (SFIS), run by the Department for Work and Pensions (DWP). The CCFC leads and co-ordinates the fight against fraud and corruption across public services, by providing for thought leadership, along with counter fraud tools, resourcing and training. The Council is a member of the CCFC and has regular access to intelligence, resources and comparative statistics. One member of the

Internal Audit team has now completed formal qualification training with the CCFC and has become an accredited Counter Fraud Specialist.

- 1.5 The CCFC estimates that, across local authorities, more than 75,000 frauds, with a total value of £336.2m, were detected or prevented in 2016/17. The number of fraud cases investigated or prevented dropped in this year, but the average value per fraud increased from £3,400 to £4,500; the reason for this could be that local authorities are focusing on cases with a higher financial value.
- 1.6 Annually, the Council contributes to the CCFC's Counter Fraud and Corruption Tracker (CFaCT), which provides a national picture of fraud, bribery and corruption in local government. It also shows how the sector is dealing with the challenges and helps identify actions that the sector needs to take to reduce the threat posed by fraudulent activity. Over 70% of County Councils responded to the latest survey, CFaCT 2017. This latest CFaCT reveals that:
- Procurement, adult social care and council tax single person discount are perceived as the three greatest fraud risk areas.
 - Adult social care fraud has shown the largest growth in the past year, with an estimated £5.6m investigated, compared with £3.0m in 2016.
 - The highest number of investigations related to council tax fraud (76%), with a value of £25.5m.
 - The highest value area of fraud is housing, with an estimated total of £263.4m.
 - 38% of organisations who responded have a dedicated counter fraud service.
 - Cyber crime has a high profile in the media and poses a growing challenge to a sector becoming ever more digital in terms of service delivery. The threat calls on the shared expertise of fraud and IT teams, but primary responsibility for cyber security is not always clearly assigned. Respondents to the CFaCT 2017 reported that only three fraud teams (2.3%) were responsible for cyber risk, whereas 106 (80%) reported that IT or the chief information officer held responsibility. In 2014 three quarters of respondents told CFaCT that cyber risk was not included in the corporate plan. This year half the respondents had carried out a cyber risk assessment in the previous 12 months.
- 1.7 The CFaCT has identified the main types of fraud based on the volume of investigations or value of the financial loss. This data is distinguished between local government types and the key statistics for County Councils are extracted in Table 2.

Table 2 – CIPFA estimates of local government fraud

Fraud Type	Volume	Value (£m)	Comments
Disabled Parking (Blue Badge)	5,751	£4.3	NCC report lower instances than the national picture
Adult Social Care	446	£5.6	5% of adult care frauds investigated involved an authority employee.
Adult Social Care – personal budget	264	£2.8	
Adult Social Care - other	182	£2.8	
Insurance Fraud	371	£5.1	Includes 6 cases of organised crime, the average value increased year on year.

Fraud Type	Volume	Value (£m)	Comments
Procurement	197	£6.2	Joint work with the Competition & Markets Authority has commenced in this area
Payroll	248	£1.0	
Expenses	75	£0.1	
Recruitment	46	£0.2	
Pensions	228	£0.8	
Other			
Fraud relating to the manipulation of data and bank mandates both doubled to 57 and 325 cases respectively			
Serious and organised crim cases increased to 26 cases, and 23% of organisations recognise this within their risk register.			

Local threat level

1.8 The Council's Fraud Risk Assessment (FRA) has been updated to assess the nature of the fraud and corruption threats the Council currently faces. The assessment draws on the intelligence set out in all of the national sources identified above. In addition to these, the FRA also draws on the following information sources:

- Periodic fraud alerts from organisations such as the National Anti-Fraud Network and the National Fraud Intelligence Bureau – these are received regularly throughout the year by the Internal Audit service.
- The incidence of suspected fraud cases at the Council
- Discussions with key managers across the Council to understand inherent and residual risk levels in services that are vulnerable to fraud
- The Internal Audit service's knowledge and review of the core systems of control in place within the Council

1.9 The FRA highlights the following to be the key areas of risk for NCC (including schools):

Internal threats

- Misappropriation of cash and bank balances
- Inappropriate use of NCC assets
- Submission of fraudulent claims for overtime and expenses
- Non-compliance with procurement processes

External threats

- Submission of invoices for services not delivered or goods not received
- Misuse of direct payments
- Deprivation of assets to increase Council support for care costs
- Pension fraud
- Invalid use of travel and parking permits
- Cyber security threats

An update on the planned actions in 2017/18 to strengthen the Council's controls against fraud is set out below in section 3, along with further details of actions planned for 2018/19.

1.10 During 2017/18, the incidence of fraud cases was a feature of the quarterly meetings of the statutory officers to discuss governance issues, and cases were also reported

through to the Corporate Leadership Team as part of Internal Audit's quarterly update reports. Updates on progressing the investigation of suspected cases are also discussed at the regular meetings between the Head of Internal Audit and the Chairman of the Governance & Ethics Committee. The outcome of completed cases are reported to the full Committee as part of the Head of Internal Audit's periodic updates.

2. INCIDENCE OF FRAUD AT NCC

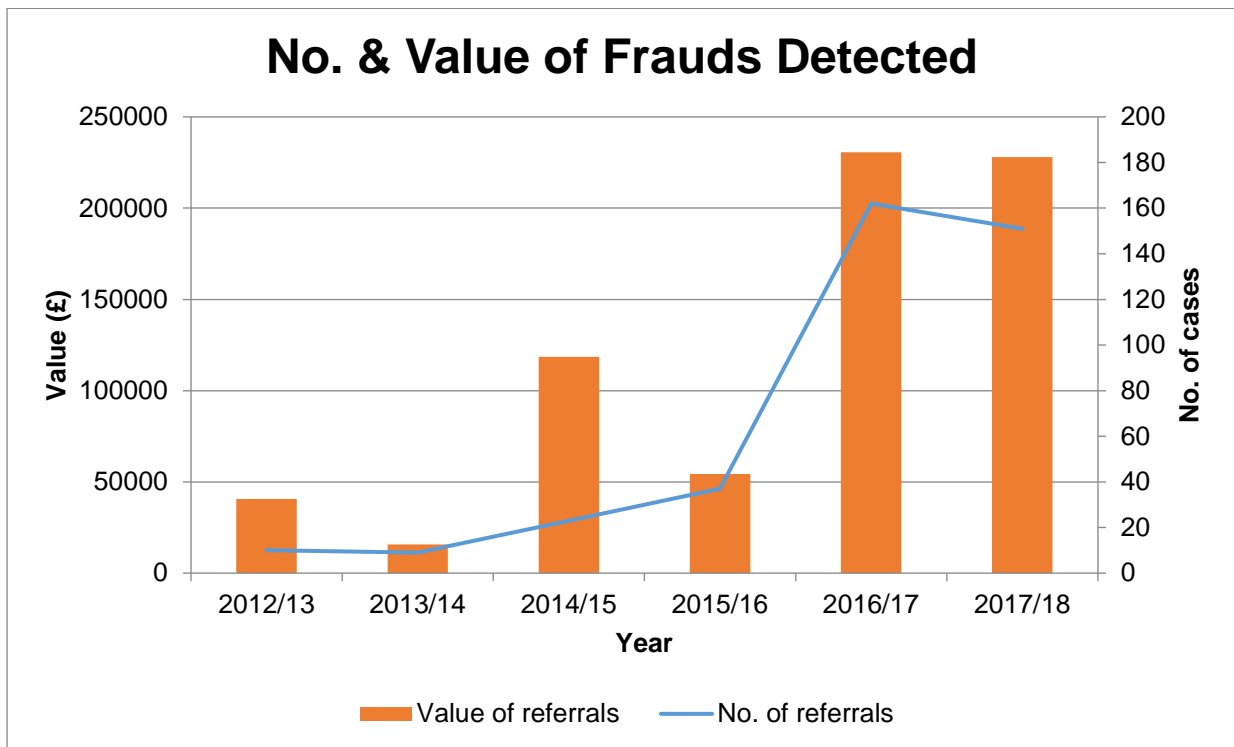
- 2.1 In compliance with the Transparency Code, NCC publishes summary information on its website each year concerning its arrangements for countering fraud. This includes the number of fraud cases investigated each year. The published details for the past three years are shown in Table 3.

Table 3 – Published Transparency Code information

	2015/16	2016/17	2017/18
No. employees involved in fraud investigation	21	28	28
No. professionally accredited fraud specialists	0	0	1
Cost of employee time investigating fraud	£43,087	£109,073	£71,614
No. fraud cases investigated	40	162	151

- 2.2 The developments within Adults, Social Care & Health Department reported last year are embedded in the financial assessment practice. Coupled with reduced input in specific cases investigated by other departments, this has reduced the cost of employees investigating fraud.
- 2.3 The trend for an overall increase in the number of detected cases of fraud over the past three years can continue to be attributed to a number of other positive actions the Council is taking to tackle fraud:
- Positive corporate commitment to counter fraud through revised strategy and policy documents;
 - Review and dissemination of trend analysis for potential and proven frauds from national research and intelligence; and
 - Targeted reviews in the services at the greatest risk of fraud.
- 2.4 These developments are further reflected in the chart in Table 4, which analyses the trend over the past five years in the number and value of detected frauds. In 2017/18 the value was £227,924 (2016/17 - £230,520). The cases included are those which resulted in action being taken: to prevent a payment; to stop an entitlement; to raise a debt; or to take internal disciplinary action.

Table 4 – Trend in the incidence of detected fraud at NCC



2.5 In the 2017/18 financial year, the fraud cases shown in Table 5 were detected. A number of additional cases were under active investigation at the time of compiling this report. Once concluded, the Government & Ethics Committee will be updated with the details.

Table 5 – Detected fraud cases in 2017/18

Nature of fraud	Detection source	Amount involved (£)	Response status
NCC – Internal			
Day Services Centre	Internal control processes	85	Strengthened internal control processes
Schools – Bank Accounts and Credit Cards	Internal banking control	499	Advice and guidance provided for stronger control of use of cards and reconciliations
NCC – External			
Misuse of Direct Payments (13 cases in 2017/18)	Internal monitoring and review processes	43,280	Recovery from previous years' misuse cases continues. Of the new cases 3 have resulted in recovery action and potential police referral
BSC – attempted to obtain fraudulent payment (*1)	BSC – internal challenge control process	19,274	BSC – employee vigilance initiated direct action to prevent the fraudulent request being processed. The case was referred to Action Fraud
Concessionary Travel Passes	NFI and management controls	20	NFI data and management controls to review mortality data

Nature of fraud	Detection source	Amount involved (£)	Response status
Suspected fraudulent insurance cases (5 cases in relation to 2017/18)	Internal insurance procedures	35,000	2 claims have been successfully repudiated and 3 other claims are currently being assessed
ACFS - Deprivation of Assets (*2) (91 cases in relation to 2017/18)	Financial assessment challenge	94,188	Robust challenge to the inclusion of assets within the financial assessment has resulted in reduced contributions by the Council
Misuse of Blue Badges – Disabled parking permits (10 cases in 2017/18)	Civil Parking Enforcement Officers	Unquantifiable	Warning letters sent out to 10 pass holders
Duplicate payments to suppliers (16 payments stopped in 2017/18)	Use of dedicated analytical software	34,080	Internal control processes prior to physical payment have detected duplicate payments enabling cancellation
Duplicate payment to a supplier	National Fraud Initiative	1,498	Recovery of payment that had not been stopped despite being identified by dedicated analytical software
School bank account cheque manipulation	Banking procedures	unknown	Investigation being undertaken by school's bankers
Cyber Crime attacks	ICT controls	unquantifiable	Internal and External defence systems employed to detect and deter cyber attacks
Total		227,924	
Notes			
(*1) – This type of fraud is generally referred to as an 'I am your boss' scam and involves criminals making inappropriate requests for payments by using the identity of senior officers.			
(*2) – The financial assessment challenge has resulted in changes to contributions by the Council for cases identified. We have estimated the potential full year effect for such cases.			

3. NCC'S ASSESSED RESILIENCE TO FRAUD

3.1 The Transparency Code information presented above in Table 2 identifies that 28 staff were involved in the investigation of fraud in 2017/18. This comprised staff working in the following areas of service:

- Internal Audit
- Adults' Social Care & Health (ASCH) department's Adult Care Financial Services and Reviewing Team
- Human Resources
- Risk and Insurance
- Blue Badge (parking)
- Business Support Centre

Governance and Members

3.2 The Council's Governance and Ethics Committee provide the focal point for member engagement with the counter fraud message and commitment. Members are engaged

in the review of policies and guidance material that underpin the coverage across the Council.

- 3.3 Internal Audit have periodically reported plans and progress reports to members over the year and facilitated regular meeting with the Chair to review progress and developments. Members have also been provided with insights on nationally emerging issues such as the Local Government Association's publication, 'A councillor's workbook on bribery and fraud prevention'. Internal Audit's Counter Fraud Specialist will develop plans and undertaken work to mitigate the risks identified in these publications as part of the risk assessed audit coverage.

ASCH

- 3.4 The misuse of direct payments and intentional deprivation of assets to increase the extent of Council contributions towards care costs continue to be significant areas of fraud. This corresponds with the risks identified through CFaCT.
- 3.5 Cases of intentional deprivation of assets are being identified through the challenge process that is embedded within the financial assessment process. The number of cases identified is consistent with the previous year and the impact of robust challenge to the inclusion of assets within the financial assessment has reduced the contribution made by the Council. The savings to the council from this approach have been estimated to establish the potential full year impact.

Risk and Insurance

- 3.6 The Risk and Insurance Team continually work to detect fraudulent claims through the use of the 48-point checklist to screen all new liabilities on a risk-ranking basis. Five claims have been detected through this approach during the year with two cases being repudiated and three others under ongoing assessment.

Business Support Centre (BSC)

- 3.7 BSC continue to use analytical software to identify potential duplicate supplier payments prior to each payment run being processed, therefore acting as a pro-active, preventative fraud control. During the year approximately £35,000 of duplicate payments were detected and withdrawn from payment. Time is not spent to investigate these cases further to determine whether the duplicates arose through attempted fraud or error.
- 3.8 BSC are a high risk area for targeted scams from external sources, given their access to payment processing data. Internal Audit continue to provide BSC with alerts raised by national bodies such as NFIB and NAFN to ensure that staff remain vigilant to potential risks. This continued dialogue has resulted in several attacks being defended, the most noticeable being an attempt to obtain a payment of some £19,000 by means of a fraudulent instruction to the Accounts Payable Team purporting to be from the Council's Chief Executive. This type of attack is generally referred to as an 'I am your boss' scam. This was successfully prevented due to the vigilance of staff within BSC.
- 3.9 We reported in last year's annual report that another area of vulnerability is the potential for continuing payments in respect of deceased pensioners. The National Fraud Initiative is a key source of assurance for this and during the year Internal Audit have worked with BSC to trial the use of facilities called Re-Check and App-Check, developed by the Cabinet Office to review matches on a more regular basis. The trial of Re-Check

provided promising results and BSC will be undertaking a Re-Check exercise in June 2018 to update data and matches on deceased pensioners. There is potential that this data could also be used for Adult Care, Blue Badge and Concessionary Fares counter fraud checks.

Schools Finance

- 3.10 Schools Finance continue to provide advice to schools on financial and governance issues and liaise with Internal Audit in relation to potential fraud cases. Internal Audit provide advice and guidance directly to schools, through head teachers and office managers. Internal Audit have been involved in various cases during 2017/18 which have involved: time recording; catering income; and inappropriate use of the school bank account.
- 3.11 Internal Audit operate a routine to rotate visits to schools on a five year basis and cover controls in relation to potential fraud risks. Internal Audit also disseminate fraud warnings to schools to alert them to risks of fraud. Internal Audit aim to develop the mapping of fraud cases over 2018/19 in order to identify intelligence and therefore address fraud risks on a more thematic basis.

Blue Badge and Concessionary Travel

- 3.12 Blue badge and concessionary travel fraud continue to gain national recognition. The blue badge team continue to be vigilant to potential fraud and abuse, which has resulted in the issue of warning letters to holders. The team also participate in the National Fraud Initiative to consider matches identified.
- 3.13 Concessionary travel similarly remain aware of the potential for fraudulently obtaining and using passes. Participation in the National Fraud Initiative has identified cases resulting in cancellation of passes and management control processes have resulted in similar actions.

Internal Audit

- 3.14 The Council now has a professionally qualified fraud investigator following his successful completion of the CIPFA Accredited Counter Fraud Specialist qualification. This now provides a sound basis on which to disseminate skills and learning across the rest of the Internal Audit team.
- 3.15 The Fraud Risk Assessment (FRA) has been refreshed and identifies a number of proactive counter fraud areas where specific work can be undertaken to address risks. In turn the FRA has also identified areas where work can be incorporated within the 2018/19 internal audit plan.
- 3.16 The Council's Counter Fraud Strategy and supporting policies, such as the Council's Anti-Money Laundering Policy, Whistle-Blowing Policy and Fraud Response Plan, have been reviewed and refreshed during the year in light of changes in legislation.
- 3.17 The Internal Audit Team has continued to promote a counter fraud culture through the dissemination of information and advice and through efforts to better co-ordinate the counter fraud message with other teams in the Council, notably with Trading Standards and the Registration Service.

- 3.18 Internal Audit have undertaken reactive counter fraud work in relation to a number of cases that have emerged over the year. These have ranged from the provision of advice to working alongside management to gather evidence for presentation to the police or as part of disciplinary procedures.
- 3.19 During 2017/18 internal audit have continued to be the key point of contact for the biennial National Fraud Initiative (NFI) whereby data from the Council is matched with data from other public sector organisations. Matches from a series of data sets are identified where there is potential for fraudulent activity with Key Reports and Recommended Matches being identified for priority consideration.
- 3.20 The latest exercise identified is nearing conclusion and identified 16,764 matches of which 6,465 were recommended matches. The Council has reviewed all these matches and others that represented a higher risk to the Council or based on a sample basis. In total over 8,300 matches have been reviewed which has resulted in recording of £7,366 of fraudulent activity. We have also identified that there are some areas where checking of matches could be enhanced and we will work with key contacts in departments to develop coverage.
- 3.21 The NFI exercise will be repeated in 2018/19 and we will work on the compilation of data sets with departments. In addition the Cabinet Office have developed interrogation techniques to enable data to be refreshed on a more regular basis. We have worked with BSC to develop the implementation of a Re-check Exercise for mortality data with the intention of identifying cases where expenditure continues to be incurred in respect of deceased persons.
- 3.22 The Council employs a range of counter fraud techniques including the use of technology to detect and prevent fraud. Some key examples are set out below:
- Internal Audit use data analytic software to work with high volume data populations as a basis for identifying informed targets for subsequent testing. Such techniques are bringing improved levels of assurance and insights to management about the effectiveness of internal control systems.
 - The Business Services Centre use pre-payment software to detect duplicate payments ahead of authorising payment runs. Software is also under development to provide for continuous, automated auditing to ensure transactions in the Council's core systems remain within acceptable parameters.
 - ICT are continually using technology to detect and deflect virus, malware and other malicious attacks against the Council's network.
 - Internal Audit is progressing a data washing exercise with Nottinghamshire Police to intelligently target suppliers who could be involved in serious and organised crime.

Cyber Security

- 3.23 Cyber Security continues to make the national news and figures reported by CFACT recognise an increased awareness of risk in this area. The cyber security agenda has

been considered by Internal Audit when developing the Fraud Risk Assessment and the Internal Audit work for 2018/19.

3.24 Risk areas under the cyber security agenda have been identified as:-

- * Specialist, sophisticated attacking or hacking
- * Data breach management
- * Business continuity
- * Management of general ICT controls.

3.25 In relation to the first risk area the Council's ICT Division employ a range of security measures to provide for digital and physical asset protection and, during the year, have successfully defended a variety of cyber related attacks. Internal Audit plan to consider the other risks under the cyber security agenda through a range of assurance assignments as part of the work it carries out in the coming year.

Serious and organised crime

3.26 Serious and Organised Crime has been identified as an emerging risk from the national perspective and is reflected in findings from CFaCT. Internal Audit have continued to monitor the delivery of recommendations within the serious and organised crime checklist completed in 2016/17. During 2017/18 Internal Audit undertook the full serious and organised crime audit recommended by the Home Office and the Ministry for Housing, Communities and Local Government. Draft findings and recommendations arising from this work were under review by management at the time of compiling this report.

3.27 A significant element of this work has been closer liaison with Nottinghamshire Police and especially forging links with its Serious and Organised Crime Unit. This has resulted in the sharing of information for a data-washing exercise to match Council records against known targets. We will develop this liaison further during 2018/19.

4. ACTION PLAN

4.1 Table 6, below provides a summary of progress against the actions included in the 2016/17 Fraud Report, followed by new actions for 2018/19 as a result of this latest edition of the report.

Table 6 – Action Plan

Action	Timescale	Responsibility	Progress & revised timescales
Update on 2017/18 actions			
1. One member of staff to complete the CIPFA Accredited Counter Fraud Specialist qualification.	March 2018	Head of Internal Audit	Achieved – one member of the internal audit team has successfully completed the qualification.
2. Develop the use of interactive, counter-fraud e-learning to promote engagement and learning among all staff.	March 2018	Head of Internal Audit and Head of Human Resources	Significant progress made – a draft version of an e-learning package is being tested prior to release. To be completed in June 2018
3. Complete the refresh of the Anti-Money Laundering Policy and Procedures for consideration by the Policy Committee.	September 2017	Head of Internal Audit	Achieved – these have been refreshed.
4. Commence a refresh of the Counter Fraud & Counter Corruption Policy & Strategy and the Fraud Response Plan.	September 2017	Head of Internal Audit	Achieved – documents have been refreshed.
5. Provide insight and responses to fraud alerts with the dissemination of information through 'Team Talk' updates	2 releases in 2017/18	Head of Internal Audit	Partly Achieved – fraud alerts have been disseminated and updates within 'Team Talk' are planned to coincide with the release of the e-learning package. Regular updates to be implemented in 2018/19. To include targeted insights for schools.
6. Complete the referral protocol with Nottinghamshire Police for local liaison arrangements	September 2017	Head of Internal Audit and Service Director Customers & Human Resources	Achieved – liaison has been established with the Serious and Organised Crime Unit and effective use of this channel will continue to be developed throughout 2018/19.
New actions for 2018/19			
7. Respond to any issues identified by the data-washing exercise with Nottinghamshire Police.	March 2019	Head of Internal Audit	

8. Pro-active work with the Group Manager – Procurement to assess vulnerability to procurement cartels.	November 2018	Head of Internal Audit	
9. Provide a more detailed assessment for the Governance & Ethics Committee on the Council's defences against cyber fraud.	September 2018	Head of Internal Audit and relevant ICT Service Managers	
10.Pro-active work with the Travel & Transport Team to respond to the threat of Blue Badge and Concessionary Travel fraud.	January 2019	Head of Internal Audit	
11.Work with Legal Services to develop a proposed protocol for the pursuit of private and civil prosecutions.	November 2018	Head of Internal Audit with the assistance of the Head of Legal Services	
12.Review the success of the Re-Check pilot and its potential for expansion into other areas of service.	September 2018	Head of Internal Audit	

13 June 2018**Agenda Item: 17****REPORT OF THE MONITORING OFFICER****ANNUAL WHISTLEBLOWING REPORT****Purpose of the Report**

1. To update Committee on whistleblowing concerns that have been reported during 2017/18.

Information

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 employees and others 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. Since the last report an update in the law means that reporting in relation to some whistleblowing disclosures is now mandatory. The Policy will be updated accordingly to reflect this.
5. 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.
6. During 2017, six 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; especially in the case of those investigations which are ongoing. The complaints can be summarised as follows: -

No.	Dept.	Nature of complaint	Status of complaint	Action taken
1.	Adult Social Care and Public Health	Concerns regarding internal staffing procedures of service provider commissioned by the Council	Closed	Investigation undertaken – complaints not substantiated but advice provided and regular visits to be undertaken by the Council in 2017/18
2.	Adult Social Care and Public Health	Concerns regarding clinical practice of service provider commissioned by the Council	Closed	Concerns related to same service provider as no. 1 above. Investigation and outcome as above.
3.	Adult Social Care and Public Health	Concerns regarding conduct of a team manager	Closed	Personal staffing issues referred to the Council's grievance procedure
4.	Adult Social Care and Public Health	Concerns regarding procedures of service provider commissioned by the Council, and potential financial abuse by service users	Closed	Investigation undertaken – complaints not substantiated but one service user investigation initiated. In future Internal Audit to seek regular updates on potentially fraudulent activity
5.	Childrens Families and Cultural Services	Bullying	Closed	Partial investigation undertaken; insufficient information provided to undertake full investigation. Complaint not upheld, but some refresher training on supervisions provided for managers
6.	Place	Bullying, health and safety concerns, concerns regarding recruitment process, allegations of theft	Closed	Investigation undertaken – complaints not substantiated, personal staffing issues referred to the Council's grievance procedure

7. It is important to ensure that the effectiveness of the Whistleblowing Policy is kept under review and that it is well publicised. The County Council's Whistleblowing Policy is published on the County Council's website. It is suggested that the Committee support publication of a Whistleblowing news article in the Council's staff news on the intranet and Team Talk (departmental news bulletin).

Other Options Considered

8. Publication of the details of certain concerns are now a statutory requirement. In relation to concerns relating to other areas there is no requirement to publish these. However, in the interests of transparency and openness it considered that all whistleblowing disclosures should be reported to Committee.

Reason/s for Recommendation/s

9. 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

10. 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/S

- 1) That members consider whether there are any actions they require in relation to the issues contained within the report .
- 2) That the Committee supports the publication of a Whistleblowing news article in the Council's Team Talk (departmental news bulletin).

Jayne Francis-Ward
Monitoring Officer

For any enquiries about this report please contact:

Sue Bearman, Legal Services

Constitutional Comments (KSK 04/06/2018)

11. The proposals in this report are within the remit of the Governance and Ethics Committee."

Financial Comments (RWK 04/06/2018)

12. 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.

- The Public Interest Disclosure (Prescribed Persons) Order 2014
- The Prescribed Persons (Reports on Disclosures of Information) Regulations 2017

Electoral Division(s) and Member(s) Affected

- All

13 June 2018**Agenda Item: 18****REPORT OF THE CORPORATE DIRECTOR OF RESOURCES****WORK PROGRAMME****Purpose of the Report**

1. To review the Committee's work programme for 2018.

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.

Jayne Francis-Ward
Corporate Director - Resources

For any enquiries about this report please contact:

Keith Ford, Team Manager, Democratic Services Tel. 0115 9772590

E-mail: keith.ford@nottsc.gov.uk

Constitutional Comments (SLB)

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 27 MAY 2018)

<u>Report Title</u>	<u>Brief summary of agenda item</u>	<u>Lead Officer</u>	<u>Report Author</u>
25 July 2018			
Vacant Property Management – Update on Internal Audit Recommendations	To provide an update to Committee on the implementation of the recommendations arising from this internal audit.	Derek Higton	David Hughes
General Data Protection Regulations – training session for Members	For Members of the Committee to undertake the 2 nd part of the e-learning training session.	Caroline Agnew	Paul Cannon / Sarah Tinsley
Statutory Officer's Annual Report 2017-18	To consider the Statutory Officer's Annual Report.	Anthony May	Nigel Stevenson
Assurance Mapping	To provide an update on the new assurance mapping process.	Rob Disney	Rob Disney
Statement of Accounts 2017-18	To seek approval for this year's Statement of Accounts.	Nigel Stevenson	Glen Bicknell
Update on Local Government Ombudsman Decisions	To consider any recent findings of the Local Government Ombudsman in complaints made against the County Council (item to be confirmed).	Anthony May	Jo Kirkby
Information Governance Improvement Programme	To report progress of the Information Governance Improvement Programme	Anthony May	Caroline Agnew
26 September 2018			
Risk Management Update	Periodic update on Risk Management issues.	Derek Higton	Robert Fisher
Ombudsman Annual Review Letter	To share the Annual Review Letter from the Local Government and Social Care Ombudsman.		Jo Kirkby
Member Development and Training	Update report on Member Development and Training undertaken and planned.	Anthony May	Keith Ford
Petitions Scheme	To review the Council's Petitions Scheme	Anthony May	Sara Allmond
6 November 2018			
External Placements of Looked After Children and Young People	Outcomes of audit (to include specific update on off-contract spend as agreed by the Committee on 14 March 2018)	Rob Disney	Rob Disney / Laurence Jones / Jon Hawketts

