

## Governance and Ethics Committee

Wednesday, 14 September 2022 at 10:30

County Hall, West Bridgford, Nottingham, NG2 7QP

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### AGENDA

- |    |  |         |
|----|--|---------|
| 1  | Minutes of last meeting held on 21 July 2022   | 3 - 6   |
| 2  | Apologies for Absence  |         |
| 3  | Declarations of Interests by Members and Officers:- (see note below)<br>(a) Disclosable Pecuniary Interests<br>(b) Private Interests (pecuniary and non-pecuniary) |         |
| 4  | Local Government & Social Care Ombudsman Decisions (June 2022 to August 2022)  | 7 - 36  |
| 5  | Local Government and Social Care Ombudsman Annual Review letter 2021   | 37 - 44 |
| 6  | Financial Regulations Waivers 2021-22  | 45 - 60 |
| 7  | Update on Use of Resources by Councillors  | 61 - 74 |
| 8  | Attendance at Key National Conferences   | 75 - 78 |
| 9  | Rushcliffe Community Governance Review - Upper Saxondale   | 79 - 86 |
| 10 | Work Programme   | 87 - 92 |

## **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 Jo Toomey (Tel. 0115 977 4506) 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 Thursday 21 July 2022 (commencing at 2.00 pm)

membership

### **COUNCILLORS**

Philip Owen (Chairman)  
Johno Lee (Vice-Chairman)

Richard Butler  
Bethan Eddy  
Errol Henry JP  
Andy Meakin - Apologies  
Michael Payne - Apologies

Sue Saddington  
Helen-Ann Smith - Apologies  
Roger Upton  
Daniel Williamson

### **SUBSTITUTE MEMBERS**

Councillor Anne Callaghan BEM for Councillor Michael Payne  
Councillor Francis Purdue-Horan for Councillor Helen-Ann Smith

### **OFFICERS IN ATTENDANCE**

Glen Bicknell Chief Executive's Department  
Heather Dickinson  
Richard Elston  
Simon Lacey  
Keith Palframan  
Nigel Stevenson  
Jo Toomey

Sue Batty Adult Social Care and Health

Marion Clay Children and Young People  
Jill Norman

### **1. MINUTES**

The Minutes of the last meeting held on 9 June 2022, having been previously circulated, were confirmed and signed by the Chairman.

### **2. APOLOGIES FOR ABSENCE**

Apologies for absence were received from:

- Councillor Meakin (medical) [Page 3 of 92](#)
- Councillor Payne (other reasons)

- Councillor Smith (other reasons)

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

None.

### **4. UPDATE ON LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN DECISIONS (MAY 2022 TO JUNE 2022)**

The report set out information about three complaints against the Council where fault was found by the Local Government and Social Care Ombudsman. Members were given the opportunity to ask questions of officers and seek assurance about actions put in place from the relevant departments regarding those complaints.

#### **RESOLVED: 2022/031**

That the findings of the Local Government and Social Care Ombudsman be noted and that lessons learned and actions taken in response to the findings be welcomed.

### **5. ANNUAL FRAUD REPORT**

During discussions, Members:

- Were given examples of processes to prevent offences of fraud and reporting arrangements for any attempted fraud
- Asked about measures to prevent pension fraud both in respect of recipients who had emigrated as well as those who lived in the country

#### **RESOLVED: 2022/032**

That the contents of the Annual Fraud Report 2021/22 be noted.

### **6. INTERNAL AUDIT TERM 3 PROGRESS REPORT AND TERM 2 PLAN 2022-23**

#### **RESOLVED: 2022/033**

- 1) That the outcome of the Internal Audit work carried out in Term 3 be noted.
- 2) That the planned coverage of Internal Audit's work in Term 2 of 2022/23 be progressed to help deliver assurance to the Committee in priority areas.

### **7. INFRASTRUCTURE ASSETS**

#### **RESOLVED: 2022/034**

- 1) That the issues surrounding the accounting treatment of infrastructure assets be noted.

- 2) That authority to approve amendments to the accounting policies for 2021/22 regarding infrastructure assets in line with the updated Code of Practice on Local Authority Accounting in the United Kingdom be delegated to the Section 151 Officer.

**8. WORK PROGRAMME**

**RESOLVED: 2022/035**

That the work programme be agreed.

The meeting closed at 2.31 pm.

CHAIRMAN





**14 August 2022**

**Agenda Item: 4**

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

### **LOCAL GOVERNMENT & SOCIAL CARE OMBUDSMAN DECISIONS JUNE 2022 TO AUGUST 2022**

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

1. To inform the Committee about Local Government & Social Care Ombudsman's (LGSCO) decisions relating to the Council since the last report to Committee

#### **Information**

2. Members have asked to see the outcome of Ombudsman investigations regularly and promptly after the decision notice has been received. This report therefore gives details of all the decisions received since the last report to this Committee which was held on 21<sup>st</sup> July 2022.
3. The LGSCO provides a free, independent and impartial service to members of the public. It looks at complaints about Councils and other organisations. It only looks at complaints when they have first been considered by the Council and the complainant remains dissatisfied. The LGSCO cannot question a Council's decision or action solely on the basis that someone does not agree with it. However, if the Ombudsman finds that something has gone wrong, such as poor service, a service failure, delay or bad advice and that a person has suffered as a result, the LGSCO aims to get the Council to put it right by recommending a suitable remedy.
4. The LGSCO publishes its decisions on its website ([www.lgo.org.uk/](http://www.lgo.org.uk/)). The decisions are anonymous, but the website can be searched by Council name or subject area.
5. A total of seven decisions relating to the actions of this Council have been made by the Ombudsman in this period. Appendix A to this report summarises the decisions made in each case for ease of reference and Appendix B provides the full details of each decision.
6. Following initial enquiries into two cases, the LGSCO decided not to continue with any further investigation for the reasons given in Appendix A
7. Full investigations were undertaken into five complaints. Appendix A provides a summary of the outcomes of the investigations. Where fault was found, the table shows the reasons for the failures and the recommendations made. If a financial remedy was made the total amount paid or reimbursed is listed separately.

8. There were four complaints where fault was found. The first one is a Childrens complaint about how the Council communicated with Mr X at the start and the end of the protection enquiries. This is fault. The Council has agreed to apologise to Mr X and make a financial remedy for the distress. The Ombudsman noted that service improvements have already been made in how meetings are recorded and information provided to service users
9. The second one is in Adults Social Care. The complaint is about the delay in Mr Ys financial assessment and failing to provide information to aid his decision about his care. Due to this fault the Council has agreed to remove a charge from September 2020 to November 2020, apologise to Mr Y and his son and made a small financial remedy to recognise the time and trouble caused. A review of procedures was already underway prior to this decision. A form has been devised for staff setting out our expectations of recording certain elements of work, and Adult Care Financial Services are part of this. It has been shared with all Ageing Well team members.
10. The third complaint is Adults. There was no fault in how the Council decided the amount they could afford to pay for care however the Council had no specific formal communication plan in place with the care home as to when or what situations the care home was to contact Mr X regarding his parents, Mr and Mrs P. Mr P had a fall and despite Mr X not having power of attorney he was their next of kin and should have been advised about the fall. The Ombudsman decided there was no injustice and Mr X's concerns were addressed in the complaint response. The Council has however issued a clear communication to the care home around guidance for when to contact family members. In addition to the recommended action to ensure that this care home provider is clear on having good communication plans in place with relatives, the Council routinely shares information and good practice ideas through a regular provider bulletin with the 286 independent sector residential care homes that we work with. A link to the LGO report and a reminder of what good communication looks like will be sent to all providers through this. Additionally, the quality audits that the Department's Quality and Market Management Team do include:
  11.
    - a review of general communications with relatives. This includes the expectation that any incident/accident should always be communicated in a timely manner and that it is good practice for care homes to include relatives in the reviews of care plans, unless there are specific reasons why this is not appropriate.
    - use of relatives' meetings/news letters
12. The fourth complaint is Childrens. The complaint is about the Council not providing all the special educational provision as set out in Dr X's son's EHC plan. The Council was at fault for failing to provide all the provisions. As a result, the Council has apologised for the injustice caused, made a number of payments to recognise distress, loss of SEN provision and recognise the ten months where no hydrotherapy was provided but should have been. The EHCP has been under review and learnings are being taken from cases like this. There is a much closer link between the EHC co-ordinators and users, and communications are more robust where possible issues could occur.

## **Statutory and Policy Implications**

13. 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**

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

## **Financial Implications**

15. The details of the financial payments are set out in Appendix A. £1539.46 will come from Adults Social Care budget and £4700 from Childrens Social Care budget

## **Implications for Service Users**

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

## **RECOMMENDATION/S**

17. That members note the findings of the Local Government and Social Care Ombudsman and welcome the lessons learned and actions taken in response to the findings

## **Marjorie Toward**

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

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

Richard Elston Team Manager – Complaints and Information Team

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

18. 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**

19. The decisions detailed in the report and the appendix have resulted in financial remedies totalling £6,239.46. Of these costs, £1,539.46 (a £100 payment and the cancellation of charges totalling £1,439.46) will be met from within the budget for adult social care and payments totalling £4,700 will be met from the Children's Social Care budget

## **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

## APPENDIX A

### DECISIONS NOT TO INVESTIGATE FURTHER

DATE	LGO REF	PROCEDURE	COMPLAINT SUMMARY	REASON FOR DECISION
27.07.22	22 004 540	Corporate	Complaint that the Council's Occupational Therapist failed to review adaptation works before signing them off	Not enough evidence to justify an investigation
03.08.22	22 004 406	Corporate	Complaint that social workers were at fault during the child protection plan	LGSCO cannot investigate because they could not achieve any worthwhile outcome for them.

### THERE WERE NO FULL INVESTIGATIONS WHERE NO FAULT FOUND

DATE	LGO REF	PROCEDURE	COMPLAINT SUMMARY	DECISION
27.6.22	21 002 477	Adults	Complaint about the care provided for Mr B's father not being sufficient	No fault found with the Council, fault found with a Trust for not doing enough and not communicating with Council

### FULL INVESTIGATIONS WHERE FAULT FOUND

DATE	LGO REF ANNEX PAGE NO	PROCEDURE	COMPLAINT SUMMARY	DECISION	RECOMMENDATION	FINANCIAL REMEDY	STATUS OF AGREED ACTION
27.07.22	21 014 353	Childrens	Complaint about how the Council carried out child protection enquiries and how it communicated with the parent	The Council was at fault for failing to provide adequate information at the start and failing to communicate when it had ended	The Council agreed to the Ombudsman's recommendation to apologise and pay financial remedy to recognise the distress.	£200	Apology letter sent and payment has been instructed
07.07.22	21 014 425	Adults	Complaint about the delay in assessing his father's financial contribution for home care when discharged from hospital and failing to provide information to allow Mr Y to make an informed decision.	Fault found due to the Council's delay in carrying out Mr Y's financial assessment. Fault found with how this was communicated with Mr Y and his son, Mr X	Council to send letter of apology and pay financial remedy in recognition of the trouble caused and remove 2 months of charges Review its procedure to ensure phone calls	£100 for time and trouble Remove £1439.46 charges due to the delay	Letter of apology has bene sent along with the payment for the time and trouble, the charges have been removed too. The

DATE	LGO REF ANNEX PAGE NO	PROCEDURE	COMPLAINT SUMMARY	DECISION	RECOMMENDATION	FINANCIAL REMEDY	STATUS OF AGREED ACTION
					about financial assessments and budgets are confirmed in writing		procedure is currently being reviewed and will update LGSCO by due date of September
05.07.22	21 014 715	Adults	Complaint that the care provided to Mr X's parents didn't meet their needs.	No fault found with how assessments were made, care home found at fault but Council should have ensured there were clear guidelines when to contact next of kin especially if there is a fall.	Send clear communication to care home around when to contact relatives or next of kin	n/a	Action completed end of July 2022
03.08.22	21 014 803	Childrens	Complaint by Dr X that the Council failed to provide all the special provisions as set out in his son's EHCP	Fault found with failing to provide the provisions and failing to check providers were delivering the provisions and delaying finding alternative options	The Council agreed to apologise for the injustice and pay the recommended financial remedies for the months where provisions were lacking.	3 payments totalling £4500	Apology letter has been sent and as soon as we receive payment details for Dr X payments are ready to be sent.

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

Summary: Mr X complained about how the Council carried out child protection enquiries and in particular, about how it communicated with him and his partner. The Council was at fault for failing to provide adequate information at the start of its enquiries and for failing to tell Mr X when it ended its involvement. This caused Mr X avoidable distress for which the Council will apologise and pay him £200. It has already made suitable service improvements.

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## **The complaint**

1. Mr X complained about how the Council carried out child protection enquiries into a bruise on his daughter's leg. In particular Mr X is unhappy about how the Council communicated with him and his partner during the enquiries.
2. Mr X said this caused his family significant distress and affected their wellbeing.

## **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. The Ombudsman investigates complaints about 'maladministration' and 'service failure', which we call 'fault'. We must also consider whether any fault has had an adverse impact on the person making the complaint, which we call 'injustice'. We provide a free service but must use public money carefully. We do not start or may decide not to continue with an investigation if we decide:
  - we could not add to any previous investigation by the organisation, or
  - further investigation would not lead to a different outcome, or
  - we cannot achieve the outcome someone wants, or
  - there is another body better placed to consider this complaint.(*Local Government Act 1974, section 24A(6)*)
5. If we are satisfied with an organisation'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*)

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6. Under the information sharing agreement between the Local Government and Social Care Ombudsman and the Office for Standards in Education, Children's Services and Skills (Ofsted), we will share this decision with Ofsted.

## **How I considered this complaint**

7. I have considered:
  - all the information Mr X provided and discussed the complaint with him;
  - the Council's comments about the complaint and the supporting documents it provided; and
  - the Council's policies, relevant law and guidance and the Ombudsman's guidance on remedies.
8. Mr X and the Council had the opportunity to comment on my draft decision. I considered their comments before making a final decision.

## **What I found**

### **Relevant law and guidance**

#### **Statutory Guidance**

9. 'Working Together to Safeguard Children' July 2018 ('Working Together 2018'). This is statutory guidance for local authorities and other agencies on how they should work together to assess children's needs and make arrangements for promoting and safeguarding their welfare. It sets out the principles, processes and timescales for carrying out child protection investigations.
10. Anyone who has concerns about a child's welfare should make a referral to children's social care and should do so immediately if there is a concern that the child is suffering significant harm or is likely to do so.

#### **Strategy discussion**

11. Whenever there is reasonable cause to suspect that a child is suffering or is likely to suffer significant harm, there should be a strategy discussion involving local authority children's social care (including the residential or fostering service, if the child is looked-after), the police, health and other bodies such as the referring agency. This might take the form of a multi-agency meeting or phone calls and more than one discussion may be necessary. A strategy discussion can take place following a referral or at any other time, including during the assessment process and when new information is received on an already open case. A strategy discussion should inform whether the local authority should initiate a Section 47 enquiry in accordance with the 1989 Children Act (s47 enquiries).
12. The timescale for the assessment to reach a decision on next steps should be based upon the needs of the individual child and no longer than 45 working days from the point of referral into local authority children's social care.

#### **Section 47 enquiry**

13. The Council is responsible for ensuring s47 enquiries are carried out by undertaking or continuing an assessment. Local authority social workers have a statutory duty to lead assessments under section 47 of the 1989 Act. In some cases, children's services will carry out single agency enquiries. In cases where a criminal prosecution is being considered, there will be joint enquiries with the police. If the information gathered under section 47 substantiates concerns and

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the child may remain at risk of significant harm, the social worker will arrange a child protection conference within 15 working days of the strategy meeting.

### **What happened**

14. What follows is a brief chronology, in which I have sent out the key events. It is not necessary for me to detail everything that happened here.
15. On 1 July 2021, Mr X's partner noticed a bruise on their daughter, Z's leg. The next day, a health worker saw Z and made a safeguarding referral to the Council.
16. The Council held a safeguarding strategy meeting with the Police. Following this meeting two members of Council staff visited Mr and Mrs X that day. It included Social Worker A, whom Mr X primarily complains about. Later that day a second strategy meeting took place which included discussions with a doctor. The outcome of these discussions was that a child protection medical was needed due to Z's age and the unexplained bruise on her leg. No other concerns were raised.
17. It was agreed Z needed to undergo medical tests the next day. The Council carried out a single section 47 enquiry for the medical tests. It was suggested that Mr and Mrs X would need to find someone to supervise them in Z's presence until Z could have the tests. Social Worker A queried this as there were no concerns about Z's safety around Mr and Mrs X. The Council later decided supervision was not necessary.
18. Mr and Mrs X took Z to the local hospital for tests the next day. A doctor decided that Z needed blood tests. The blood test results returned negative. The hospital decided Z would need more tests.
19. A Council social worker called Mr and Mrs X and told them the results were negative and they would need to find someone to supervise them for the next few days until Z could have further tests. The social worker explained that if Mr and Mrs X could not find someone to supervise them and returned home with Z, the Council could call the Police. Mr and Mrs X said they felt forced to stay in the hospital overnight to wait for the tests because they could not arrange supervision.
20. The tests returned negative, and Mr and Mrs X returned home with Z on 6 July 2021.
21. The next day, Social Worker A visited Mr and Mrs X to explain the next steps. Mr X said he would be recording the visit. The social worker refused, and suggested Mr X could make notes.
22. Social Worker A visited again on 9 July 2021 to carry out an assessment. Mr X said the social worker gave options regarding the second set of tests which suggested they could decide not to have them. Mrs X later tried to cancel the tests, but the hospital said that was not possible.
23. On 21 July 2021 Mrs X informed Social Worker A that she had not taken Z to the second stage of the child protection medical. Mrs X said she did not want her daughter sedated again or without food for several hours. The social worker spoke with the doctor and explained Mrs X's concerns. It was agreed the hospital would attempt to complete the tests without the withdrawal of food and sedating Z. The social worker explained this to Mrs X. Mr X says he questioned the social worker about the information she gave regarding the tests and was told the hospital felt the tests were necessary. Z had the tests that day.
24. Mr X complained to the Council in August 2021. He said:

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- they had not received anything to explain the child protection process and were prevented from speaking to a manager;
  - staff gave conflicting information, including details about the medical tests;
  - it was unfair to require Mr and Mrs X to find someone to supervise them around Z when Social Worker A had been clear they were safe around Z;
  - the Council threatened them with Police action to force them to stay in hospital for four days. He said this was not in Z's best interests;
  - the assessment report Social Worker A produced was inaccurate; and
  - the Council did not tell him or Mrs X the outcome of the case.
25. Mr X also complained about the actions of the hospital including that Z was without food for an extended period, staff were incompetent, and Z was over-sedated.
26. The Council responded to say:
- it was sorry a manager had not spoken to Mr and Mrs X when they requested a conversation;
  - there was no evidence that suggested Social Worker A had acted inappropriately towards Mr X or in a discriminatory manner to Mrs X;
  - parents are able to record meetings such as the home visit. The Council apologised and said it had raised the issues with Social Worker A;
  - it had a leaflet to give to parents which explained the child protection process. Social Worker A was not aware of the leaflet and so had not given it to Mr and Mrs X. The Council said the mistake was not intentional. It also accepted Social Worker A had not told Mr and Mrs X the outcome of the safeguarding enquiries as they should have done. The Council apologised and said it had raised the issues with Social Worker A;
  - it had followed the 'Bruising in Pre-Mobile Babies' protocol and followed advice from health professionals;
  - it explained to Mr X that the police may be contacted if [they] were to leave hospital with Z without appropriate supervision in place at home. This was to provide Mr and Mrs X with full transparency about the process and procedures in place; and
  - it could not change the content of the assessment but would ensure Mr and Mrs X's views on it were recorded'
27. In December 2021 the Council held a meeting with Mr and Mrs X to discuss the complaint. The Council then wrote to Mr and Mrs X and acknowledged it had failed to inform Mr and Mrs X of the outcome of its section 47 enquiries and when it ended its involvement. The Council apologised to Mr and Mrs X.
28. Mr X remained unhappy and complained to the Ombudsman. Mr X told me his main concern was that Social Worker A refused to be recorded. Mr X felt that if he had been able to make recordings, he would have evidence the social worker was unable to do their job. He said his main desired outcome was to have the social worker removed from her role and prevented from doing social work in future.

### **My assessment**

29. I consider the Council's complaint investigation to be comprehensive and thorough. I have not seen [Page 16 of 12](#) that contradicts its findings or indicates further

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investigation is necessary. I have therefore focussed my investigation on Mr X's complaint to the Ombudsman about the actions of the Council involving Social Worker A.

30. I have reviewed the recorded events in this case. The documentary evidence shows the Council considered the referral, potential risk to Z and consulted with Health and the Police. This is well documented in the notes of the strategy discussion, outcome of the section 47 enquiries, and case notes. It was due to Z's age and the unexplained bruise on her leg that a child protection medical was required. The Council's Officers are entitled to use their professional judgment and I cannot question the merits of their decision.

### **The Ombudsman's jurisdiction**

31. Mr X complained about the decision to carry out a child protection medical and the tests carried out. Health care and treatment is a matter for health care professionals exercising their professional expertise and judgment. Neither I nor the Council have the authority to judge what tests are suitable for a patient. Further, I have no jurisdiction to investigate the actions of the National Health Service (NHS). The Council is entitled and encouraged to act on the advice of healthcare professionals.
32. The Ombudsman cannot investigate whether social workers are meeting their professional standards of conduct. Complaints of this nature should be referred to the social workers' professional body, Social Work England.

### **Discrimination during Section 47 enquiries**

33. Mr X said his wife was racially discriminated against during the process. The Council has sent me copies of its records on the case, including case notes and records of strategy discussions. There is no evidence to support Mr X's claims of racial discrimination. The documents show Mrs X's views were recorded and taken into account at each stage of the child protection process. I do not find the Council at fault.

### **Recording meetings**

34. Keeping full records of actions on a case is a vital requirement of the enquiry process. It ensures the integrity of information so those involved feel confident their views and experiences have been clearly recorded. I find the Council's records of the home visits are detailed and robust however Mr X was denied the opportunity to record the meetings. This was fault which the Council has accepted, and it caused Mr and Mrs X uncertainty and frustration.

### **Communication**

35. The Council accepted Social Worker A had not given Mr X a leaflet at the beginning of the child protection process or told him when the Council closed the case. The Council said it had addressed that with Social Worker A and assured Mr X the issue was a mistake and not intentional. Mr X disagrees. I have no evidence to suggest the social worker intentionally withheld information from Mr and Mrs X. However, I find the failure to keep Mr and Mrs X well informed throughout the process caused them uncertainty and distress during what was already a difficult time.

### **The assessment**

36. Mr X said the assessment report Social Worker A produced was inaccurate. The Council has addressed this by ensuring a clear record is kept of his views. I do not intend to investigate this part of the complaint further as the Council has

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already taken appropriate action to address Mr X's concerns and remedy any injustice.

### **Medical tests**

Mr X says Social Worker A gave conflicting information about the second medical tests which suggested they could decide not to have them. I have reviewed the Council's records and the evidence does not support Mr X's view. To the contrary, the evidence shows the social worker listened to Mrs X's concerns, contacted the hospital and asked whether it was possible to perform the tests without the withdrawal of food and sedating Z. I find no fault by the Council.

### **Agreed action**

37. Where we find an injustice, we try in our remedy proposals to place people in the place they would have been but for the faults. Where that is not possible, we use our Guidance on Remedies which recommends a symbolic payment on a scale of between £100 and £300 in recognition of the injustice caused.
38. To remedy the fault and injustice identified in paragraphs 33 and 34 above, within one month of the date of my final decision, the Council should pay Mr X £200 in recognition of the distress and uncertainty caused by the faults identified.

### **Final decision**

39. I have identified some fault by the Council. I have not identified any other fault and there are some aspects of Mr X's complaint which I cannot investigate. I have recommended action to remedy that injustice. I have completed my investigation on this basis.

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

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

Summary: We found fault with the Council for a delay in Mr Y's financial assessment and failing to provide information to allow him to make an informed decision about his home care. The Council agreed actions to remedy the injustice to Mr Y.

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## **The complaint**

1. Mr X complained on behalf of his father Mr Y. Mr X complained about the Council's delay assessing his father's financial contribution for home care when he was discharged from hospital. He complained:
  - He was told the home care was free of charge.
  - The care plan was a condition of Mr Y being allowed to return home from rehabilitation.
  - The Council set up four visits a day and Mr Y wasn't given the option of less calls.
  - The care he received was substandard, incomplete and inconsistent, with greatly reduced visit times and many tasks not completed
  - They did not know the cost of the care so could not possibly have agreed to it.
  - The Council backdated the contributions for care that he had not been told he would have to pay for.
2. Mr X said this has caused a financial loss and they were denied the ability to make a properly informed choice about the care Mr Y was charged for. Mr X said Mr Y should not pay the backdated charge for home care.

## **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. This complaint involves events that occurred during the COVID-19 pandemic. The Government introduced a range of new and frequently updated rules and guidance during this time. We can consider whether a council followed the

relevant legislation, guidance and our published “Good Administrative Practice during the response to COVID-19”.

5. If we are satisfied with an organisation’s actions or proposed actions, we can complete our investigation and issue a decision statement. (*Local Government Act 1974, section 30(1B) and 34H(i), as amended*)

## **How I considered this complaint**

6. I considered the information Mr X provided with his complaint. I made enquiries with the Council and considered its response, along with relevant law and guidance.
7. Mr X, Mr Y and the Council had an opportunity to comment on my draft decision. I considered any comments received before making a final decision.

## **What I found**

### **Law and guidance**

8. The Care Act 2014 is the overarching legislation relating to council’s obligations in respect of people who have an assessed need for non-residential care services.
9. Relevant regulations are the Care and Support (Charging and Assessment of Resources) Regulations 2014.
10. The Care and Support Statutory Guidance set out in detail the application of the Care Act legislation in practice. Section 8 deals with charging and financial assessment, and annex B, C and E deal with the treatment of capital, treatment of income and deprivation of assets.
11. Councils have discretion to choose whether or not to charge for non-residential services. Where a council decides to charge it must do so in line with the Care and Support (Charging and Assessment of Resources) Regulations and have regard to the Care and Support Statutory Guidance (CSSG).
12. Where the council has decided to charge, it must carry out a financial assessment of what a person can afford to pay. It has no power to assess couples according to their joint resources: each person must be treated individually. The council must not charge more than the cost it incurs in meeting the assessed needs of the individual, and it must regularly reassess a person’s ability to meet the cost of their care to take account of any changes in their resources.
13. Any capital threshold for the purpose of means-testing for non-residential care should not be lower than that for the residential care means test, and the value of the service-user’s home cannot be included in the means test for this type of care. Councils may exercise discretion to disregard some sources of income, set maximum charges or charge a percentage of the person’s disposable income. How such discretion is to be applied should be set out in the Council’s policy.
14. From 19 March to 31 August 2020 people discharged from hospital with a care package had up to six weeks of rehabilitation care paid for from an emergency COVID-19 fund. From 1 September 2020 Council’s returned to Care Act assessments for long term care.
15. The guidance set out how Council’s should have carried out this transition process. It said good local communication with individuals and families was key to ensuring they had clarity about possible future funding arrangements for long-term care.

## What happened

16. What follows is a brief chronology of key events. It does not contain all the information I reviewed during my investigation.
17. Mr Y was admitted to hospital in May 2020 after he fell at home. He was not able to be discharged home and spent some time in a rehabilitation facility. The cost was covered by emergency COVID funding in place at the time.
18. He was assessed in the rehabilitation unit and health staff decided he could be discharged home if he had home care visits four times a day. He was discharged home in July 2020 and the cost of the care visits was still covered by COVID emergency funding. Before Mr Y was discharged home a social worker visited him when Mr X was also present. They told them the home care cost would be covered by the COVID funding until they were told of the date they would need to make a contribution. The social worker also spoke to Mr Y about his savings and told them they would need to complete a financial assessment to find out how much contribution Mr Y would have to pay for his home care.
19. In August 2020 the social worker spoke to Mr X. He said someone would be in contact about the COVID funding. Mr X said he had posted the completed financial assessment form back.
20. In September 2020 the case was allocated to a social worker for a care and financial assessment because the COVID funding was due to end. A social worker called Mr Y and told him the COVID funding had ended and he would be liable for an assessed contribution.
21. In October 2020 Mr X complained to the Council. He said they were told the cost of the care would be covered by COVID funding. He did not understand why this ended despite parts of the country still being in lockdown. He also complained:
  - The financial assessment of Mr Y's savings was incorrect.
  - They were not given a choice of care companies or visit times.
  - Mr Y was not receiving the amount of care he was being charged for.
  - They were not given correct information about the assessed contribution.
  - They should not be charged the backdated amount for the care visits.
22. A social worker visited Mr Y in December 2020. Mr X's wife was also present. The social worker assessed Mr Y and worked out an indicative personal budget.
23. In January 2021 the Council wrote to Mr Y about his financial assessment and contribution. It told him he owed the backdated amount from when the COVID funding ended in September 2020.
24. In February 2021 the Council wrote to Mr X with its final response to his complaints. It said:
  - Mr Y would have received leaflets about the COVID funding before he was discharged from hospital.
  - The Council explained the COVID funding ended during a phone call with Mr Y on 18 September 2020.
  - It was difficult to find home care packages during COVID. Mr X was involved in discussions about which care provider would provide the support package.
  - An audit of the call records did not show any discrepancies between the call records and electronic monitoring of the length of care visits.

25. Mr X remained unhappy with the Council's response and complained to the Ombudsman.

### **My findings**

26. I found fault with the Council. It delayed carrying out Mr Y's financial assessment. The COVID emergency funding ended on 13 September 2020. Mr X sent back the financial assessment form in August 2020 but the Council did not complete the assessment until October 2020.
27. When the Council decided Mr Y's personal contribution to the cost of his care it backdated it to the 14 September 2020. This created an outstanding balance from the 14 September to the date of the financial assessment. During this time Mr Y had not been paying any contributions.
28. I also found fault with the Council for the way it communicated with Mr X and Mr Y about the financial assessment and contributions to Mr Y's care.
29. A social worker spoke to Mr Y on the phone on 18 September 2020. They told him the COVID funding had ended. Mr X was not present and there was no evidence the information was followed up in writing. Whilst Mr Y may have been able to make decisions about his care the Council had also recorded concerns about his memory.
30. The Council failed to carry out a Care Act assessment prior to the end of the COVID funding. It reassessed Mr Y's care need in December 2020. Following this assessment Mr Y decided to reduce the number of care visits from four to two per day.
31. On balance I think if Mr X and Mr Y had been given clearer information in a timelier manner, they would have reduced the number of visits earlier to reduce the cost to Mr Y.
32. I was concerned about the lack information the Council gave Mr X and Mr Y to enable them to make an informed choice about his care and the financial impact of the decisions. The Council agreed service improvement actions to address this.
33. In response to our investigation the Council acknowledged there was a delay assessing Mr Y's financial contributions and communicating the outcome to him. It offered to cancel the outstanding charge for home care for the period 14 September to 15 November 2020. This was a total of £1439.46.
34. We welcome the Council's financial remedy to acknowledge the injustice it caused Mr Y. The Council also agreed a payment to Mr X in recognition of the time and trouble he experienced because the complaint could have been resolved by the Council at an earlier stage.
35. I did not make a finding about Mr X's complaint that Mr Y did not receive the care he paid for. Mr X complained about the number, duration and time of the care visits the care company made to Mr Y. The Council investigated the complaints by reviewing the care logs and electronic call data. It did not find evidence to support Mr X's complaint and did not uphold this part of the complaint.
36. I did not investigate this further because it would be unlikely that it would lead to a different outcome. The Council agreed to remove the charge for some of the period. Therefore, I would be unlikely to offer a further remedy and it was not proportionate to investigate this part any further.

## **Agreed action**

37. Within one month of my final decision the Council agrees to:
  - Apologise to Mr X and Mr Y for the faults identified in this decision.
  - Pay Mr X £100 in recognition of the time and trouble it caused him.
  - Remove £1439.46 from Mr Y's account to recognise the charge for the period 14 September to 15 November 2020.
38. Within two months of my final decision the Council agrees to:
  - Review its procedure to ensure that any phone calls about financial assessments, contributions and personal budgets are confirmed in writing.
39. The Council should provide the Ombudsman with evidence it has completed the above actions.

## **Final decision**

40. I found fault with the Council causing injustice. I completed my investigation.

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



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

Summary: There was no fault in the Care Home's actions in relation to falls experienced by Mr and Mrs P or the information in their care plans about their mobility. However, the Care Home was at fault when it failed to update Mr and Mrs P's next of kin, Mr X, about these and other incidents. Although Mr X was not caused a significant injustice, the Council should make service improvements to prevent a reoccurrence. There was no fault in how the Council decided to take the value of the Mr and Mrs P's property into account when deciding what they could afford to pay for their care.

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## **The complaint**

1. Mr X complained the care provided to his parents, Mr and Mrs P, after the Council arranged for them to move into residential care, did not meet their needs. Specifically, he said:
  - a) the Council should have placed his mother in a nursing home because she needed nursing care;
  - b) they experienced frequent falls and the Care Home failed to update the family following them; and
  - c) the Care Home did not hold appropriate information about his mother's mobility needs, or his father's need to have his food blended.
2. Mr X also complained the Council:
  - a) failed to properly explain top-ups when he agreed to his parent's residential placement; and
  - b) wrongly decided not to apply a discretionary property disregard to his parent's house which he states he has lived in since before they moved into care.
3. Mr X said that as a result, his parents' health has been put at risk because they did not receive the care they needed, which also caused him distress. Mr X also says that if the Council refused to apply the property disregard, he would be made homeless.

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

4. We cannot investigate late complaints unless we decide there are good reasons. Late complaints are when someone takes more than 12 months to complain to us

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about something a council/ has done. (*Local Government Act 1974, sections 26B and 34D, as amended*)

5. Mr and Mrs P went into a care home as opposed to a nursing home in April 2020 and Mr X agreed to pay the top-ups around the same time. I can see no good reason why, if Mr X was unhappy about these issues, he could not have raised this earlier with us. Therefore, I will not investigate complaints 1a) and 2a).
6. 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*)
7. We cannot question whether an organisation'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*)
8. Part 3 and Part 3A of the Local Government Act 1974 give us our powers to investigate adult social care complaints. Part 3 is for complaints where local councils provide services themselves. It also applies where a council arranges or commissions care services from a provider, even if the council charges the person receiving the care. In these cases, we treat the provider's actions as if they were council actions. (*Part 3 and Part 3A Local Government Act 1974; section 25(6) & (7) of the Act*)
9. We may investigate complaints from the person affected by the complaint issues, or from someone they authorise in writing to act for them. If the person affected cannot give their authority, we may investigate a complaint from a person we consider to be a suitable representative. (*Section 26A or 34C, Local Government Act 1974*)
10. If we are satisfied with an organisation'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**

11. I considered information provided by the Council and Mr X.
12. I considered the Care Act 2014 (the Act) and Care and Support Statutory Guidance 2014 (the Guidance).
13. Mr X and the Council had an opportunity to comment on my draft decision. I considered their comments before making a final decision.

## **What I found**

### **Paying for care**

14. Where a council arranges care and support to meet a person's needs, it may charge the adult, except where the council must arrange care and support free of charge.
15. If the person lives in a care home and has over £23,250 capital, known as the upper capital limit, they must pay the full costs of their care.
16. Below this level, a person can seek means-tested support from the council. This means that the council will carry out a financial assessment of the person's assets

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and will make a charge based on what the person can afford to pay. Where a person's resources are below the lower capital limit of £14,250, they will not need to contribute to the cost of their care and support from their capital.

### **Deferred payments**

17. Deferred payment agreements are designed to prevent people from being forced to sell their home in their lifetime to meet the cost of their care. Under a deferred payment agreement, the outstanding costs of a person's care and support are recouped when their property is sold.

### **Property disregard**

18. A person's property must be disregarded by the council (ie not taken into account when calculating what they can afford to pay for their care) for 12 weeks under certain circumstances. These include when someone first enters a care home as a permanent resident.
19. A person's property will also be disregarded under other circumstances. These include where it is occupied by a relative who is aged 60 or over or is incapacitated. In these cases, it must be the relative's main residence and they must have lived there in the time prior to the person going into a care home. Under these circumstances, the property is disregarded completely unless or until something changes.

### **What happened**

20. Mr and Mrs P went into the Care Home as permanent residents in April 2020. The Care Home fell within the boundaries of the City Council, although the County Council remained responsible for Care Home's actions because it was the council responsible for placing them there. This investigation concerns the actions of the County Council.
21. At this time, the government had introduced new charging arrangements because of the COVID-19 pandemic. This meant all their care was paid for them until September 2020, when these arrangements ended.
22. The Care Home drew up a care plan for each of them. These recorded they were both at high risk of falls. They detailed their levels of mobility and the support they required.
23. In mid-2020, Mr P had an infection which caused him some trouble with eating and drinking. A speech and language therapist assessed him in September 2020 and said the infection had cleared and Mr P could have a normal diet and fluids. There was no record he needed his food blending.
24. When the following events occurred, Mr and Mrs P were self-isolating in their rooms, in line with other residents, because of the COVID-19 pandemic.
25. On 12 February 2021, Mr P had a fall. The Care Home called the paramedics and Mr P was admitted to hospital where he had a scan and then returned to the Care Home.
26. On 13 February, Mr P had a second fall. The paramedics attended again and considered he was safe to stay in the Care Home. Whilst they were still there, the hospital phoned to say the scan from the day before showed Mr X had a small bleed on the brain. He was admitted to hospital again and discharged later that day.
27. The Care Home updated Mr P's care plan to reflect what had happened and the steps it had taken to prevent recurrence.

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28. The Care Home raised a safeguarding alert with the City Council (as it was located within its geographical area – see paragraph 20 above). It concluded there was no evidence of abuse or neglect, and the fall could not have been prevented given the recommendation for residents to isolate because of the pandemic. It was satisfied with the actions taken by the Care Home and, therefore, the referral did not meet the threshold for an enquiry and was closed.
29. Mrs P also had two falls in February. One was unwitnessed. The Care Home called the emergency services and paramedics attended. They recommended Mrs P stay at the Care Home with 15 minute checks. Later that day Mrs P became unwell and the emergency services were called again and Mrs P was admitted to hospital. She returned the following day after a scan showed no concerns. The Care Home amended the way they supported her when mobilising to reduce the risk of a reoccurrence.
30. The Care Home raised another safeguarding alert with the City Council. After investigating it came to same conclusion as it did with Mr P in paragraph 27 and the incident was closed.
31. In March 2021, Mr X complained to the Care Home about the issues in paragraphs 1 and 2 of this decision statement. With regard to Mr X's wish that the Council apply a discretionary property disregard, Mr X said he moved into the property's annex in June 2019 and into the house in April 2020 when Mr and Mrs P went into the Care Home. Mr X said the property was on one level which made it easier for him to manage as he had a disability.
32. The Council responded in April 2021. It made the following points:
- Mr P had two falls on 12 and 13 February. Because they were close together, the Care Home forwarded a urine sample to Mr P's GP who confirmed he had a UTI. The GP prescribed antibiotics and the family was informed. Mr P experienced no other falls subsequently;
  - Mrs P also had two falls in February. The first was in her room and was due to a combination of her leaning forward to get into her wheelchair and a member of staff not following the Care Home's policies on use of equipment. The Care Home had amended Mrs P's care plan so two members of staff now assisted her in getting into her wheelchair. The second fall was unwitnessed, and the Council was unsure how it happened although Mrs P said she had tried to get up and walk;
  - a number of safeguards were in place including call bells, sensor mats and motion sensors to prevent or alert staff to falls. Risk assessments were carried out for both Mr and Mrs P and updated, together with their care plans, when necessary. The Care Home raised safeguarding alerts which had found no evidence of abuse;
  - no family member had power of attorney which meant the Care Home would not share sensitive information unless it was necessary. Furthermore the Care Home only informed the family of incidents if they led to a safeguarding investigation which found fault. However, the Care Home did notify the family about both of Mr P's falls and the bleed on his brain. The Council offered to notify the family of all incidents if they wished; and
  - the family did not advise the social worker or Care Home that Mr P needed a special diet. He was observed being able to eat solid food. A speech and language therapist assessment in September 2020 identified no issues with swallowing and did not recommend a liquid diet.

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33. In relation to the funding for Mr and Mrs P's care, the Council said it would only consider a property disregard if the house had been Mr X's only or main residence before Mr and Mrs P went into the Care Home. The documents already sent in by Mr X were not sufficient to demonstrate this. The Council asked for a utility bill, council tax bill or bank statement dating from before April 2020 to prove he had lived there since then.
  34. The Council said it had applied the 12 week property disregard from when the COVID-19 funding stopped at the end of September 2020. This ran until mid-January 2021.
  35. Mr X submitted a discount council tax letter. The Council acknowledged this but said the date Mr X occupied the property, according to the Department of Works and Pensions (DWP), was February 2021, nearly a year after Mr and Mrs P had gone into care. The Council agreed to provide a temporary discretionary disregard for a period of three months from January to April 2021.
  36. The Council declined to allow a disregard after that date. It said this was because Mr X had not proved he lived there before April 2020. The Council said that as he owned a 50% share in his own home and there was no intention to sell the property he currently resided in, he would not be made homeless.
  37. Mr X denied having any ownership in his own home. The Council sent him a copy of the Land Registry deeds showing he owned the property with his wife.
  38. The Council went on to say it would award a 12 month property disregard from the date it was first included in Mr P's financial assessment to give Mr X time to consider his options.
  39. Mr X remained unhappy and complained to the Ombudsman.

### **My findings**

#### **Complaints 1b) frequent falls and informing the family and 1c) Mrs P's mobility needs, or Mr P needed his food blending**

40. The Care Home drew up comprehensive care plans for Mr and Mrs P. These recorded their eligible needs, including their levels of mobility, and the support required to meet their needs. Following the falls, the Care Home updated both plans detailing the additional support.
41. In February 2021, both Mr and Mrs P experienced falls. The Care Home took appropriate action by calling for an ambulance, following medical advice and raised safeguarding alerts with the Council. The Home updated Mr and Mrs P's plans and put additional support in place. The Council investigated and found the falls to be unavoidable and the support in place to be adequate.
42. Mr X was unhappy because the Care Home did not inform him of all of the falls and other incidents, such as Mr P's diagnosis of a UTI. The Council said this was because he did not have power of attorney for Mr and Mrs P and so it was inappropriate to share sensitive information.
43. The Council has not sent me details of any formal communication plan in place between Mr X and the Care Home. This would have allowed processes to be in place specifying in what situations Mr X would be contacted. However, even without such a plan, Mr X was involved in the planning and arrangement of Mr and Mrs P's care and he was their next of kin. The Care Home was aware of this and should have informed him without delay when either of his parents fell, were

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diagnosed with any medical condition, needed an ambulance calling or were admitted to hospital. The failure to do so was fault.

44. However, I do not consider Mr X was caused an injustice. He became aware of these incidents shortly after they occurred and the Council addressed his concerns in its complaint response. It also updated Mr and Mrs P's care plans to ensure he would be informed in the future.
45. In relation to Mr P's diet, the records specify Mr P was able to eat a normal diet and did not need to have his food blended. There was no fault in the Council's actions.

### **Complaint 2b) property disregard**

46. In investigating this part of Mr X's complaint, I have considered the relevant legislation and information from the Council. This includes records from Council Tax which stated Mr X has never been registered as living at Mr and Mrs P's property and the Land Registry which state Mr X owns a property with his wife.
47. The Act and Guidance lay out what a council must take into account when considering whether to award a property disregard. This includes issues such as when the relative moved into the property, their age and disabilities and whether selling the house would make them homeless.
48. The Council decided Mr X did not meet the requirements to award a permanent property disregard. He did not provide proof he was living in Mr and Mrs P's property before they went into the Care Home and it was not his only or main residence. He owned 50% of his matrimonial house and because the Council did not intend to sell his parents' property, he would not be made homeless if he chose to move in there. The Council exercised its discretion to apply a disregard for 12 months to enable Mr X to consider his options. There was no fault in the way the Council made its decision.

### **Agreed action**

49. Within one month of the date of the final decision, the Council has agreed to remind staff at the Care Home of the need to have communication plans in place for residents to ensure next of kin and families are updated appropriately.

### **Final decision**

50. There was fault but it did not cause an injustice. The Council has agreed to my recommendation and I have completed my investigation.

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

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

Summary: Dr X complains the Council failed to provide all the special educational provision as set out in his son's EHC plan. We find fault with the Council for failing to provide all the SEN provisions. We have made recommendations for the Council to remedy the injustice caused to Dr X and his son.

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## **The complaint**

1. Dr X complains the Council failed to provide all the special educational provision as set out in his son's EHC plan. Dr X says this has negatively impacted on his son's educational progress and caused him distress.

## **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 an organisation'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. I spoke with Dr X and considered the information he provided.
5. I made enquiries with the Council and considered the information it provided.
6. I sent a draft decision to Dr X and the Council and considered their comments.

## **What I found**

### **Legislation and guidance**

#### **SEN and Education, Health, and Care plans**

7. A child with special educational needs and disabilities (SEND) may have an Education, Health and Care (EHC) Plan. This sets out the child's needs and what

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arrangements should be made to meet them. The EHC plan is set out in sections. Section F details the special educational provision the child needs.

8. The council has a duty to secure the specified special educational provision in an EHC plan for the child or young person (*Section 42 Children and Families Act*). The Courts have said this duty to arrange provision is owed personally to the child and is non-delegable. This means if a council asks another organisation to make the provision and that organisation fails to do so, the council remains responsible. (*R v London Borough of Harrow ex parte M [1997] ELR 62*), *R v North Tyneside Borough Council [2010] EWCA Civ 135*)

### **COVID-19 pandemic**

9. During the COVID-19 pandemic, the Secretary of State issued a notice under the Coronavirus Act 2020 to give councils more flexibility in dealing with EHC Plans and provision. It temporarily changed councils' absolute duty to 'secure' the education provision in an EHC Plan to one of using 'reasonable endeavours' to do so. This change applied from 1 May to 31 July 2020. At the end of this period, councils' usual duties resumed.
10. In March 2020, all schools were ordered to close, retaining some staff to provide education for the children of key workers and some 'vulnerable' children. These included children with an EHC Plan. Schools did not have to allow all children with EHC plans to attend. Instead, the government asked councils to carry out a risk assessment with children who had an EHC plan to determine whether their needs could be met at home and whether they would be safer there than attending an educational setting.

### **What happened**

11. Dr X's son, A, has an Education, Health and Care (EHC) plan. In April 2020, following an appeal, the Council issued A's final amended EHC plan.
12. A's EHC plan noted he required the following special educational provisions:
  - Occupational therapy (OT)
  - Physiotherapy (PT)
  - Hydrotherapy
  - Speech and Language therapy (SALT)
13. In May 2020, the Council said it held a structured conversation with Dr X and discussed its reasonable endeavours during the lockdown period. Dr X confirmed A was shielding at home during this lockdown. The Council could not provide any record of its conversation with Dr X.
14. In June and July 2020, the Council began to search for OT and PT providers to deliver A's special educational provision. In July 2020, Dr X told the Council he felt A needed to settle into school before introducing new people and asked for direct work not to start until late September 2020. Records noted Dr X told the Council some work could take place via telephone and video call.
15. The Council commissioned the OT and PT providers at the end of October 2020.
16. Between November and December 2020, there was a national lockdown. During this lockdown, A did not attend school as he was shielding at home.
17. In November 2020, the Council contacted A's school to check whether his SALT provision was in place. The school confirmed there was no SALT provision.

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18. Between January and March 2021, there was a national lockdown. During this lockdown, A did not attend school as he was shielding at home. A returned to school on a phased return in March 2021.
  19. In April 2021, A's PT provider confirmed it had not provided all the special education provisions the Council had commissioned it to provide. The PT provider agreed to provide all the outstanding therapies.
  20. In May 2021, the Council received confirmation the SALT support was being delivered to A. A's OT provider also updated his therapy programme.
  21. In March 2022, the Council secured a pool for A's hydrotherapy.

## **Analysis**

### **April 2020 – July 2020**

22. The Council's legal duty during this period was to make 'reasonable endeavours' to arrange A's SEN provision.
23. The Council only started looking for providers in June 2020, despite the final EHC plan having been issued in April 2020. This is delay and is fault.
24. I consider the fault identified caused Dr X distress at knowing A did not have all his SEN provisions secured. While the delay meant A did not have all his SEN provision secured, I cannot say this meant he lost out on provision, for the reasons set out below.
25. During this period, A did not attend school as he was shielding at home. It was for the Council to decide what was reasonable to arrange in the circumstances of the COVID-19 pandemic. For example, the Council could have decided it was only reasonable to provide A with reduced provision given he was not attending school. While the records note the Council spoke with Dr X in May 2020, there is no record of what it discussed with him. Therefore, I cannot say what the Council discussed with Dr X, or whether it even discussed A's SEN provision at all.
26. While it is for the Council to decide what it considered reasonable to arrange, it must show proper consideration of the matter. There is no evidence the Council properly considered its reasonable endeavours duty. This is fault.
27. I consider the fault identified have caused some uncertainty. This is because I cannot say whether A would have received all his SEN provisions between April and July 2020 if the Council had properly considered its reasonable endeavours duty.

### **September 2020 onwards**

28. The Council's reasonable endeavours duty ended in July 2020. After this point, the Council had an absolute duty to secure A's SEN provisions.
29. Records show the Council:
  - Did not commission the providers to provide A's OT and PT SEN provisions until late October 2020.
  - Did not check with the commissioned OT and PT providers to ensure the SEN provisions were being delivered.
  - Did not check with A's SALT provision was being delivered until November 2020.
30. The Ombudsman recognises it is not practical for councils to keep a 'watching brief' on whether schools are providing all the special educational provision for

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every pupil with an EHC plan. However, the Ombudsman does consider councils should be able to show due diligence in discharging its legal duty and, as a minimum, have systems in place to:

- check the special educational provision is in place when a new or substantially different EHC plan is issued or there is a change in placement;
  - check the provision at least annually via the review process; and
  - investigate complaints or concerns that provision is not in place at any time.
31. The Council did not check its providers were delivering the SEN provisions after commissioning them. When it did eventually check with the providers, it turned out not all the provisions had been delivered. Further, despite being aware the SALT provisions were not being delivered in November 2020, the Council did not follow up with the SALT provider until April 2021.
32. Therefore, while we recognise the Council did commission providers to deliver A's SEN provision, the Council failed to check, or significantly delayed in checking, that the SEN provisions were being delivered to him in line with his EHC plan.
33. As a result, not all of A's provisions were delivered in line with his EHC plan. Therefore, the fault identified meant A did not receive all the SEN provision set out in his EHC plan between September 2020 and May 2021. This is fault.
34. I consider this loss of provision would have had some impact on A's educational progress and wellbeing.
35. Further, the Council failed to secure a pool for A's hydrotherapy until March 2022. While we recognise the Council had difficulty in finding a suitable pool, the Council's duty to secure the SEN provision is absolute, and there is no defence for 'best endeavours'. Therefore, this is fault.
36. The fault identified meant A did not receive any hydrotherapy between September 2020 and March 2022, a delay of 18 months. It is likely this loss of provision would have had some impact on A's progress and wellbeing.

### **Agreed action**

37. To remedy the injustice caused by the faults identified, the Council has agreed to complete the following:
- Apologise to Mr X for the injustice caused by the faults identified.
  - Pay Mr X £300 to recognise the distress and uncertainty caused by the faults identified.
  - Pay Mr X £400 a month to recognise A's loss of SEN provision, including hydrotherapy, between September 2020 to May 2021 (eight months). In reaching this figure, I have considered the fact A did receive some of his SEN provision. The total amount to pay is £3200.
  - Pay Mr X £100 a month to recognise A continued to receive no hydrotherapy between May 2021 and March 2022 (10 months). The total amount to pay is £1000.
38. The Council should complete the above within four weeks of the final decision.

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## **Final decision**

39. I find fault with the Council for failing to provide all the SEN provisions set out in A's EHC plan. The Council has accepted my recommendations. Therefore, I have completed my investigation.

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



**14 September 2022**

**Agenda Item: 5**

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

### **LOCAL GOVERNMENT & SOCIAL CARE OMBUDSMAN'S ANNUAL REVIEW LETTER 2021**

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

1. To inform the Committee about Local Government & Social Care Ombudsman's (LGSCO) Annual Review letter.

#### **Information**

2. The LGSCO provides a free, independent and impartial service to members of the public. It looks at complaints about Councils and other organisations. It only looks at complaints when they have first been considered by the Council and the complainant remains dissatisfied. The LGSCO cannot question a Council's decision or action solely on the basis that someone does not agree with it. However, if the Ombudsman finds that something has gone wrong, such as poor service, a service failure, delay or bad advice and that a person has suffered as a result, the LGSCO aims to get the Council to put it right by recommending a suitable remedy.
3. The LGSCO publishes its decisions on its website ([www.lgo.org.uk/](http://www.lgo.org.uk/)). The decisions are anonymous, but the website can be searched by Council name or subject area. A copy of the LGSCO's annual letter is uploaded onto their website and the Council's performance data can be found as part of an interactive map [your council's performance interactive map](#)
4. The LGSCO's Annual letter is attached at Annex A. The Ombudsman received 82 complaints in relation to this Council during the year and made decisions on 85 cases. Last year the LGSCO received 65 complaints and made decisions in 66 cases. It is worth noting again that the LGSCO took the decision to temporarily stop their casework for three months from March until June in 2020 which partially explains why numbers were lower the previous year.
5. Full investigations were undertaken in 23 complaints, 33 were closed after initial enquiries were made of the Council, 23 cases were referred back to the Council as the complainants had either not complained to us previously, or had not completed our process, and 6 were found to be invalid complaints or complainants were referred elsewhere. There was a total of 897 complaints received by the Council last year, this is similar to the previous year, so it is worth noting that less than 10% of our complaints end up at the LGSCO.

6. The LGSCO upheld 70% of the 26 complaints that they investigated (compared with an average of 71% in similar authorities). He is satisfied that we successfully implemented 100% of recommendations made. Four of these cases were signed off as late, these were during the early part of the year during Covid however there is ongoing focus around departments completing actions on time and they are taking ownership with timescales for completing these. Three of these cases were in Adults and one in Childrens. In all four cases any financial remedy and apologies were sent on time however where there were actions to be done over a longer period, for example three months, these were late, all apart from one (Adults) were completed within a month after the expected date. Where there could be ambiguity as to which area should respond the Service Director will decide who is best to respond and provide evidence of a team communication or procedure change so the Team Manager Complaints and Information can reply on time.
7. The letter refers specifically to the Public Report (already reported to this Committee in July 2021) about the poor standard of care provided to a resident, the restrictions imposed on the son and the failure of the safeguarding process.
8. The Ombudsman notes that the Council took prompt action after the decision it has:
  - Apologised to the family and made payments to acknowledge frustration, distress, time and trouble caused by not being able to see their mother and raising the complaint to have the restriction removed
  - Communicated with the Care Provider and put monitoring processes in place to ensure staff at the Care Provider know what actions to take regarding exclusion of a person and the importance of risk assessments
  - Reminded and trained staff about recording and completing safeguarding investigations and the importance of updating relevant people regarding the outcome as quickly as possible.

## **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.

## **Data Protection and Information Governance**

10. The decisions referred to in this report are anonymised and will be publicly available on the Ombudsman's website.

## **Implications for Service Users**

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

## **RECOMMENDATION/S**

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

**Marjorie Toward**

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

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

**Richard Elston**, Team Manager – Complaints and Information Team

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

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

### **Financial Comments (RWK 22/08/2022)**

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

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

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

- None

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

- All



20 July 2022

*By email*

Mr May  
Chief Executive  
Nottinghamshire County Council

Dear Mr May

### **Annual Review letter 2022**

I write to you with your annual summary of complaint statistics from the Local Government and Social Care Ombudsman for the year ending 31 March 2022. The information offers valuable insight about your organisation's approach to complaints. As such, I have sought to share this letter with the Leader of your Council and Chair of the appropriate Scrutiny Committee, to encourage effective ownership and oversight of complaint outcomes, which offer such valuable opportunities to learn and improve.

### **Complaint statistics**

Our statistics focus on three key areas that help to assess your organisation's commitment to putting things right when they go wrong:

**Complaints upheld** - We uphold complaints when we find fault in an organisation's actions, including where the organisation accepted fault before we investigated. We include the total number of investigations completed to provide important context for the statistic.

**Compliance with recommendations** - We recommend ways for organisations to put things right when faults have caused injustice and monitor their compliance with our recommendations. Failure to comply is rare and a compliance rate below 100% is a cause for concern.

**Satisfactory remedy provided by the authority** - In these cases, the organisation upheld the complaint and we agreed with how it offered to put things right. We encourage the early resolution of complaints and credit organisations that accept fault and find appropriate ways to put things right.

Finally, we compare the three key annual statistics for your organisation with similar authorities to provide an average marker of performance. We do this for County Councils, District Councils, Metropolitan Boroughs, Unitary Councils, and London Boroughs.

Your annual data, and a copy of this letter, will be uploaded to our interactive map, [Your council's performance](#), on 27 July 2022. This useful tool places all our data and information about councils in one place. You can find the detail of the decisions we have made about your

Council, read the public reports we have issued, and view the service improvements your Council has agreed to make as a result of our investigations, as well as previous annual review letters.

### **Your organisation's performance**

During the year, we issued one public report about your Council after we found fault when a care home it commissioned inappropriately banned a man from visiting his mother after he raised safeguarding concerns. The man's mother had dementia and he visited every day. We found fault in the way the man was banned and the lack of consideration of the impact the ban would have on his mother. We also found the Council took too long completing and communicating its safeguarding decision.

The Council accepted our recommendations and agreed to act both to improve services for the future and to remedy the personal injustice caused to the man. This included a payment of £650 to the man, staff training, plus procedural and contracting changes. I am pleased the Council responded positively to the report, quickly agreeing to the recommended actions. This resulted in the man receiving a resolution sooner than he might have.

It is pleasing that we recorded our satisfaction with your Council's compliance in the 14 cases where we recommended a remedy. However, it is disappointing that in four of these cases, remedies were not completed within the agreed timescales. While I acknowledge the pressures councils are under, such delays add to the injustice already suffered by complainants. I invite the Council to consider how it might make improvements to reduce delays in the remedy process and to ensure it tells us promptly when it completes a remedy.

### **Supporting complaint and service improvement**

I know your organisation, like ours, will have been through a period of adaptation as the restrictions imposed by the pandemic lifted. While some pre-pandemic practices returned, many new ways of working are here to stay. It is my continued view that complaint functions have been under-resourced in recent years, a trend only exacerbated by the challenges of the pandemic. Through the lens of this recent upheaval and adjustment, I urge you to consider how your organisation prioritises complaints, particularly in terms of capacity and visibility. Properly resourced complaint functions that are well-connected and valued by service areas, management teams and elected members are capable of providing valuable insight about an organisation's performance, detecting early warning signs of problems and offering opportunities to improve service delivery.

I want to support your organisation to harness the value of complaints and we continue to develop our programme of support. Significantly, we are working in partnership with the Housing Ombudsman Service to develop a joint complaint handling code. We are aiming to consolidate our approaches and therefore simplify guidance to enable organisations to provide an effective, quality response to each and every complaint. We will keep you informed as this work develops, and expect that, once launched, we will assess your compliance with the code during our investigations and report your performance via this letter.

An already established tool we have for supporting improvements in local complaint handling is our successful training programme. We adapted our courses during the Covid-19 pandemic to an online format and successfully delivered 122 online workshops during the year, reaching more than 1,600 people. To find out more visit [www.lgo.org.uk/training](http://www.lgo.org.uk/training).

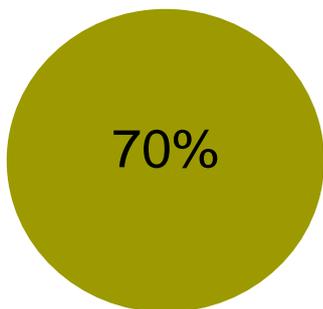
We were pleased to deliver an online complaint handling course to your staff during the year. I welcome your Council's investment in good complaint handling training and trust the course was useful to you.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'M King', with a stylized flourish at the end.

Michael King  
Local Government and Social Care Ombudsman  
Chair, Commission for Local Administration in England

### Complaints upheld



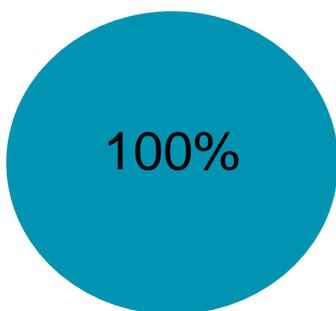
**70%** of complaints we investigated were upheld.

This compares to an average of **71%** in similar organisations.

**16**  
upheld decisions

Statistics are based on a total of **23** investigations for the period between 1 April 2021 to 31 March 2022

### Compliance with Ombudsman recommendations



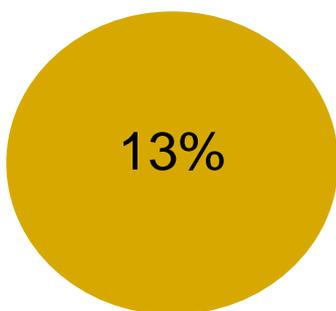
In **100%** of cases we were satisfied the organisation had successfully implemented our recommendations.

This compares to an average of **100%** in similar organisations.

Statistics are based on a total of **14** compliance outcomes for the period between 1 April 2021 to 31 March 2022

- Failure to comply with our recommendations is rare. An organisation with a compliance rate below 100% should scrutinise those complaints where it failed to comply and identify any learning.

### Satisfactory remedy provided by the organisation



In **13%** of upheld cases we found the organisation had provided a satisfactory remedy before the complaint reached the Ombudsman.

This compares to an average of **8%** in similar organisations.

**2**  
satisfactory remedy decisions

Statistics are based on a total of **16** upheld decisions for the period between 1 April 2021 to 31 March 2022

**14 September 2022**

**Agenda Item: 6**

**REPORT OF SERVICE DIRECTOR – FINANCE, INFRASTRUCTURE &  
IMPROVEMENT**

**FINANCIAL REGULATIONS WAIVERS 2021/22**

**Purpose of the Report**

1. To inform Members about requests to waive the Financial Regulations (waivers) in the Period 1<sup>st</sup> April 2021 - 31<sup>st</sup> March 2022.

**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.
5. There are four categories of exemption where the rules for obtaining quotations or running tenders can be suspended. These are:
  - i. The Section 151 Officer, may vary, waive, or suspend any financial regulation,
  - ii. 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.,
  - iii. 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,

iv. 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 Group Manager for Procurement presents an annual waiver report to Governance and Ethics Committee. The table below summarise the number of waivers granted in 2021/22 (Table1) compared to the previous year by directorate and value, full details for those waivers are contained in Appendix 1.

<b>Table 1</b>	<b>2021-22</b>				<b>2020-21</b>			
<b>Directorate</b>	<b>Number Waivers</b>	<b>Total Value</b>	<b>No. Rejected</b>	<b>Value Rejected</b>	<b>Number Waivers</b>	<b>Total Value</b>	<b>No. Rejected</b>	<b>Value Rejected</b>
Chief Exec	10	£1,140,381	1	£20,000	6	£1,679,710	2	£1,506,852
Adult Social Care (ASC) Health & Public Protection & Public Health	12	£965,261	4	£662,890	11	£1,162,241	0	0
Children, Families & Cultural Services (CFCS)	13	£911,247	2	£129,387	9	£895,245	1	£51,000
Place	9	£193,792	2	£78,500	1	£11,751	0	0
Schools	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>44</b>	<b>£3,210,681</b>	<b>9</b>	<b>£890,777</b>	<b>27</b>	<b>£3,748,947</b>	<b>3</b>	<b>£1,557,852</b>

7. The number of waivers received for 2021/22 has increased by 17. Although there has been a significant increase in number of waivers the approved value of the waivers was only 5% higher than 2020/21.

8. The table above highlights a number of waivers that have been rejected - 20% of the waivers were rejected in 2021/22 compared to only 11% rejected the previous year. Significant scrutiny continues to be undertaken on the reason and timing of waiver requests. If the request has not met the criteria outlined in paragraph 5, the request has been rejected.

9. There has been an increase in waiver requests across all departments. In many cases funding has been received at the last minute from central sources which has resulted in insufficient time to conduct a full tender exercise. A timelimited waiver has been granted in this case.
10. In addition, 2021 saw the Council responding to the Covid pandemic, with the Omicron variant. This has also resulted in a number of waiver requests to support the health and social care system.
11. Category Managers continue to work with the directorates to develop Procurement Category Strategies that aids the continued reduction of waiver requests.
12. The Procurement team have delivered several training sessions at departmental team meetings reminding officers / commissioners of the financial regulations.

### **Other Options Considered**

13. Other options were not considered applicable for this annual update report.

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

14. This report is to inform Members about requests to waive the Financial Regulations (waivers) in the Period 1<sup>st</sup> April 2021 - 31<sup>st</sup> March 2022. Every effort is made to ensure waivers are kept to a minimum and through this report, members are updated of the detail of spend coming through financial regulation waivers.

### **Statutory and Policy Implications**

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

### **RECOMMENDATION/S**

- 1) Members of the Governance and Ethics Committee to support the detail contained in the report Financial Regulations Waivers 2021/22 and the continued progress in keeping waivers to a minimum.

**Nigel Stevenson**

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

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

Kaj Ghattaora - Group Manager, Procurement

### **Constitutional Comments [GR 06/09/2022]**

16. Pursuant to the Nottinghamshire County Council Constitution this Committee has the delegated authority to receive and consider the recommendations contained within this report.

## **Financial Comments [SES 06/09/2022]**

17. There are no 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

Waiver Details

Number	Ref	Subject	Value	Department	Waiver Details	Approval/Rejection
1	FR352	Examination of Nottingham minerals local plan	£40,000	Place	Examination of the Nottinghamshire Minerals Local Plan by an Inspector appointed by the Planning Inspectorate, part of the statutory process to produce a local plan	Rejected - The cumulative value of the spend now requires a compliant tendering process to be undertaken.
2	FR353	Specialist H&S advice to secondary schools	£20,000	CEX	Specialist health and safety advice for secondary schools.	Rejected - Retrospective
3	FR354	EHC plan and assessments	£38,400	CFCS	Training for staff to complete statutory EHC Plans and assessments. Temporary staff to complete this work until permanent staff can be recruited.	Approved - Assured attempts have been made to recruit to fill in the gaps to provide the service, temp staff required to provide service until successful recruitment

4	<b>FR355</b>	CIPFA Subscription	£33,537	CEX	Subscription to corporate package only provider.	Approved - Historically subscriptions with CIPFA were individually managed by each department. More recently the subscriptions and spend have been consolidated to ensure we get value for money. There is no other competitive supplier in the marketplace.
5	<b>FR356</b>	PDSS	£10,000	CFCS	Enable young people to have assessments to enable them to access mainstream education	Approved - Gap in services and several children who haven't had assessments since 2019
6	<b>FR357</b>	Independent visitor service	£28,400	CFCS	Independent visitor is a volunteer who befriends a child or young person who has limited or no family.	Approved - Late decision regarding service needs means there isn't enough time before contract end, contract extended to allow work to be done.
7	<b>FR358</b>	Public Health Consultant	£57,330	ASCH	Consultant responsible for the Local Outbreak Control Plans in relation to Covid 19 due to a government announcement in May 2020.	Approved - role is key for covid response, public health have tried to recruit using numerous compliant routes and not been successful.

8	<b>FR359</b>	Covid grant scheme extension	£100,000	CFCS	Government announced a further extension to the covid voucher scheme in June 2021 to cover the summer holidays and the allocation must be spent before the end of September 2021.	Approved - Due to the provision needing to be used before the end of September 2021. Future schemes should go through the CCS Framework.
9	<b>FR360</b>	Fire wardens and First Aiders	£38,500	Place	Temporary fix for fire wardens and first aiders as NCC building reopen	Rejected - Retrospective
10	<b>FR361</b>	Emergency Hormonal Contraceptive	£59,541	ASCH	EHC provided by community pharmacies, this is a service which must be provided by local authorities since 2013.	Approved - opening this up to tender could mean less community pharmacies win the bid and therefore reducing the provision for young people across Nottinghamshire. Community Pharmacies have quality assurance built into their licences.
11	<b>FR362</b>	DRT Back office	£40,000	Place	4-year pilot for demand responsive transport back office and booking system using Rural mobility fund.	Approved - £40k pilot which will lead to a full tender if deemed a success.
12	<b>FR363</b>	FAME subscription	£45,237	CEX	Large database holding all company information both present and historical.	Approved - no other providers available for this service.

13	<b>FR364</b>	Childhood Obesity Trailblazer	£12,500	ASCH	Public Health seek to contribute part of our external grant funding to help set up and widen the network of Family Action Food clubs within Nottinghamshire	Approved - Recommend as there is no other provider other than Family Action willing and able to deliver such a specialist and bespoke service.
14	<b>FR365</b>	Support for Families	£60,000	CFCS	This project falls within the scope of the Whole Family Safeguarding Programme and supports the ambition to work with families to support them to care safely for their children	Approved for 12 months - Due to Covid-19, there has been a delay in commencing delivery therefore the request to extend the contract for a further year to demonstrate impact through sufficient data.
15	<b>FR366</b>	Specialist Equipment for children and young people	£120,000	CFCS	Suppliers of specialist, high-cost equipment for children and young people who are deaf/hearing impaired and/or blind/visually impaired.	Rejected - The cumulative value of the spend now requires a compliant tendering process to be undertaken.
16	<b>FR367</b>	Trauma Informed Practice	£45,000	CFCS		Approved - Time limited and urgent grant received that needs to be spent by March 2022
17	<b>FR368</b>	The appointment of a Consultant in Public Health using Panoramic Associates	£33,150	ASCH	Employ a consultant through Panoramic Associates to embed new domestic abuse partnership board, to work for 6 months, as REED could not supply	Rejected- Classes as retrospective

18	<b>FR369</b>	To facilitate the individual annual SLI challenge	£11,500	ASCH	EMADASS currently has a DPS framework, there are currently no suitable providers registered that meet the require experience. Consultant is part of the National ADASS associates' framework.	Approved
19	<b>FR370</b>	Use of Minster View	£65 per hour per person for 2 members of staff – required for 24 hrs per day	CFCS	Contract for the provision of staffing resources as part of a bespoke and urgent residential placement for a Nottinghamshire child-in-care, the provision for which the County Council has statutory responsibility as Corporate Parent	Approved- Unable to procure through any approved suppliers and an urgent need
20	<b>FR371</b>	Winter gritting service	£9,000	Place	Snow Clearance work from County Council Bus Stations and Bassetlaw Schools	Approved- Was put out to tender but no bids received that met the minimum requirements
21	<b>FR372</b>	School swimming kit	£9,387	CFCS	School Swimming team kit	Rejected - Retrospective
22	<b>FR373</b>	Woodland Trust	£18000 in 2021/22	Place	The provision of Nursery tree stock from UK registered plant nurseries to support the delivery of Trees for Climate planting programme, funded by a Section 31 Grant Agreement from Defra.	Approved - Offers value for money. Unlikely the team will get the discounts and the stock in time to plant during the very limited planting season.

23	<b>FR374</b>	Aptean data storage	£23,865	CEX	Storage of Complaints and Information data, following implementation of new system.	Approved - No compliant route to contract with the existing company.
24	<b>FR375</b>	Trauma Informed service	£45,000	CFCS	Service needed to support Nottinghamshire County Youth Justice Service's vision to deliver a provision leading Trauma-Informed service	Approved - Time limited and urgent grant received that needs to be spent by March 2022
25	<b>FR376</b>	Short term care home places	£505,920	ASCH	Additional capacity within interim care beds is required in order to avoid a critical incident within the health and social care system before and after December 2021. Up to 24 beds needed	Approved - There is insufficient time to conduct a tender process so providers with capacity will be approached until the maximum 24 beds is secured
26	<b>FR377</b>	Care Beds x 10	£175,840	ASCH	Additional capacity within interim care beds is required in order to avoid a critical incident within the health and social care system	Rejected - Retrospective
27	<b>FR378</b>	Care Beds x 13	£354,900	ASCH	Additional capacity within interim care beds is required in order to avoid a critical incident within the health and social care system	Rejected - Retrospective
28	<b>FR379</b>	Occupational Health Service	£876,000	CEX	Counselling referral service for OH-To cover the provision by care first pending further decisions.	Approved for 6 months whilst reviewing all OH provision

29	<b>FR380</b>	Covid coordinator	£21,000	ASCH	EMADASS currently has a DPS framework, there are currently no suitable providers registered that meet the require experience	Approved - Specific skill set and experience is required and there isn't enough time to run competitions or gain quotations for this provision.
30	<b>FR381</b>	Covid analyst	£10,500	ASCH	EMADASS currently has a DPS framework, there are currently no suitable providers registered that meet the require experience	Approved - Urgent requirement, running a further competition through the framework would cause a delay.
31	<b>FR382</b>	Analysis of the NCC pay and grading structure	£9,000	CEX	Supplier is the provider for NCC's job evaluation scheme for all staff and as such are the sole property title owner of the Hay job evaluation scheme. Seeking to undertake a comprehensive benchmarking exercise with expert analysis.	Approved - This supplier was used as part of the original NJE work and have done small pieces of work in the past. This supplier as the background knowledge of NCC and therefore will be able to provide the service within a reasonable timescale
32	<b>FR383</b>	Subscription to a corporate package of services from CIPFA	£24,318	CEX	This will be a requirement annually going forward, as there are no tendering frameworks through which these services are offered.	Approved- There is no other competitive supplier in the marketplace that can provide such

						services and therefore recommend approval of the waive
33	<b>FR384</b>	10 trainers to train teaching assistants in schools to deliver a reading intervention	£86,300	CFCS	No other providers can offer the service required due to the knowledge and experience of the Switch-On intervention required to support the project.	Approved-Central government grant for Support for Schools. Seeking 10 trainers at over £8k each. No route to market as there are only so many trainers that are fully trained. No internal capacity to undertake the work.
34	<b>FR385</b>	Care Professional Standards Academy	£99,000	ASCH	This is a new scheme, the first of its kind that professionalises the careers of individuals who work in care.	Rejected - Retrospective
35	<b>FR386</b>	REED	£130,000	ASCH	Several recruitment drives were undertaken but were largely unsuccessful	Approved
36	<b>FR387</b>	BizClick	£37,548	CEX	DCMS asked all 5G Testbed and Trial projects to promote the project deliverables via Mobile UK magazine	Approved - Due to the late provision of this funding and the time restraints on spending there is no time to do a procurement exercise. This supplier is also

						recommended by the DCMS
37	<b>FR388</b>	umlaut	£36,000	CEX	5G Testbed and Trial projects to promote project via Mobile UK magazine	Approved - Due to the late provision of this funding and the time restraints on spending there is no time to do a procurement exercise. This supplier is also recommended by Central Govt.
38	<b>FR389</b>	Pentana	£34,875	CEX	A 3-year Software as a Service (SaaS) contract at £11,625 pa.	Approved - Audit have worked with procurement to try and get a compliant route whilst still achieving best value. Because G Cloud is a catalogue framework prices are unable to be negotiated and are aimed at new customers rather than existing ones
39	<b>FR390</b>	UASC Low level	£176,750	CFCS	Specialist provider to deliver support and accommodation to Unaccompanied Asylum-seeking Children (UASC).	Approved - This waiver relates to the urgent provision of accommodation for Unaccompanied Asylum-Seeking Children
40	<b>FR391</b>	Education Endowment Fund	£192,010	CFCS	The books will be purchased directly by the schools and academies who will be from LAs across the project remit.	Approved - Timescales imposed on the original contract to provide training in schools

						means there is not time for a tender to provide the book packs.
41	<b>FR392</b>	Watercoolers	£30,000	Place	Supply and maintenance of plumbed in water coolers	Approved- urgent need for safe drinking water across sites
42	<b>FR393</b>	EAL	£28,360	Place	Provision of automated meter reading (AMR) for gas supplies on the Council's supply arrangements.	Approved - EAL are not on any frameworks or DPS's.
43	<b>FR394</b>	Intelligence development tool	£9237 (4 licences)	Place	GB Connexus IQ Investigate is used by Trading Standards and is an essential intelligence development tool.	Approved - Only provider in the market and critical intelligence tool for the running of the service.
44	<b>FR395</b>	Call Blockers	£7,931	Place	Successfully secured £7,931.03 from National Trading Standards Scams Team to purchase some call blockers	Approved- The provider has been selected as they are the only provider of call blocking units that are able to provide the data and monitoring required to ensure that unwanted

						scams calls are not able to get through
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**14 September 2022**

**Agenda Item: 7**

**REPORT OF THE SERVICE DIRECTOR, CUSTOMERS, GOVERNANCE AND  
EMPLOYEES / MONITORING OFFICER**

**UPDATE ON USE OF RESOURCES BY COUNCILLORS**

**Purpose of the Report**

1. To present Committee with an update on the use of resources by Councillors.

**Information**

**Background**

2. At the meeting of Full Council on 10 May 2018, a revised Code of Conduct for Councillors and Co-opted Members was agreed. The new Code included a range of protocols, including the Councillor and Co-opted Member Protocol for use of Resources (attached for the Committee's reference at **Appendix A**). This Protocol's guiding principles include the need to be mindful of costs and not using resources for political purposes.
3. Governance and Ethics Committee is responsible for taking an overview of this issue and at its meeting of 7 September 2020, the Committee agreed to move to an annual reporting cycle on this issue – this report covers the period April 2021 – March 2022. Under the revised approach, the threshold for reporting printing and photocopying charges has been doubled to £20 to cover the new annual reporting cycle.

**Printing and Photocopying Costs**

4. The total printing and photocopying charges incurred by those Councillors that have exceeded the annual £20 threshold for the period 1 April 2021 to 31 March 2022 are included in **Appendix B** along with charges incurred by Group support officers.
5. The Committee's views are sought on the expenditure and whether any further information or actions are required on specific items of expenditure

**Out of Contract Charges – Calls and Data Usage**

6. County Councillors are provided with smartphones and laptop devices from which calls can be made free of charge within the existing contract limits. At its meeting of 30 September 2021, the Committee agreed that a breakdown of out of contract charges for ICT equipment be included in future annual monitoring reports.

7. A breakdown of such charges are included in **Appendix C**.
8. It is recognised that Members might legitimately choose to use their ICT equipment to undertake their Council business whilst abroad on holiday. Prior to doing so, they should always speak with ICT officers in advance of such trips to ensure that any charges incurred can be kept to a minimum. All Members received a reminder about this issue following the Committee's decision to monitor such charges along with further advice from ICT about taking ICT equipment out of the country following the United Kingdom's exit from the European Union.
9. It should be noted that those Members that have incurred charges have where possible tried to minimise such charges and sought advice and support from ICT in that respect. Some of the charges are related to the use from abroad of SIM cards within devices, with a total daily charge of £7.00 applicable in such circumstances, regardless of usage volume. Any significant charges highlighted to Democratic Services have been flagged with the relevant Members at the earliest opportunity to try and prevent or reduce further charges.

### **Other Issues**

10. As agreed by the Committee in January 2019, the Team Manager – Democratic Services, from his monitoring of the relevant Democratic Services budgets, will highlight any areas of concern on an ongoing basis (as per the out of contract charges issue highlighted above). Currently there are no other specific wider issues raising concerns.

### **Other Options Considered**

11. None – the report provides an update on expenditure as required in the revised Code of Conduct and the revised Councillor and Co-opted Member Protocol for use of Resources and seeks relevant approvals where required.

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

12. To update the Committee and seek relevant approvals in line with the requirements of the revised Code of Conduct and the revised Councillor and Co-opted Member Protocol for use of Resources.

### **Statutory and Policy Implications**

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

## RECOMMENDATIONS

That the Committee:-

- 1) Notes the relevant resources expenditure for the period March 2021 to April 2022 as detailed in Appendix B & C.
- 2) Considers whether there is any further information required or any actions required on specific items of expenditure.

**Marjorie Toward**

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

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

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

E-mail: [keith.ford@nottsc.gov.uk](mailto:keith.ford@nottsc.gov.uk)

### **Constitutional Comments (LW – 28/07/22)**

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

### **Financial Comments (RWK 28/07/2022)**

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

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

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

- None

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

- All



## APPENDIX A



### **Nottinghamshire County Council**

## **Councillors and Co-opted members – Protocol for Use of Resources**

### **1. INTRODUCTION**

This protocol provides rules on the use of Council resources in relation to your role as a Councillor.

The Council provides a range of support services and facilities to enable Councillors to carry out their duties. The full range of resources available and rules regarding use are set out in the **Schedule** attached to this protocol.

### **2. COUNCIL BUSINESS – WHEN THIS PROTOCOL APPLIES**

Councillors may use Council facilities and resources in connection with the following Council business:

- Matters relating to the decision making process of the Council, e.g. Council and committee meetings
- Representing the Council on an outside body
- Holding division surgeries
- Meeting, communicating with and dealing with correspondence from residents, other Councillors, officers, Government officials, MPs etc. in connection with Council business
- Matters for discussion by a political group of the Council, so long as it relates mainly to the work of the Council and not your political party or group

### **3. PRINCIPLES FOR USE OF RESOURCES**

- Councillors must be mindful of Council resources and must always seek to conduct business in the most cost effective way. Councillors must have regard to the need to ensure prudent and reasonable use of resources and value for money.
- Party political activities or individual campaigning do not form part of Council business and the Council's resources must not be used for these activities. This includes Council email addresses. The Council is prohibited by law from publishing any material which, in whole or in part, appears to be designed to affect public support for a political party or an individual Councillor, or to highlight their achievements.

- Use of resources for the purpose of representing individuals or small groups of residents is acceptable. However, high volume use of resources including sending out circulars and conducting wide-scale consultation exercises is not acceptable, even though these may involve Council business.
- In the interests of economy and the environment, Councillors are requested to use e-mail, or to hand-deliver, instead of using post wherever possible.
- Governance and Ethics Committee is responsible for oversight of use of resources including review of postage and photocopying costs incurred by individual Councillors and political groups. Committee is also responsible for considering requests for exceptions to be made. Committee reserves the right to charge Councillors for excessive use.

## SCHEDULE

### **Equipment and Resources for Councillors**

**ICT Equipment** - you will be provided with appropriate equipment for your full term of office.

If you have been provided with a phone, you will have access to unlimited calls and texts to standard numbers, with a 2GB monthly data limit. Any laptop or tablet devices have a 5GB monthly data limit. You will be required to meet the costs of any usage above those limits at a cost of 5p per MB.

You will be reminded of the terms and conditions around the appropriate use of these devices during your induction training.

On receipt of equipment Councillors are required to confirm that they have read the Councillors' ICT Acceptable Use Guidance.

Support for technical matters is supplied by the Council's ICT helpdesk. User training is available on the intranet.

**Councillors' Webpages** - the Council's Website includes a page for each Councillor. This page includes your contact details, photograph, and committee membership details. There is also a facility for you to provide regular updates on your activities as a Councillor. These webpages will be removed during all pre-election periods.

**Arrangements for incoming mail** – you will have a pigeonhole, located within your relevant group area (where applicable) for meeting papers and any mail sent to you at County Hall. Mail should be collected wherever possible but if you are not expected to be at County Hall for some time then you can ask for mail to be sent to your home address. Please discuss your specific requirements with your group researcher.

**Arrangements for outgoing mail** – there will be an outgoing mail tray located within your relevant group area (where applicable); this is the only mail tray you should use. The Council's corporate letter templates and window envelopes **must** be used in order to enable mail to be franked. If mail cannot be franked it is more expensive to post. Unless there are exceptional circumstances postage will be second class. Councillors should be economical in their use of post; volume use (anything in excess of 50 items) is not acceptable unless approved in advance by Governance and Ethics Committee. Use email or hand-deliver instead where possible. The Post Room reserves the right to open any post to ensure policies are being adhered to.

**Stationery** - a limited range of stationery is available from either your group researcher or Democratic Services. Stationery must not be adapted to include political logos. Photographs can be included but must be printed in black and white. The Multi-Function Devices are regularly re-stocked with printer paper; you should contact Facilities to re-stock if necessary rather than taking paper from other locations in the building; this is to ensure proper reporting to Governance and Ethics Committee regarding volumes used.

**Printing**– Photo security passes will enable you to print, scan and photocopy from the Multi-Function Devices located around County Hall. These will be the only printing facilities available, with the exception of Central Print. This is in order to ensure to ensure proper reporting to Governance and Ethics Committee regarding volumes used. In the interests of transparency and cost-effectiveness these facilities are only available when security passes as used. In accordance with the Council’s Print Strategy **high volume copying and printing (any job involving 99 plus sides of paper) must be sent to Central Print as this is the cheapest option.** Due to the high costs associated with colour printing, you should always print /copy in black and white unless colour is required to enable the document to be understood. Councillors should be economical in their use of print.

**Business Cards** can be obtained from Democratic Services. You may request a supply of 500 cards to cover your full term of office. These cards should only include contact details for County Hall, to prevent any subsequent changes being required.

**Room Hire for Surgeries** – for your constituency surgeries you should seek to use meeting rooms that do not incur a charge to the Council. These can include community facilities and some Council premises. If no suitable premises are available an application for the cost of hiring an alternative venue will need to be approved by Governance and Ethics Committee

**Disclosure and Barring Service checks** – to undertake your role as a Councillor you need to have a Disclosure and Barring Service (DBS) check. Democratic Services will contact you about the process and documentation required to complete an electronic DBS application form. You may have a current DBS check, however there are very limited circumstances in which checks can be transferred. Democratic Services will advise you on this issue.

**Nottingham City Transport Cards** - a limited number of Nottingham City Transport Cards for official business travel on City buses are available for staff and Councillors from Reception at County Hall. These must be signed for and returned to County Hall reception after each use. At all times your chosen method of travel must be the most cost effective method, taking into account the value of time saved, anticipated subsistence and other expenses and any other relevant matters. More details are available in the Travel and Accommodation Policy.

**Conferences** – attendance at conferences, seminars and training events for which a fee is payable must be approved in advance by the relevant committee.

## **County Hall Essential Information**

**County Hall** is open Monday to Friday, usually 6.30am to 6.30pm. The building is also usually open on Saturdays from 8.00am to 1pm. If you intend to continue working in an office after 6.30pm, you should inform the Facilities office on extension 73316.

**Security pass.** You will be issued with a security pass. Security is very important and you should wear your pass at all times on a County Council lanyard as you may be asked for identification. Your pass will operate the car park barrier, the reception barriers and the doors to secure areas of the County Hall campus.

Each card is individually programmed to provide access to particular areas in the building. Your initial pass will be a temporary version – this will be replaced with a new pass containing your photograph which, as well as giving you the relevant access rights, will also enable you to scan, copy and print from the large machines around the building (called Multi-Function Devices or MFDs).

**Car Parking** spaces for Councillors' exclusive use in connection with Council business are available in the Members' Car Park on the River Trent frontage. Drive around to the rear of County Hall and present your security pass at the barrier to allow access to this area. Unless you are on Council business you should pay for parking at times when members of the public are required to pay to use the Car Park, for example during cricket and football matches.

**Office Accommodation** is provided for Councillors' use. There are currently suites of rooms on the ground and first floors at County Hall. The allocation of accommodation will be confirmed as soon as possible after the election, after consultation with the political groups.

**Confidential Waste** bins are provided in all work areas for secure disposal of confidential or sensitive documents. Recycling bins are also provided.

**Meeting rooms** – meetings involving Councillors will usually be held in

Council Chamber	- main building, floor 1.
Committee rooms B & C	- main building, ground floor.
Rufford Suite	- Riverside block, floor 1.
Committee room A & Civic Suite	- Riverside block, ground floor.

**Lifts** are available to all floors within County Hall. There is also a wheelchair lift to the Rufford Suite and Riverview Restaurant.

**Catering facilities** are available. Rolls, beverages and other snacks can be bought from the snack bar in Reception. The Riverview restaurant in the Riverside block serves hot meals and sandwiches. Councillors are entitled to complementary drinks from within their group accommodation or from the snack bar.

**Visitors** to County Hall must sign in at the reception desk in the entrance foyer; all visitors will be provided with a temporary pass. They should sign out and return the pass on leaving the building.

**Fire Alarms** are tested at 10.00am on the first Wednesday of every month. A continuous ring signals the fire alarm and an intermittent ring signals a bomb alert. If you hear the alarm bell you must vacate the building at the nearest fire exit. Please make yourself aware of these with the posters placed around County Hall and be aware of the relevant assembly points.

## APPENDIX B

### COUNCILLORS' USE OF RESOURCES – 1 APRIL 2021 – 31 MARCH 2022

#### Printing and Photocopying costs (where the £20 annual threshold has been exceeded)

The following costs for printing and photocopying have been recorded for Councillors during the latest monitoring period (N.B. any other print charges for Councillors under the £20 threshold are not included):-

<b>COUNCILLOR</b>	<b>TOTAL COST £</b>
Richard Butler	25.21
Chris Barnfather	41.72
Jim Creamer	27.43
Tracey Taylor	47.55
Neil Clarke	20.70

The following costs for printing and photocopying were incurred by Group support officers during the same period:-

<b>OFFICER ROLE</b>	<b>COST £</b>
Team Leader Ruling Group	236.47
PA to Committee Chairs – Ruling Group	132.17
Member Support Officer	0
Executive Officer to the Ruling Group Senior Leadership Team	124.75
<b>Conservative Group Officer Total:</b>	<b>493.39</b>
Senior Research Officer to Opposition Group	27.93
Executive Assistant to Opposition Group	137.47
<b>Labour Group Officer Total:</b>	<b>165.40</b>
Admin and Research Officer/s	36.25
<b>Independent Alliance Total:</b>	<b>36.25</b>

The following costs for printing and photocopying are in relation to the Council's Civic function:

Chairman and Vice-Chairman		
	Charity Event Flyer	15.00
	Charity Afternoon Tea Invitations and Posters	78.00
	Remembrance Day Wreath Stickers	82.00
	Chairman's Christmas Cards	59.00
	<b>Chairman and Vice-Chairman Total:</b>	<b>234.00</b>



**APPENDIX C**

**COUNCILLORS' OUT OF CONTRACT CHARGES – DATA AND PHONE CALLS**  
**1 APRIL 2021 – 31 MARCH 2022**

The following out of contract charges have been incurred:

<b><u>COUNCILLOR</u></b>	<b><u>COST £</u></b>
Reg Adair	11.49
Richard Butler	1.49
Glynn Gilfoyle	2.74
Errol Henry	150.00
Tracey Taylor	1.15
Gordon Wheeler	20.25
Jonathan Wheeler	50.00



**14 September 2022****Agenda Item: 8**

## **REPORT OF THE DEPUTY CHIEF EXECUTIVE**

### **ATTENDANCE AT KEY NATIONAL CONFERENCES**

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

1. The purpose of this report is to seek an ongoing approval for relevant Member attendance at a number of key national conferences which the Council routinely attends on an annual basis, as a means of minimising costs.

#### **Information and Advice**

2. This Committee's terms of reference include approving councillors' attendance at relevant conferences for which fees are payable.
3. There are a number of key national conferences which have been attended by the County Council consistently in recent years (except for the lockdown period when such events were not held). The following events are recognised as the key forums for Councils to share best practice and to hear from Government Ministers and sector leaders:
  - a) Local Government Association (LGA) Annual Conference and Exhibition
  - b) County Councils Network (CCN) Annual Conference
  - c) National Children and Adult Services (NCASC) Annual Conference
  - d) LGA / Association of Directors of Public Health (ADPH) Annual Public Health Conference
4. In the past, approvals for attendance have been sought each year for each of these conferences on an individual basis. It should be noted that any increase in costs year on year have tended to be very limited (if occurring at all) and have represented inflationary increases. In the previous committee system, those approvals were sought from the relevant Committee/s, with attendance at the 2022 LGA Annual Conference and Exhibition having been approved by Policy Committee in January 2022. The next CCN Annual Conference and NCASC Conferences are scheduled to take place in November 2022 which has prompted the need for approvals at this stage.
5. Approval of attendance at these conferences now sits within the remit of Governance and Ethics Committee. To streamline the approval process and to ensure that the most cost-effective means of attendance (including early bird prices and optimum accommodation costs) are achieved at the point when booking systems first go live, it is

proposed that a standing approval be given to enable attendance each year by the following relevant Members:

<b><u>Conference</u></b>	<b><u>Relevant Member Roles</u></b>
LGA Annual Conference and Exhibition	Council Leader Council Deputy Leader Leader of the Main Minority Group
CCN Annual Conference	Council Leader Council Deputy Leader Leader of the Main Minority Group
NCASC Annual Conference	Cabinet Member for Adult Social Care and Public Health (ASCPH) Deputy Cabinet Member for ASCPH Cabinet Member for Children and Young People (CYP) Deputy Cabinet Member for CYP
LGA / ADPH Annual Public Health Conference	Cabinet Member for Adult Social Care and Public Health (ASCPH) Deputy Cabinet Member for ASCPH Chairman of Health and Wellbeing Board

6. Each of the above conferences will also be attended by a relevant individual Chief Officer, with the exception of the NCASC Conference which will be attended by a Chief Officer from both ASCPH and CYP departments.
7. Should any of the above conferences in future see a rise in costs above inflationary increases then it is proposed that a further report be brought to this committee to seek a revised approval. Similarly, should the membership of the Council's political groups change in a way that affects the allocation of places at such events then a further report will be brought back to Committee to reflect that.

### **Other Options Considered**

8. To continue to seek approvals on an annual basis for each conference individually, although it is recognised that these are priority events that the Council is always likely to benefit from sending representatives to.
9. To not attend such conferences but that would mean the Council missing out on a valuable opportunity to share best practice and utilise networking opportunities.

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

10. To enable places to be booked at these conferences as early as possible once the relevant booking systems go live, thereby achieving the most cost-effective means of attendance (through early bird conference place prices and optimum accommodation costs).

### **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.

## Financial Implications

12. The 2022 prices (excluding VAT) are:

- LGA Annual Conference and Exhibition 2022 - £545 (£495 early bird price) per delegate (N.B attendance at this conference was previously agreed by Policy Committee in January 2022)
- CCN Annual Conference –£780 per delegate
- NCASC Annual Conference - £495 per delegate
- LGA / ADPH Annual Public Health Conference – £250 per delegate

13. The costs of conference attendance, accommodation and travel for the relevant Members can be met from the budget for Members’ Conferences for which there is an allocation of £8,000 in 2022/23.

## RECOMMENDATION

1) That a standing approval be granted for the following conference attendance by Members, together with any necessary travel and accommodation arrangements:

<b>Conference</b>	<b>Relevant Member Roles</b>
LGA Annual Conference and Exhibition	Council Leader Council Deputy Leader Leader of the Main Minority Group
CCN Annual Conference	Council Leader Council Deputy Leader Leader of the Main Minority Group
NCASC Annual Conference	Cabinet Member for Adult Social Care and Public Health (ASCPH) Deputy Cabinet Member for ASCPH Cabinet Member for Children and Young People (CYP) Deputy Cabinet Member for CYP
LGA / ADPH Annual Public Health Conference	Cabinet Member for Adult Social Care and Public Health (ASCPH) Deputy Cabinet Member for ASCPH Chairman of Health and Wellbeing Board

2) That an updated approval, where relevant, be sought at any such point when the cost of places at any of the above events increases beyond inflationary increases or the political composition of the Council changes in a way that may affect the allocation of places at these events.

**ADRIAN SMITH,  
DEPUTY CHIEF EXECUTIVE**

**For any enquiries about this report please contact Keith Ford, Team Manager, Democratic Services, Tel 0115 9772590**

### **Constitutional Comments (HD – 27/07/2022)**

14. This decision falls within the Terms of Reference of Governance and Ethics Committee

### **Financial Comments (RWK 05/09/2022)**

15. The financial implications are set out in paragraphs 12 and 13 of the report. All of the costs to be incurred will be met from existing revenue budget allocations.

### **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.

- Report to Policy Committee – 13 January 2022 – Attendance at Local Government Association Annual Conference and Exhibition 2022
- Report to Policy Committee – 2 September 2021 – County Councils Network Annual Conference 2021
- Report to Policy Committee – 18 September 2019 – Attendance at National Children and Adult Services Conference: November 2019

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

All

**14 September 2022**

**Agenda Item: 9**

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

### **RUSHCLIFFE COMMUNITY GOVERNANCE REVIEW – UPPER SAXONDALE (STAGE 2)**

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

1. The report asks the Committee to consider the final draft recommendations relating to Rushcliffe Borough Council's Community Governance Review and agree the Council's response to the consultation.

#### **Information**

2. Rushcliffe Borough Council is undertaking a Community Governance Review, which is a legal process that considers the most suitable ways of representing the people in the area identified in the review. Outcomes could include:
  - a) Creating, merging or abolishing parishes
  - b) The naming of parishes and the style of new parishes and the creation of town councils
  - c) The electoral arrangements for parishes (for instance, the ordinary year of election, council size, the number of councillors to be elected to the council and parish warding)
  - d) Grouping parishes under a common parish council or de-grouping parishes
  - e) Other types of local arrangements, including parish meetings
3. The Upper Saxondale area is currently split across two parishes: Radcliffe-on-Trent and Cropwell Butler. Following receipt of a petition in December 2021, which asked for the creation of a separate parish Council for Upper Saxondale, Rushcliffe Borough Council commenced a Community Governance Review.
4. At its meeting on 21 April 2022, the Governance and Ethics Committee considered the review's first stage of consultation, which was assessing whether there was support for creating a parish for Upper Saxondale. It agreed to send a holding response, noting that the proposals were subject to consultation, with suggestions welcomed from any local stakeholder, that could influence the final proposals and any response the Council might wish to make.

5. The deadline for the initial phase of consultation closed on 13 May 2022, and the responses that were received were used by Rushcliffe Borough Council to identify the level of support for the proposal and whether to proceed to stage 2. An overview of the consultation responses is set out below:
  - 26.6% of the electorate in the Upper Saxondale area responded to the consultation
  - 25.5% of the electorate said 'yes' they would like to see a new parish
  - 1.1% of residents said 'no' they would not like to see the creation of a new parish
6. Rushcliffe Borough Council has therefore made recommendations, which are now subject to consultation as part of the second stage of the review:
  - A separate parish should be set up for the Upper Saxondale area
  - The new parish should be named **Upper Saxondale**
  - Upper Saxondale Parish Council should have 7 councillors
  - The boundaries of the parish should match the boundaries shown on the map at **Appendix A**
7. The second stage of consultation began on 27 June 2022 and runs until 19 August 2022. Rushcliffe Borough Council has agreed that, in order to allow a response to be drafted in conjunction with divisional members and considered by committee, the Council could submit its draft response by the deadline (**Appendix B**), with the final response being confirmed following agreement by the Committee.
8. Rushcliffe Borough Council will consider final recommendations at its full council meeting on 29 September 2022.
9. A Council undertaking a Community Governance Review may ask the Local Government Boundary Commission for England to make changes to boundaries at district or county level to reflect revised parish boundaries to provide coterminosity. It is not proposed in this instance that the Council makes any request for revisions to the Division boundaries, as the proposals can be effectively administered through creation and/or modification of polling districts.
10. Should the creation of a new parish be approved, then this would be a consideration in any future electoral review of Nottinghamshire County Council.

### **Other Options Considered**

11. The Council could choose not to submit a response to the consultation; this would mean any views it had on the proposals would not influence the final draft recommendations that members of Rushcliffe Borough Council will consider.

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

12. A majority of respondents who live in the Upper Saxondale supported the proposal.
13. The local County Councillors have been included in drafting the response.
14. Any individual Councillor or group who wished to make their own comments on this proposal, were able to make them directly to Rushcliffe Borough Council.

## **Statutory and Policy Implications**

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

## **Financial Implications**

16. There are no financial implications associated with this report.

## **Implications for Residents**

17. From a County Council perspective, the proposal has no implications for local residents.

18. There are wider impacts of the review, which will be for Rushcliffe Borough Council to consider when it develops its final proposals and subsequently votes on the final recommendations. These implications include the potential for affected residents' precept to change and the arrangements for residents voting in County Council elections. The proposals may impact residents across the current parishes of Radcliffe-on-Trent and Cropwell Butler, not just those in the Upper Saxondale area.

## **RECOMMENDATION/S**

- 1) That the Committee approves the response at **Appendix B** to the report to Rushcliffe Borough Council as Nottinghamshire County Council's response to the consultation on the final draft proposals of its Community Governance Review.

**Marjorie Toward**

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

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

Jo Toomey, Advanced Democratic Services Officer

Telephone: 0115 977 4506

Email: jo.toomey@nottcc.gov.uk

## **Constitutional Comments (LW 11/08/22)**

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

## **Financial Comments (SES 09/08/2022)**

20. 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.

- [Upper Saxondale CGR - Rushcliffe Borough Council](#)
- [Council - 03/03/22 - Rushcliffe Borough Council](#)
- [The Local Government and Public Involvement in Health Act 2007, Chapter 3](#)
- [The Legislative Reform \(Community Governance Reviews\) Order 2015 \(S.I. 2015/998\)](#)
- [Local Government Boundary Commission for England – Guidance on community governance reviews](#)

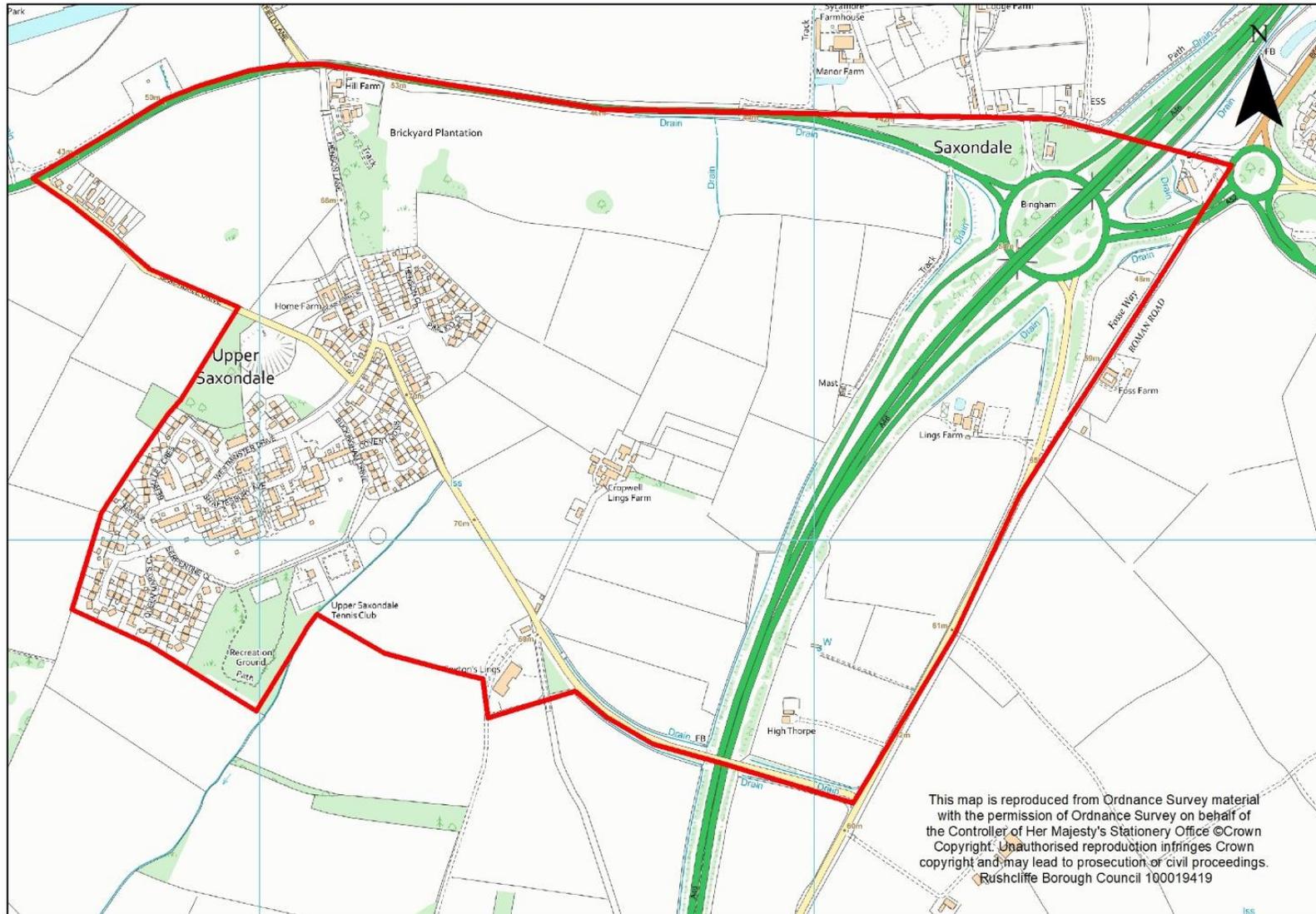
#### **Electoral Division(s) and Member(s) Affected**

- Radcliffe-on-Trent – Councillor Roger Upton
- Bingham West – Councillor Neil Clarke MBE

No.	
Date	
Initials	

office use only

### Proposed Upper Saxondale Parish





## Have Your Say...

As we can only consider the views of people who are affected by this proposal, please include your name, address and postcode in any response.

Full Name	<u>Nottinghamshire County Council</u>
Address	<u>County Hall, Loughborough Road, West Bridgford, Nottingham</u>
Postcode	<u>NG2 7QP</u>

**Rushcliffe Borough Council is recommending that a separate parish be created for Upper Saxondale.**

**Do you agree with this recommendation?**

Yes  If yes, please answer the rest of the consultation questions on this page

No  If no, please return this form to the address in the leaflet

**Do you agree with the new parish being named Upper Saxondale?**

Yes  No

**Do you agree with the number of parish councillors being seven?**

Yes  No

**Do you agree with the proposed boundaries (see map)?**

Yes  No

Please provide any comments on this proposal, any alternative parish name or boundary you would like to be considered by Rushcliffe Borough Council in the space below, then **return this sheet to Rushcliffe Borough Council at the address provided.**

Nottinghamshire County Council supports the creation of a new parish of Upper Saxondale in line with the majority of respondents to the first stage of consultation.

The majority of people living within the proposed parish identify themselves as living in the Upper Saxondale area, and is consistent with the name of other community groups that operate within the area.

The proposed boundary is consistent with the recent review of the Borough's Wards which was undertaken by the Local Government Boundary Commission for England.

The proposed parish is predominantly within Radcliffe-on-Trent county division with a small portion in Bingham West Division. The County Council does not wish to ask the Local Government Boundary Commission to make any related alterations to the Division boundaries, as administration of the area can be dealt with through a review of polling districts and polling places. Nottinghamshire County Council notes that the boundaries of the new parish will be considered as part of any review of its boundaries by the Local Government Boundary Commission for England.

Please include additional responses from other members of your household on a separate sheet of paper and return in the same envelope. Please ensure their names and addresses are included.

All responses must be received by the Council by 19 August 2022. Any comments received after that date may not be considered.

**14 September 2022**

**Agenda Item: 10**

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

### **WORK PROGRAMME**

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

1. To review the Committee's work programme for 2022-23.

#### **Information**

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 Options Considered**

4. None

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

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

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

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

### **RECOMMENDATION**

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

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

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

Jo Toomey, Advanced Democratic Services Officer

Tel. 0115 9774506

E-mail: [jo.toomey@nottsc.gov.uk](mailto:jo.toomey@nottsc.gov.uk)

**Constitutional Comments (EH)**

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

**Financial Comments (NS)**

8. There are no 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

## GOVERNANCE & ETHICS COMMITTEE – WORK PROGRAMME (AS AT 5 AUGUST 2022)

<b>Report Title</b>	<b>Brief Summary of agenda item</b>	<b>Lead Officer</b>	<b>Report Author</b>
<b>30 November 2022</b>			
Update on Local Government and Social Care Ombudsman Decisions	To consider any recent findings of the Local Government Ombudsman in complaints made against the County Council	Marie Rowney	Richard Elston
Statement of Accounts 2021/22	To seek approval for the 2021/22 Statement of Accounts and present the External Auditor's Audit Findings Report	Nigel Stevenson	Glen Bicknell
Internal Audit Progress Term 1 2022-23 and Term 3 Plan 2022-23	To review the outcomes of Internal Audit's recent work and consider proposals for planned coverage in the next term	Nigel Stevenson	Glen Bicknell
Corporate Risk Management Update	To consider the updated corporate risk register and the Council's arrangements for corporate risk management	Nigel Stevenson	Keith Palframan
Follow-up of Internal Audit recommendations – 6-monthly update	To consider an update on progress with implementing agreed actions from Internal Audit reports	Nigel Stevenson	Simon Lacey
Strategic Internal Audit Plan		Nigel Stevenson	Simon Lacey
Governance Update	To consider progress against the Governance Action Plan for 2022/23	Nigel Stevenson	Simon Lacey
Whistleblowing Policy Review	To consider the outcome of the review	Marjorie Toward	Heather Dickinson / Catherine Haywood
Councillor Code of Conduct Review	To consider the findings of the working group	Marjorie Toward	Heather Dickinson
<b>4 January 2023</b>			
Update on Local Government and Social Care Ombudsman Decisions	To consider any recent findings of the Local Government Ombudsman in complaints made against the County Council	Marie Rowney	Richard Elston
Follow-up of Internal Audit recommendations – 6-monthly update	To consider an update on progress with implementing agreed actions from Internal Audit reports	Nigel Stevenson	Simon Lacey
Internal Audit Charter	To review the Charter for the operation of internal audit in the Council <a href="#">Page 89 of 92</a>	Nigel Stevenson	Simon Lacey

Counter Fraud Progress Report	To consider progress against the counter-fraud and counter-corruption action plan	Nigel Stevenson	Simon Lacey
Regulation of Investigatory Powers Annual Report	To consider the annual report	Marjorie Toward	Heather Dickinson
<b>22 February 2023</b>			
Update on Local Government and Social Care Ombudsman Decisions	To consider any recent findings of the Local Government Ombudsman in complaints made against the County Council	Marie Rowney	Richard Elston
Corporate Governance Update	To receive an update on progress against the Annual Governance Statement action plan for 2022/23	Nigel Stevenson	Simon Lacey
Internal Audit Term 2 (2022-23) Report and Term 1 Plan 2023-24	To review the outcomes of Internal Audit's recent work and consider proposals for planned coverage in the next term	Nigel Stevenson	Simon Lacey
Corporate Risk Management 6-monthly update	To consider the updated corporate risk register and developments in the Council's approach to risk management	Nigel Stevenson	Simon Lacey
Whistleblowing update	To update the committee on whistleblowing activity during 2022	Marjorie Toward	Heather Dickinson
<b>22 March 2023</b>			
Update on Local Government and Social Care Ombudsman Decisions	To consider any recent findings of the Local Government Ombudsman in complaints made against the County Council	Marie Rowney	Richard Elston
Annual Audit Report 2021/22	To consider the external auditor's annual audit report for 2021/22	Nigel Stevenson	Glen Bicknell
<b>3 May 2023</b>			
Update on Local Government and Social Care Ombudsman Decisions	To consider any recent findings of the Local Government Ombudsman in complaints made against the County Council	Marie Rowney	Richard Elston
Governance and Ethics Committee Annual Report	To consider the draft annual report	Nigel Stevenson	Simon Lacey
Statement of Accounts 2022-23 – Accounting Policies	To consider the draft annual report and recommend to full council for consideration	Nigel Stevenson	Glen Bicknell
Informing the risk assessment – 2022-23 Statement of Accounts	To consider the risk assessment	Nigel Stevenson	Glen Bicknell

<b>14 June 2023</b>			
Update on Local Government and Social Care Ombudsman Decisions	To consider any recent findings of the Local Government Ombudsman in complaints made against the County Council	Marie Rowney	Richard Elston
External Audit Plan 2022-23	To consider the External Audit Plan for the forthcoming audit	Nigel Stevenson	Glen Bicknell
Assurance Mapping Annual Report 2022-23	To review the assurance provided from the map in 2022/23 and consider coverage for 2023/24	Nigel Stevenson	Simon Lacey
Internal Auditor's Annual Report	To consider the Head of Internal Audit's annual opinion of the arrangements for governance, risk management and control	Nigel Stevenson	Simon Lacey
Follow-up of Internal Audit recommendations – 6-monthly update	To consider an update on progress with implementing agreed actions from Internal Audit reports	Nigel Stevenson	Simon Lacey
Update on the use of the Councillor's Divisional Fund	To consider the annual update	Marjorie Toward	Keith Ford
<b>19 July 2023</b>			
Update on Local Government and Social Care Ombudsman Decisions	To consider any recent findings of the Local Government Ombudsman in complaints made against the County Council	Marie Rowney	Richard Elston
Annual Fraud Report 2020-21	To review the incidence of fraud over the year and an update on risks and mitigations	Nigel Stevenson	Simon Lacey
Internal Audit Term 2 2022/23	To consider proposed audit coverage for Term 2	Nigel Stevenson	Simon Lacey

