

Governance and Ethics Committee

Wednesday, 13 March 2019 at 13:00

County Hall, West Bridgford, Nottingham, NG2 7QP

AGENDA

- | | | |
|---|--|---------|
| 1 | Minutes of last meeting held on 30 January 2019 | 3 - 8 |
| 2 | Apologies for Absence | |
| 3 | Declarations of Interests by Members and Officers:- (see note below)
(a) Disclosable Pecuniary Interests
(b) Private Interests (pecuniary and non-pecuniary) | |
| 4 | Grant Thornton - External Audit Plan 2018-19 | 9 - 28 |
| 5 | Internal Audit 18-19 Term 2 Report 18-19 & Term 1 Plan 19-20 | 29 - 46 |
| 6 | Local Government Association Corporate Peer Challenge | 47 - 50 |
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| 9 | Work Programme | 95 - 98 |

Notes

- (1) Councillors are advised to contact their Research Officer for details of any

Group Meetings which are planned for this meeting.

- (2) Members of the public wishing to inspect "Background Papers" referred to in the reports on the agenda or Schedule 12A of the Local Government Act should contact:-

Customer Services Centre 0300 500 80 80

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

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

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



Meeting **GOVERNANCE AND ETHICS COMMITTEE**

Date **Wednesday 30th January 2019 (commencing at 1.00 pm)**

membership

Persons absent are marked with 'A'

COUNCILLORS

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

Nicki Brooks
Steve Carr
Kate Foale
John Handley
Errol Henry JP

John Longdon
Keith Girling
Rachel Madden
Phil Rostance

OFFICERS IN ATTENDANCE

Heather Dickinson
Rob Disney
Martin Gately
Laura Mulvany-Law
Marjorie Toward
Simon Lacey
Claire Winter
Andrew Magyar
Michael Fowler

Chief Executive's Department

Jon Hawketts

Children and Family Services

1. MINUTES

The Minutes of the last meeting held on 18 December 2018, having been previously circulated, were confirmed and signed by the Chairman.

2. APOLOGIES FOR ABSENCE

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

- Councillor John Longdon had replaced Councillor Keith Walker
- Councillor Keith Girling had replaced Councillor Mike Quigley MBE

3. DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

None

4. PUBLIC SECTOR AUDIT APPOINTMENTS – LOCAL AUDIT QUALITY FORUM

Simon Lacey, Audit Team Leader, Financial Services, introduced the report which updated Members on key messages and emerging issues from the Public Sector Audit Appointments (PSAA) Local Audit Quality Forum held on 3rd December 2018, which he had attended with Councillor Andy Sissons.

RESOLVED: 2019/001

That the key messages arising from the forum be noted and consideration be given to what further assurance is required from management regarding emerging issues that are being effectively addressed at this Council.

5. ASSURANCE MAPPING UPDATE

Rob Disney, Head of Internal Audit, introduced the report which updated Members on the progress being made with the pilot approach to assurance mapping in 2018/19, and to invite feedback to influence the final stage of its implementation.

The Chairman undertook to examine assurance processes outside the meeting to see if it would be possible to involve opposition Members in internal audit meetings.

RESOLVED: 2019/002

That:

- 1) the suggested approach for addressing the gaps in assurance so far be agreed, and consideration be given as to whether there are any further gaps in assurance that they wish to see covered by the remainder of the pilot process
- 2) a further update be received, following completion of the pilot process, and that recommendations for future development be considered at that time

6. EXTERNAL RESIDENTIAL PLACEMENTS FOR LOOKED AFTER CHILDREN

Jon Hawketts, Group Manager, Commissioning and Placements, introduced the report which provided an update on the significantly reduced instances of off-contract spend on external placements for Looked After Children following the introduction of new contracting arrangements for the procurement of high needs supported accommodation for Looked After Children and care leavers from May 2018.

RESOLVED: 2019/003

- 1) That there were no action required in relation to the information required in the report.
- 2) That any further updates on the volume of off-contract spend on external placements for Looked After Children be provided through the annual report on the use of Financial Regulation Waivers.

7. EFFECTIVENESS OF THE AUDIT COMMITTEE ROLE

Rob Disney, Head of Internal Audit, introduced the report, the purpose of which was to provide feedback on the outcome of the discussion at the meeting in November 2018 around the effectiveness of the committee's performance of the audit commit role in the Council.

RESOLVED: 2019/004

That:

- 1) the summary feedback presented in the report be considered and future development items be brought to the committee to cover risk management
- 2) the Improvement and Change Sub-Committee should be requested to consider a self-assessment against the NAO's audit committee guidance for transformation in councils.
- 3) a draft Annual Report on the work of Governance and Ethics Committee be received by the Committee at its meeting scheduled for 1 May 2019
- 4) no additional areas were identified where actions needed to be taken or developmental items brought to future meetings.

8. THE CODE OF CONDUCT FOR COUNCILLORS AND CO-OPTED MEMBERS – APPOINTMENT OF INDEPENDENT PERSONS

Heather Dickinson, Group Manager, Legal and Democratic Services, introduced the report, the purpose of which was to seek approval of a recruitment and selection process for the appointment of Independent Persons.

Following discussion, Councillors Andy Sissons, Errol Henry JP and Phil Rostance offered to comprise the membership of the cross-party steering group

RESOLVED: 2019/005

That:

- 1) a cross-party steering group comprising of 3 Members of Governance and Ethics Committee, and the Monitoring Officer as advisor, be established to oversee the recruitment process for the appointment of Independent Persons and undertake selection and interview, as required.
- 2) the role as detailed in paragraphs 5 and 6 of the report be advertised

- 3) the job description and person specification attached in the Appendix to the report be approved
- 4) a further report be received once recruitment and selection is complete, to consider endorsing the appointment of the preferred candidates to Full Council.

9. FOLLOW-UP OF INTERNAL AUDIT RECOMMENDATIONS

Rob Disney, Head of Internal Audit, introduced the report, the purpose of which was to report progress with the implementation of agreed management actions to address Internal Audit recommendations.

RESOLVED 2019/006

- 1) That a further report be brought back to the Governance and Ethics Committee in six months' time.

10. UPDATE ON USE OF RESOURCES BY COUNCILLORS

Heather Dickinson, Group Manager, Legal, Democratic Services and Complaints, introduced the report, the purpose of which was to provide an overview of the use of resources by councillors and seek agreement for appropriate actions.

During discussions, Members emphasised the excellent standard of service from the NCC print office, and that commercial rates should be paid by Councillors for this service.

RESOLVED: 2019/007

- 1) That the planned reimbursement of the costs of personal printing jobs by the Councillor for Ashfields division be noted, and that the approach be endorsed that any private printing by Councillors must be identified and agreed with the Print Office team in advance, who will then raise a charge for that work in line with their usual business practices and that this be communicated to Members.
- 2) That a limit on printing for each political group not be introduced at this time, but that this matter be kept under review and that reporting printing costs for the Mansfield Independents and the Council Chairman be shown separately in future.
- 3) That the use of Shireoaks Village Hall as a venue for Councillor Surgeries by the Councillor for Worksop West at a cost of £8 per month be allowed to continue.
- 4) That the use of Focus Point as a venue for Councillor Surgeries by the Councillors for Mansfield North at a cost of £900 per year be discontinued on the grounds of cost, but that six months be allowed for alternative processes to be put in place.
- 5) That any effective mechanisms for monitoring postal usage be explored by officers, and this be reported back at a future meeting.

- 6) That Members be reminded of the provisions of the Travel and Accommodation policy and that this be monitored and reported back to Committee as necessary.
- 7) That Members be reminded of the provisions of the Protocol on use of Resources including the Travel and Accommodation Policy.

11. LOCAL GOVERNMENT & SOCIAL CARE OMBUDSMAN DECISIONS **NOVEMBER 2018-JANUARY 2019**

Heather Dickinson, Group Manager for Legal and Democratic Services and Complaints introduced the report, the purpose of which was to inform the Committee about the Local Government & Social Care Ombudsman's (LGSCO) decisions relating to the Council in the period 30 November 2018-04 January 2019.

RESOLVED: 2019/008

- 1) That no actions were required in relation to the issues contained within the report.

12. WORK PROGRAMME

RESOLVED: 2019/009

That the work programme be agreed.

The meeting closed at 2.21pm.

CHAIRMAN

13 March 2019

Agenda Item: 4

REPORT OF SERVICE DIRECTOR – FINANCE, INFRASTRUCTURE AND IMPROVEMENT

GRANT THORNTON – EXTERNAL AUDIT PLAN 2018/19

Purpose of the Report

1. To inform Members of the External Auditors' Audit Plan for their 2018/19 Audit.

Information

2. The attached report from our new external auditors, Grant Thornton, sets out the proposed Audit Plan for the 2018/19 audit, including their approach, significant risks, fees, key staff and timelines for the audit. The report is presented to Members for their information. John Gregory, Engagement Lead - Grant Thornton) and Lorraine Noak, the Audit Manager (Grant Thornton), will be in attendance at the meeting to introduce the report and respond to Members' questions.

Other Options Considered

3. The report is for comment only.

Reason/s for Recommendation/s

4. To provide information to Members on the External Audit Plan 2018/19.

Statutory and Policy Implications

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

Financial Implications

6. The anticipated total fees, excluding the indicative fee for grant claim certification, are £75,624 for Nottinghamshire County Council and £23,043 for the Nottinghamshire Pension Fund. This is in line with the initial proposal and budget provision is in place.

RECOMMENDATION/S

- 1) That Members receive, and comment upon, the External Auditor's Audit Plan for 2018/19.

Nigel Stevenson

Service Director – Finance, Infrastructure and Improvement

For any enquiries about this report please contact:

Glen Bicknell, Senior Finance Business Partner, Financial Strategy and Compliance.

Constitutional Comments (05/03/2018 KK)

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

Financial Comments (08/02/2019 GB)

8. The financial implications are set out in the report.

Background Papers and Published Documents

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

- None

Electoral Division(s) and Member(s) Affected

- All

External Audit Plan

Year ending 31 March 2019

Nottinghamshire County Council

Nottinghamshire Pension Fund

March 2019



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The contents of this report relate only to the matters which have come to our attention, which we believe need to be reported to you as part of our audit planning process. It is not a comprehensive record of all the relevant matters, which may be subject to change, and in particular we cannot be held responsible to you for reporting all of the risks which may affect the Authority and Fund or all weaknesses in your internal controls. This report has been prepared solely for your benefit and should not be quoted in whole or in part without our prior written consent. We do not accept any responsibility for any loss occasioned to any third party acting, or refraining from acting on the basis of the content of this report, as this report was not prepared for, nor intended for, any other purpose.

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Introduction

Our Audit Team



John Gregory, Engagement Lead

John's role will be to lead our relationship with you. He will take overall responsibility for the delivery of a high quality audit, meeting the highest professional standards and adding value to the Authority. He will be the main point of contact for the Chair, Chief Executive and Committee members. He will share his wealth of knowledge and experience across the sector providing challenge and sharing good practice



Lorraine Noak, Audit Manager

Lorraine will work with senior members of the finance team ensuring testing is delivered and any accounting issues are addressed on a timely basis. She will attend Audit Committees with John, and supervise Hamze in leading the on-site team. Lorraine will undertake reviews of the team's work and draft clear, concise and understandable reports



Hamze Samatar , Audit Assistant Manager

Hamze's role will be to be the day to day contact for the Council finance staff. He will take responsibility for ensuring there is effective communication and understanding by the finance team of audit requirements. He will lead the on-site team and will monitor deliverables, manage our query log ensuring that any significant issues and adjustments are highlighted to management as soon as possible

Purpose

This document provides an overview of the planned scope and timing of the statutory audits of Nottinghamshire County Council ('the Authority') and Nottinghamshire Pension Fund ('the Fund') for those charged with governance.

Respective responsibilities

The National Audit Office ('the NAO') has issued a document entitled Code of Audit Practice ('the Code'). This summarises where the responsibilities of auditors begin and end and what is expected from the audited body. Our respective responsibilities are also set out in the *Terms of Appointment and Statement of Responsibilities* issued by Public Sector Audit Appointments (PSAA), the body responsible for appointing us as auditor of the Authority and the Fund. We draw your attention to both of these documents on the [PSAA website](#).

Scope of our audits

The scope of our audit is set in accordance with the Code and International Standards on Auditing (ISAs) (UK). We are responsible for forming and expressing an opinion on the :

- Authority and Fund's financial statements that have been prepared by management with the oversight of those charged with governance (the Governance and Ethics Committee); and
- Value for Money arrangements in place at the Authority for securing economy, efficiency and effectiveness in your use of resources.

The audit of the financial statements does not relieve management or the Governance and Ethics Committee of your responsibilities.

Our audit approach is based on a thorough understanding of the Authority and Fund's business and is risk based.

Headlines

Significant risks	<p>Those risks requiring special audit consideration and procedures to address the likelihood of a material financial statement error have been identified as:</p> <p>Nottinghamshire County Council</p> <ul style="list-style-type: none">• Management override of controls• Net pension liability• Valuation of Land & Buildings <p>Nottinghamshire Pension Fund</p> <ul style="list-style-type: none">• Management override of controls• Valuation of Level 3 (hard to value) Investment Assets <p>We will communicate significant findings on these areas as well as any other significant matters arising from the audit to you in our Audit Findings (ISA 260) Report.</p>
Materiality - Authority	<p>We have determined planning materiality to be £20m for the Authority, which equates to approximately 1.9% of your prior year gross expenditure (cost of services) for the year. We are obliged to report uncorrected omissions or misstatements other than those which are 'clearly trivial' to those charged with governance. Clearly trivial has been set at £1m.</p>
Materiality – Pension Fund	<p>We have determined materiality at the planning stage of our audit to be £50m for the Fund, which equates to 1% of your prior year net assets.</p> <p>We are obliged to report uncorrected omissions or misstatements other than those which are 'clearly trivial' to those charged with governance. Clearly trivial has been set at £2.5m.</p>
Value for Money arrangements (Authority Only)	<p>Our risk assessment regarding the Authority's arrangements to secure value for money have identified the following VFM significant risks:</p> <ul style="list-style-type: none">• Financial sustainability• Partnership working
Audit logistics	<p>Our interim audit visits will take place in January and March 2019. Our final audit visit will take place from June through to July. Our key deliverables are this Audit Plan and our Audit Findings Report to be issued upon completion of our audit work.</p> <p>Our fee for the audit will be £75,624 for the Authority and £23,043 for the Fund, subject to management meeting our requirements set out on page 15.</p>
Independence	<p>We have complied with the Financial Reporting Council's Ethical Standard and we as a firm, and each covered person, confirm that we are independent and are able to express an objective opinion on the financial statements.</p>

Key matters impacting our audit of the Authority

External Factors		Internal Factors	
<p>The wider economy and political uncertainty</p> <p>Local Government funding continues to be stretched, with most councils experiencing increasing cost pressures and demand from residents. Nottinghamshire County Council faces a similar economic environment, characterised by period of constrained external funding coinciding with demand pressures in adult and children's social care services. The council is therefore currently forecasting a financial gap of £34m over the next three years, as set out in its medium term financial plan. A range of options are being explored to address this.</p>	<p>Changes to the CIPFA 2018/19 Accounting Code</p> <p>The most significant changes relate to the adoption of:</p> <ul style="list-style-type: none"> IFRS 9 Financial Instruments which impacts on the classification and measurement of financial assets and introduces a new impairment model. IFRS 15 Revenue from Contracts with Customers which introduces a five step approach to revenue recognition. 	<p>New audit methodology</p> <p>Grant Thornton will be using our new audit methodology and tool, called LEAP, for the 2018/19 audit.</p> <p>This will enable us to be more responsive to changes that may occur in your organisation and more easily incorporate our knowledge of the Authority into our risk assessment and testing approach.</p>	<p>Notable local developments</p> <p>The council was exploring possible re-organisation of local government structures in Nottinghamshire. These proposals were not supported and plans for approval for further consultation were withdrawn.</p> <p>The council has over the past few years expended significant effort in establishing subsidiaries and joint ventures, with a view to delivering additional savings. This included the establishment of a new highways services joint venture (Via East Midlands Ltd.) owned 50% by the council. The authority is currently in talks to purchase the residual 50% shares of the joint venture.</p>
Our response			
<ul style="list-style-type: none"> We will consider your arrangements for managing and reporting your financial resources as part of our work in reaching our Value for Money conclusion. We will consider whether your financial position leads to material uncertainty about the going concern of the Authority and will review related disclosures in the financial statements. 	<ul style="list-style-type: none"> We will keep you informed of changes to the financial reporting requirements for 2018/19 through on-going discussions and invitations to our technical update workshops. As part of our opinion on your financial statements, we will consider whether your financial statements reflect the financial reporting changes in the 2018/19 CIPFA Code. 	<ul style="list-style-type: none"> You will see changes in the terminology we use in our reports that will align more closely with the ISAs We will consider testing more of your controls over operating expenditure We will ensure that our resources and testing are best directed to address your risks in an effective way. 	<ul style="list-style-type: none"> We will review the Authority's forward plans as part of our VfM work this year. This will enable us to assess the impact on the medium term financial sustainability plans.

Key matters impacting our audit of the Fund

External Factors		Internal Factors	
SI 493/2018 – LGPS (Amendment) Regulations 2018 Introduces a new provision for employers to receive credit for any surplus assets in a fund upon ceasing to be a Scheme employer. This could potentially lead to material impacts on funding arrangements and the need for updated of Funding Strategy Statements.	Changes to the CIPFA 2018/19 Accounting Code The most significant changes relate to the adoption of IFRS 9 Financial Instruments. In practice, IFRS 9 is anticipated to have limited impact for pension funds as most assets and liabilities held are already classed as fair value through profit and loss.	New audit methodology Grant Thornton will be using our new audit methodology and tool, called LEAP, for the 2018/19 audit. This will enable us to be more responsive to changes that may occur in your organisation and more easily incorporate our knowledge of the Authority into our risk assessment and testing approach.	
Guaranteed Minimum Pension (GMP) <ul style="list-style-type: none">• Pension funds are continuing to work through the GMP reconciliation process.• In January 2018 the government extended its “interim solution” for indexation and equalisation for public service pension schemes until April 2021. Currently the view is that the October 2018 High Court ruling in respect of GMP equalisation is therefore not likely to have an impact upon the LGPS.	The Pensions Regulator (tPR) tPRs Corporate Plan for 2018-2021 includes three new Key Performance Indicators (KPIs) directly related to public service pension schemes and TPR has chosen the LGPS as a cohort for proactive engagement throughout 2018 and 2019.		
Our response			
<ul style="list-style-type: none">• We will continue to monitor the position in respect of GMP equalisation and reconciliation. For pension funds the immediate impact is expected to be largely administrative rather than financial.	<ul style="list-style-type: none">• We will keep you informed of changes to the financial reporting requirements for 2018/19 through on-going discussions and invitations to our technical update workshops.• As part of our opinion on your financial statements, we will consider whether your financial statements reflect the financial reporting changes in the 2018/19 CIPFA Code.• We will keep under review any interaction the Fund has with tPR and tailor our audit approach where necessary.	<ul style="list-style-type: none">• You will see changes in the terminology we use in our reports that will align more closely with the ISAs• We will consider testing more of your controls over operating expenditure.• We will ensure that our resources and testing are best directed to address your risks in an effective way.	<ul style="list-style-type: none">• We will review the council's IT general controls as part of our audit work this year. This will enable us to assess the design and operational effectiveness of controls over the council's key IT processes, specifically in relation to financial reporting and management systems.

Audit approach

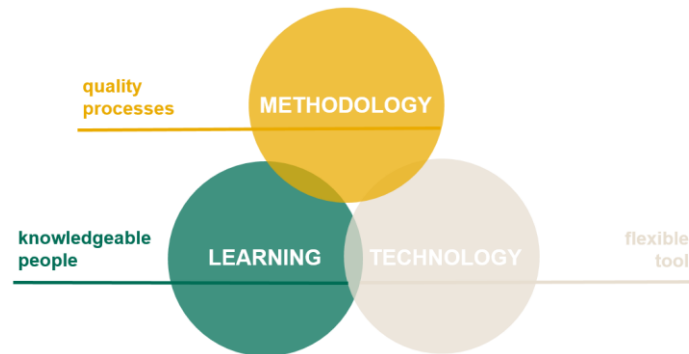
Use of audit, data interrogation and analytics software

LEAP



Audit software

- A globally developed ISA-aligned methodology and software tool that aims to re-engineer our audit approach to fundamentally improve quality and efficiency
- LEAP empowers our engagement teams to deliver even higher quality audits, enables our teams to perform cost effective audits which are scalable to any client, enhances the work experience for our people and develops further insights into our clients' businesses
- A cloud-based industry-leading audit tool developed in partnership with Microsoft



IDEA



- We use one of the world's leading data interrogation software tools, called 'IDEA' which integrates the latest data analytics techniques into our audit approach
- We have used IDEA since its inception in the 1980's and we were part of the original development team. We still have heavy involvement in both its development and delivery which is further enforced through our chairmanship of the UK IDEA User Group
- In addition to IDEA, we also use other tools like ACL and Microsoft SQL server
- Analysing large volumes of data very quickly and easily enables us to identify exceptions which potentially highlight business controls that are not operating effectively

Appian



Business process management

- Clear timeline for account review:
 - disclosure dealing
 - analytical review
- Simple version control
- Allow content team to identify potential risk areas for auditors to focus on

Inflo



Cloud based software which uses data analytics to identify trends and high risk transactions, generating insights to focus audit work and share with clients.



REQUEST & SHARE

- Communicate & transfer documents securely
- Extract data directly from client systems
- Work flow assignment & progress monitoring



ASSESS & SCOPE

- Compare balances & visualise trends
- Understand trends and perform more granular risk assessment



VERIFY & REVIEW

- Automate sampling requests
- Download automated work papers



INTERROGATE & EVALUATE

- Analyse 100% of transactions quickly & easily
- Identify high risk transactions for investigation & testing
- Provide client reports & relevant benchmarking KPIs



FOCUS & ASSURE

- Visualise relationships impacting core business cycles
- Analyse 100% of transactions to focus audit on unusual items
- Combine business process analytics with related testing to provide greater audit and process assurance



INSIGHTS

- Detailed visualisations to add value to meetings and reports
- Demonstrates own performance and benchmark comparisons

Significant risks identified

Significant risks are defined by ISAs (UK) as risks that, in the judgement of the auditor, require special audit consideration. In identifying risks, audit teams consider the nature of the risk, the potential magnitude of misstatement, and its likelihood. Significant risks are those risks that have a higher risk of material misstatement.

Risk	Risk relates to	Reason for risk identification	Key aspects of our proposed response to the risk
Fraudulent revenue recognition	Authority and Pension Fund	Under ISA (UK) 240 there is a rebuttable presumed risk that revenue may be misstated due to the improper recognition of revenue. This presumption can be rebutted if the auditor concludes that there is no risk of material misstatement due to fraud relating to revenue recognition.	<p>Having considered the risk factors set out in ISA240 and the nature of the revenue streams at the Authority and the Fund, we have determined that the risk of fraud arising from revenue recognition can be rebutted, because:</p> <ul style="list-style-type: none"> • there is little incentive to manipulate revenue recognition • opportunities to manipulate revenue recognition are very limited • the culture and ethical frameworks of local authorities, including Nottinghamshire County Council and Nottinghamshire Pension Fund, mean that all forms of fraud are seen as unacceptable <p>Therefore we do not consider this to be a significant risk for Nottinghamshire County Council and Nottinghamshire Pension Fund</p>
Management over-ride of controls	Authority and Pension Fund	<p>Under ISA (UK) 240 there is a non-rebuttable presumed risk that the risk of management over-ride of controls is present in all entities. . The Authority and Fund faces external scrutiny of its spending and this could potentially place management under undue pressure in terms of how they report performance.</p> <p>We therefore identified management override of control, in particular journals, management estimates and transactions outside the course of business as a significant risk for both the Authority and Fund, which was one of the most significant assessed risks of material misstatement.</p>	<p>We will:</p> <ul style="list-style-type: none"> • evaluate the design effectiveness of management controls over journals • analyse the journals listing and determine the criteria for selecting high risk unusual journals • test unusual journals recorded during the year and after the draft accounts stage for appropriateness and corroboration • gain an understanding of the accounting estimates and critical judgements applied made by management and consider their reasonableness with regard to corroborative evidence • evaluate the rationale for any changes in accounting policies, estimates or significant unusual transactions.

Significant risks identified

Risk	Risk relates to	Reason for risk identification	Key aspects of our proposed response to the risk
Valuation of Land and Buildings	Authority	<p>The Authority revalues its land and buildings on a five-yearly basis. In the intervening years, such as 2018/19, to ensure the carrying value in the Authority financial statements is not materially different from the current value or the fair value (for surplus assets) at the financial statements date, the Authority carries out a desktop revaluation or requests a desktop valuation from its valuation expert to ensure that there is no material difference. This valuation represents a significant estimate by management in the financial statements due to the size of the numbers involved (£717 million) and the sensitivity of this estimate to changes in key assumptions.</p> <p>The possibility of Brexit occurring just before the year end increases the risk in relation to these valuations as there could be late changes if Brexit has a significant impact on financial and property markets.</p> <p>We therefore identified valuation of land and buildings as a significant risk, which was one of the most significant assessed risks of material misstatement, and a key audit matter.</p>	<p>We will:</p> <ul style="list-style-type: none"> • evaluate management's processes and assumptions for the calculation of the estimate, the instructions issued to valuation experts and the scope of their work • evaluate the competence, capabilities and objectivity of the valuation expert • write to the valuer to confirm the basis on which the valuation was carried out to ensure that the requirements of the Code are met • challenge the information and assumptions used by the valuer to assess completeness and consistency with our understanding • test revaluations made during the year to see if they had been input correctly into the Authority's asset register • evaluate the assumptions made by management for those assets not revalued during the year and how management has satisfied themselves that these are not materially different to current value at year end. • Consider your approach to reflecting changes in valuations arising from Brexit.

Significant risks identified

Risk	Risk relates to	Reason for risk identification	Key aspects of our proposed response to the risk
Valuation of the pension fund net liability	Authority	<p>The Authority's pension fund net liability, as reflected in its balance sheet as the net defined benefit liability, represents a significant estimate in the financial statements.</p> <p>The pension fund net liability is considered a significant estimate due to the size of the numbers involved (£1.1bn in the Authority's balance sheet) and the sensitivity of the estimate to changes in key assumptions.</p> <p>Some elements of the valuation may also be affected this year by late changes associated with Brexit, leading to increased audit risk.</p> <p>We therefore identified valuation of the Authority's pension fund net liability as a significant risk, which was one of the most significant assessed risks of material misstatement, and a key audit matter.</p>	<p>We will:</p> <ul style="list-style-type: none"> • update our understanding of the processes and controls put in place by management to ensure that the Authority's pension fund net liability is not materially misstated and evaluate the design of the associated controls; • evaluate the instructions issued by management to their management expert (an actuary) for this estimate and the scope of the actuary's work; • assess the competence, capabilities and objectivity of the actuary who carried out the Authority's pension fund valuation; • assess the accuracy and completeness of the information provided by the Authority to the actuary to estimate the liability; • test the consistency of the pension fund asset and liability and disclosures in the notes to the core financial statements with the actuarial report from the actuary; • undertake procedures to confirm the reasonableness of the actuarial assumptions made by reviewing the report of the consulting actuary (as auditor's expert) and performing any additional procedures suggested within the report; and • agree the advance payment made to the pension fund for future years to the expected accounting treatment and relevant financial disclosures. • obtain assurances as the auditor of Nottinghamshire Pension Fund as to the controls surrounding the validity and accuracy of membership data; contributions data and benefits data sent to the actuary by the pension fund and the fund assets valuation in the pension fund financial statements.

Nottinghamshire Pension Fund - Significant risks identified

Risk	Risk relates to	Reason for risk identification	Key aspects of our proposed response to the risk
Valuation of Level 3 (hard to value) Investment Assets	Pension Fund	<p>Under ISA 315 significant risks often relate to significant non-routine transactions and judgemental matters.</p> <p>Level 3 investments by their very nature require a significant degree of judgement to reach an appropriate valuation at year end.</p>	<p>We will:</p> <ul style="list-style-type: none">• gain an understanding of the Fund's process for valuing level 3 investments and evaluate the design of the associated controls;• review the nature and basis of estimated values and consider what assurance management has over the year end valuations provided for these types of investments• for a sample of investments, test the valuation by obtaining and reviewing the audited accounts (where available) at the latest date for individual investments and agreeing those to the fund managers reports at that date

We will communicate significant findings on these areas as well as any other significant matters arising from the audit to you in our Audit Findings Report in July 2019.

Other matters

Other work

The Fund is administered by the Authority, and the Fund's financial statements form part of the Authority's financial statements.

Therefore, in addition to our responsibilities under the Code of Practice, we have a number of other audit responsibilities in respect of the Authority and the Fund, as follows:

- We read the Authority's Narrative Report and Annual Governance Statement and any other information published alongside the Authority's financial statements to check that they are consistent with the financial statements of the Authority and the Fund on which we give an opinion, and consistent with our knowledge of the Authority.
- We carry out work to satisfy ourselves that disclosures made in the Authority's Annual Governance Statement are in line with the guidance issued by CIPFA.
- We carry out work on the Authority's consolidation schedules for the Whole of Government Accounts process in accordance with NAO group audit instructions.
- We carry out work to satisfy ourselves on the consistency of the pension fund financial statements included in the pension fund annual report with the audited Fund accounts.
- We consider our other duties under legislation and the Code, as and when required, including:
 - Giving electors the opportunity to raise questions about the Authority or Fund's 2018/19 financial statements, consider and decide upon any objections received in relation to the 2018/19 financial statements;
 - issue of a report in the public interest or written recommendations to the Authority or Fund under section 24 of the Act, copied to the Secretary of State.
 - Application to the court for a declaration that an item of account is contrary to law under Section 28 or for a judicial review under Section 31 of the Act; or
 - Issuing an advisory notice under Section 29 of the Act.
- We certify completion of our audit of the Authority.

Other material balances and transactions

Under International Standards on Auditing, "irrespective of the assessed risks of material misstatement, the auditor shall design and perform substantive procedures for each material class of transactions, account balance and disclosure". All other material balances and transaction streams will therefore be audited. For the pension fund this will include specific audit procedures relating to the Actuarial Present Value of Promised Retirement Benefits and Valuation of Level 2 Investments. However, the procedures will not be as extensive as the procedures adopted for the risks identified in this report.

Going concern

As auditors, we are required to "obtain sufficient appropriate audit evidence about the appropriateness of management's use of the going concern assumption in the preparation and presentation of the financial statements and to conclude whether there is a material uncertainty about the Authority or the Fund's 's ability to continue as a going concern" (ISA (UK) 570). We will review management's assessment of the going concern assumption and evaluate the disclosures in the financial statements.

Other accounting transactions

We are currently considering the following areas (where deemed to be material and transactions occur in the 2018/19 financial year):

- The authority's plans to purchase the residual 50% shares of its Via East Midlands joint venture
- The nature, disclosure and recognition of pension guarantees made to subsidiaries and joint ventures
- The accounting treatment of PPE assets licensed Inspire Charitable Trust
- The accounting treatment and recognition of PFI schemes, finance leases and related liabilities
- All other significant judgements and estimates

Accounting policies

- We will review the Authority and Fund's responses to IFRS 9 and 15, and disclosures relating to standards issued but not yet applied.

Materiality

The concept of materiality is fundamental to the preparation of the financial statements and the audit process and applies not only to the monetary misstatements but also to disclosure requirements and adherence to acceptable accounting practice and applicable law. Misstatements, including omissions, are considered to be material if they, individually or in the aggregate, could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statements.

Matter	Description	Planned audit response
1	<p>Calculation and determination</p> <p>We have determined planning materiality (financial statement materiality determined at the planning stage of the audit) based on professional judgment in the context of our knowledge of the Authority and the Fund, including consideration of factors such as stakeholder expectations, financial stability and reporting requirements for the financial statements.</p> <p>We determine planning materiality in order to:</p> <ul style="list-style-type: none"> – estimate the tolerable level of misstatement in the financial statements – assist in establishing the scope of our audit engagement and audit tests – calculate sample sizes and – assist in evaluating the effect of known and likely misstatements in the financial statements 	<ul style="list-style-type: none"> • For the Authority, we have determined financial statement materiality based on a proportion of the gross expenditure of the Authority for the financial year. In the prior year we used the same benchmark. Materiality at the planning stage of our audit is £20m for the Authority, which equates to 1.9% of your prior year gross expenditure for the year (cost of services). • For the Fund, we have determined financial statement materiality based on a proportion of the Fund's net assets. e of our audit to be for the Fund. In the prior year we used the same benchmark. Our materiality at the planning stage is £50m which equates to 1% of your actual net assets for the year ended 31 March 2018.
2	<p>Other factors</p> <p>An item does not necessarily have to be large to be considered to have a material effect on the financial statements. We design our procedures to detect errors in specific accounts at a lower level of precision which we deem to be relevant to stakeholders.</p>	<ul style="list-style-type: none"> • For the Authority, we have determined a lower specific materiality level of £100K for Senior officer remuneration disclosures.
3	<p>Reassessment of materiality</p> <p>Our assessment of materiality is kept under review throughout the audit process.</p>	<ul style="list-style-type: none"> • We reconsider planning materiality if, during the course of our audit engagement, we become aware of facts and circumstances that would have caused us to make a different determination of materiality
4	<p>Matters we will report to the Governance and Ethics Committee</p> <p>Whilst our audit procedures are designed to identify misstatements which are material to our opinion on the financial statements as a whole, we nevertheless report to the Governance and Ethics Committee any unadjusted misstatements of lesser amounts, other than those which are 'clearly trivial', to those charged with governance. ISA 260 (UK) defines 'clearly trivial' as matters that are clearly inconsequential, whether taken individually or in aggregate and whether judged by any quantitative or qualitative criteria.</p>	<ul style="list-style-type: none"> • In the context of the Authority, we propose that an individual difference could normally be considered to be clearly trivial if it is less than £1m. • In the context of the Fund, we propose that an individual difference could normally be considered to be clearly trivial if it is less than £2.5m. • If management have corrected material misstatements identified during the course of the audit, we will consider whether those corrections should be communicated to the Governance and Ethics Committee to assist it in fulfilling its governance responsibilities.

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Value for Money arrangements

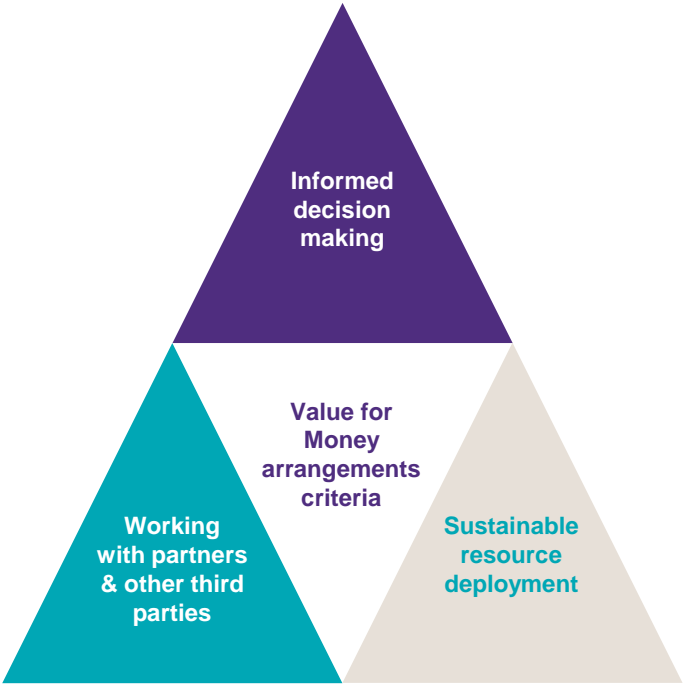
Background to our VFM approach

The NAO issued its guidance for auditors on Value for Money work in November 2017. The guidance states that for Local Government bodies, excluding Pension Funds, auditors are required to give a conclusion on whether the Authority has proper arrangements in place to secure value for money.

The guidance identifies one single criterion for auditors to evaluate:

“In all significant respects, the audited body takes properly informed decisions and deploys resources to achieve planned and sustainable outcomes for taxpayers and local people.”

This is supported by three sub-criteria, as set out below:



Significant VFM risks

Those risks requiring audit consideration and procedures to address the likelihood that proper arrangements are not in place at the Authority to deliver value for money.



Financial Sustainability

This risk relates to the sub-criteria of Sustainable Resource Deployment.

The council continues to face similar financial pressures to those experienced by others in the Local Government sector. The council's latest financial monitoring report (M08) presented to the Finance and Major Contracts Management Committee indicates a £5.8m net overspend forecast for the current financial year. Furthermore the council faces significant financial challenges over the medium term to achieve its statutory break even budget duty.

The latest report shows a £34.1m gap for the medium term.



Partnership Working

This risk relates to the sub-criteria of Working with partners and other 3rd parties.

Increasingly the council has identified and indeed continues to identify a range of measures and significant savings to mitigate financial challenges. It has increased partnership working with other public sector organisations in Nottinghamshire, across both local government and the NHS. The council has also made greater use of subsidiaries, joint ventures and its dedicated performance and improvement team.

As wider partnership working evolves it is important to consider governance arrangements within the collaborations and ensure the required outcomes are being achieved.

Audit logistics, team & fees



Audit fees

The planned audit fees are £75,624 for the financial statements audit of the Authority, and £23,043 for the financial statements audit of the Fund, completed under the Code, which are inline with the scale fees published by PSAA. In setting your fee, we have assumed that the scope of the audits, and the Authority and Fund and its activities, do not significantly change.

Where we are required to respond to requests received from other auditors of other bodies for assurance in respect of information held by the Fund and provided to the actuary to support their individual IAS 19 calculations these will be billed in addition to the audit fee on a case by case basis.

Our requirements

To ensure the audit is delivered on time and to avoid any additional fees, we have detailed our expectations and requirements in the following section 'Early Close'. If the requirements detailed overleaf are not met, we reserve the right to postpone our audit visit and charge fees to reimburse us for any additional costs incurred.

Any proposed fee variations will need to be approved by PSAA.

Independence & non-audit services

Auditor independence

Ethical Standards and ISA (UK) 260 require us to give you timely disclosure of all significant facts and matters that may bear upon the integrity, objectivity and independence of the firm or covered persons relating to our independence. We encourage you to contact us to discuss these or any other independence issues with us. We will also discuss with you if we make additional significant judgements surrounding independence matters.

We confirm that there are no significant facts or matters that impact on our independence as auditors that we are required or wish to draw to your attention. We have complied with the Financial Reporting Council's Ethical Standard and we as a firm, and each covered person, confirm that we are independent and are able to express an objective opinion on the financial statements.

We confirm that we have implemented policies and procedures to meet the requirements of the Financial Reporting Council's Ethical Standard and we as a firm, and each covered person, confirm that we are independent and are able to express an objective opinion on the financial statements. Further, we have complied with the requirements of the National Audit Office's Auditor Guidance Note 01 issued in December 2017 and PSAA's Terms of Appointment which set out supplementary guidance on ethical requirements for auditors of local public bodies.

Other services provided by Grant Thornton

For the purposes of our audit we have made enquiries of all Grant Thornton UK LLP teams providing services to the Authority and the Fund. No other services were identified.

Any changes and full details of all fees charged for audit related and non-audit related services by Grant Thornton UK LLP and by Grant Thornton International Limited network member Firms will be included in our Audit Findings report at the conclusion of the audit.

13 March 2019**Agenda Item: 5****REPORT OF SERVICE DIRECTOR FOR FINANCE, INFRASTRUCTURE &
IMPROVEMENT****INTERNAL AUDIT 2018-19 TERM 2 REPORT & 2019-20 TERM 1 PLAN****Purpose of the Report**

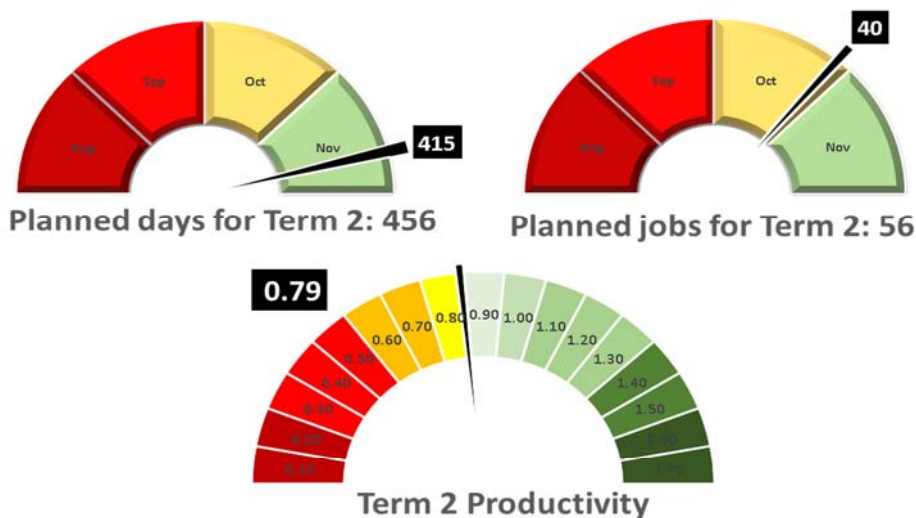
1. To inform Members of the Head of Internal Audit's report on the work carried out by Internal Audit in Term 2 of 2018/19, and to highlight any key issues arising.
2. To consult with Members on the Internal Audit Plan for Term 1 of 2019/20.

Information

3. Internal Audit is now operating on the basis of three Termly Plans in each financial year, covering the following periods:
 - Term 1: April to July
 - Term 2: August to November
 - Term 3: December to March
4. As previously agreed with the Committee, Internal Audit reports its updates three times per year. The reports comprise the outcomes from the work carried out in the preceding Term, followed by proposals for the coverage in the forthcoming Term.

Progress against the Term 2 Audit Plan 2018/19

5. The following charts depict progress against the Term 2 Plan, expressed in terms of the following:
 - Inputs – the number of audit days delivered against the Term 2 plan. Each segment in the chart represents $\frac{1}{4}$ of the Termly Plan.
 - Outputs – the number of jobs completed against the plan. Each segment in the chart represents $\frac{1}{4}$ of the Termly Plan.
 - Productivity indicator – the target score is 1, indicating that all planned jobs have been completed on time and using the planned allocation of days.



6. Recurrent resourcing difficulties have been hampering the service's ability to deliver its Audit Plans. These issues have been the subject of more detailed discussion in the routine meetings between the Chairman of the Governance & Ethics Committee and the Group Manager – Assurance, who heads up the Internal Audit service. The Committee's Chairman requested that the actions being taken to tackle the issues are brought to the Committee's attention. The issues fall into three categories: recruitment; sickness absence; and delivering work to planned timescales.

- a) Recruitment: A recent period of staff turnover has coincided with a period of difficulty in recruiting replacement staff. This impact has been felt particularly at the Senior Auditor level. Following two unsuccessful recruitment exercises at this level, a full-time Senior Auditor has now been recruited and joined the Council in mid-February 2019. The gap in resources has been plugged using the County Council's arrangements for recruiting agency workers. This has met with partial success, and reliance on this source is not a sustainable option.
- b) Collaboration: Members are aware that the Internal Audit service has entered into a collaboration arrangement with Audit Lincolnshire, and this partnership is now gathering momentum. A member of the Lincolnshire County Council Internal Audit team is currently delivering one audit in our own Term 3 Plan, and discussion with partners has identified scope for further joint working over coming planning periods. This may take the shape of forming small, joint-partner teams to devise and deliver audit approaches in areas of mutual significance. There is also likely to be the opportunity to join with our Assurance Lincolnshire partners to commission specialist audit input from the external market to supplement our in-house resource.
- c) Restructure: For the longer term, the Group Manager – Assurance is currently formulating proposals for a revised structure of the in-house Internal Audit team. Once finalised, the Group Manager's proposals will be presented for consultation with staff and the trade unions, before being brought to this Committee for approval in late spring or early summer. The Group Manager intends to address the recruitment difficulties at the Senior Auditor level in part by building in provision for an apprenticeship scheme in the team. Once up

and running, it is hoped that this will deliver an on-going supply of newly qualified internal auditors into the service, to complement future recruitment from the external market.

- d) Sickness absence: Internal Audit staff have unfortunately suffered some long-term instances of sickness in recent years. The issues have not been work-related and all cases have either been resolved satisfactorily or are progressing well at the present time. The challenge for the service has been to design in improved resilience to the delivery arrangements.
- e) Meeting planned timescales: The Internal Audit service's current Quality Assurance and Improvement Plan identifies a need to improve its delivery of planned audits to the scheduled timescales. The Group Manager – Assurance continues to work with the team to identify and implement approaches to improve performance in this regard. The team recognises that, whilst resourcing difficulties may mean that fewer audits than planned can be delivered, those that are delivered need to progress as promptly as possible. It should be stressed that the quality of the service delivered is not in doubt. This was evidenced by the extremely positive outcome of the service's External; Quality Assessment in March 2018. On-going assurance is evident from the service's performance indicators demonstrating strong engagement between the team and service managers across the Council.

Audit assurance

- 7. In Term 2, a range of work was completed across the Council. **Appendix 1** sets out details of all final reports, draft reports and written advice, covering the following key types of Internal Audit input:
 - Assurance audits, for which an audit opinion is issued
 - Advice and consultancy – often relating to key developments and initiatives
 - Counter-fraud – including the investigation of suspected fraud and whistleblower reports
 - Certification audits – generally small jobs to sign off returns and accounts.

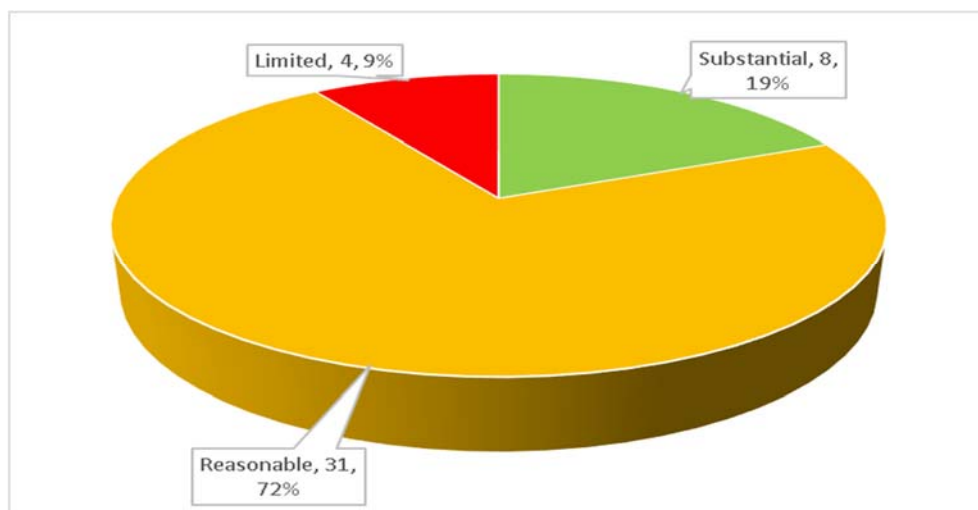
With regard to school audits completed in Term 2, the following summarises the spread of assurance opinions for the 15 completed reports:

Substantial Assurance (3 items)

Reasonable Assurance (10 items)

Limited Assurance (2 items)

- 8. The opinion-based assurance work is a key contributor to the Group Manager – Assurance's year-end opinion on the adequacy of the Council's system of internal control. The **chart below** shows the distribution of opinions issued in 2018/19 so far. Based on this, and adding it to the rolling outcomes of Internal Audit's assurance work over the past 12 months, the Group Manager - Assurance is able to report that **a satisfactory level of internal control continues to be in operation in the Council.**



9. The limited assurance opinions issued to date include three relating to schools visited. The audits in schools cover a broad range of areas including: governance; expenditure; income; assets; and information. Weaknesses were noted in a number of these areas at the schools in question.
10. The other limited assurance opinion concerns a draft report on the arrangements in the County Council for complying with the payment card industry standards. A fuller summary of the weaknesses identified will be presented in the next update once the report has been finalised.

Advisory input to developments

11. Internal Audit continues to provide advisory input to developments in the Council. In Term 2, the service engaged with the Cloud programme and this input will continue as the programme progresses. Internal Audit has also responded to a number of smaller-scale, ad hoc requests for advice. Particular areas of focus in Term 2 were in the ASCH Department on the Resource Allocation System for care packages and on controls over unallocated cases in the Mosaic system.
12. Internal Audit's advisory input ensures that timely advice is delivered by the Section while new and changed systems are being designed and implemented, and it helps to maintain the influence the Section has to retain a proper focus on control issues. Informal feedback from senior officers continues to indicate that this type of input is valued.

Counter-Fraud

13. Internal Audit was active in the following aspects of its pro-active counter-fraud programme in Term 2, the outcomes of which were reported to Committee in December 2018 as part of the counter-fraud update report:
 - National Fraud Initiative – the outcomes of the 2016-18 exercise
 - National Fraud Initiative – Recheck facility – facilitation of updated matching of pension records to mortality data.
 - Serious and organised crime – follow-up of agreed management actions and continuing to progress the 'data-washing' exercise with Nottinghamshire police.

- Fraud Response Plan and Annual Governance Statement Action Plan – review of progress against all agreed actions, including a refresh of the Counter Fraud and Counter Corruption Policy and Strategy.
- Criminal Finances Act 2017 – Preventing Tax Evasion – development and seeking approval of a Policy Statement.
- Counter-fraud e-learning – re-launch of an e-learning package for all staff in November 2018 to coincide with International Fraud Awareness Week.
- Insurance Counter Fraud - following work with the Council's Risk & Insurance team and the Council's insurers, new avenues have been identified to share intelligence and counter fraud techniques. Further work is envisaged to promote counter-fraud jointly between Internal Audit and Risk & Insurance.

14. In addition, Internal Audit was engaged to varying degrees in the following enquiries to investigate potential fraud cases. The cases referred to remain in progress, therefore fuller details will be reported to Committee once the outcomes are finalised:

Area of service and nature of irregularity	Extent of Internal Audit's input
Direct Payment Support Service provider - shortfall on service user account balances maintained by an external provider	Ongoing support and advice to the departmental staff working with the provider to confirm balances and to monitor the ongoing recovery of the shortfall.
Direct Payments and deprivation of assets cases - irregularities identified by the Adult Care Financial Services (ACFS) Team through its monitoring and review procedure.	Regular liaison with ACFS to discuss Direct Payment cases and to further develop suspected fraud response maps. Action Fraud and Police action is ongoing in the more significant cases relating to: the suspected misuse of a direct payment; and suspected theft by carers from service user bank accounts.
Overpayment to a care home in respect of a service user couple	Advice on recovery action to correct a commissioning error which had not been brought to the Council's attention by the provider. ACFS has issued recovery invoices to the provider and Internal Audit has issued a draft report making various recommendations.
Employee claims for additional hours in a Children's & Families establishment	An analytical contribution to the investigation of claims for additional hours and subsequent submission of evidence to the formal stage of the investigation. Co-ordination of advice from Nottinghamshire Police and subsequent revision of the Council's Fraud Response Plan. An investigation panel has convened, and the monies are to be recovered.

15. In all cases, Internal Audit assesses whether the weaknesses in internal controls are a contributory factor to the issues arising and makes recommendations to management. The Fraud Risk Assessment is updated in light of both the pro-active and reactive fraud work.

Key Performance Indicators

16. The Section's performance in Term 2 against its key indicators is detailed in the following table:

Performance Measure/Criteria	Target	Outcome in Term 2
1. Risk-aware Council		
Completion of Termly Plan - Days - Jobs	90% 90%	✓ 91% ✗ 75%
Regular progress reports to: - Departmental Leadership Teams - Corporate Leadership Team - Governance & Ethics Committee	1 per term 1 per term 1 per term	✓ Completed ✓ Completed ✓ Completed
Publication of periodic fraud/control awareness updates	2 per annum	✓ E-learning package & Annual Fraud Report
2. Influential Audit Section		
Recommendations agreed	95%	✓ 100%
Engagement with the Transformation agenda	Active in 5 key projects during the year	✗ Active in 2 so far in 2018/19
3. Improved internal control & VFM		
Percentage of Priority 1 & Priority 2 recommendations implemented (as at January 2019 update for 2017/18 actions)	75%	✗ 58% Priority 1 ✓ 83% Priority 2
4. Quality measures		
Compliance with the Public Sector Internal Audit Standards	Compliance achieved	✓ Action is in progress to address the few issues identified by the External Quality Assessment of Internal Audit
Positive customer feedback through Quality Control Questionnaire (QCQ) scores	Feedback good or excellent (where a score of 1 is excellent and a score of 2 is good)	✓ 1.89

17. The table shows a good level of performance by the service in Term 1, although the quantum of work carried out was less than anticipated due to the issues set out above at paragraph 6.

Proposed Internal Audit Plan for Term 1 2019-20

18. Internal Audit has carried out updated consultations with senior managers (through the Corporate Leadership Team and the Departmental Senior Leadership Teams). Regular slots at these meetings are booked in on a rolling basis to coincide with the schedule agreed for the termly arrangement.

19. Audit plans are determined on a risk basis, as required by the Public Sector Internal Audit Standards (PSIAS). As part of the planning process, account is taken of external sources of assurance, including the work of external inspectorates. Where audits are planned, pre-audit

work will also include discussion with managers over sources of assurance that can be relied upon, to prevent duplication. Account will also be taken in future Terms of any significant implications arising from the pilot work on assurance mapping, which continues to progress.

20. Plans are compiled in accordance with PSIAS and they represent the Section's assessment of the key areas that need to be audited in order to satisfy the Authority's statutory responsibility to undertake an adequate and effective internal audit of its accounting records and its system of internal control. The Section's aim is to complete sufficient work to express an overall, annual opinion on the adequacy and effectiveness of the Authority's internal control systems. The annual opinion for 2018/19 will be expressed in the scheduled update report in July 2019 and will take account of assurance delivered from all of Internal Audit's work over the three Terms in 2018/19, along with assurances available from other sources.

21. The Termly Plan is based on an Audit Risk Assessment to identify the priorities for audit coverage. Each area of activity in the Council is assessed in terms of the following factors:

- Value and volume of transactions involved with the activity
- The known level of internal control in place (from previous audits)
- The value of cash and bank transactions
- The relative complexity of the activity
- Whether the activity is stable or subject to change
- How sensitive the activity is for the Council among its key stakeholders
- The number of sites where the activity is carried out.

Using an established system of scoring and weighting the above factors, the Needs Assessment arrives at a high/medium/low risk-rating for each area of activity.

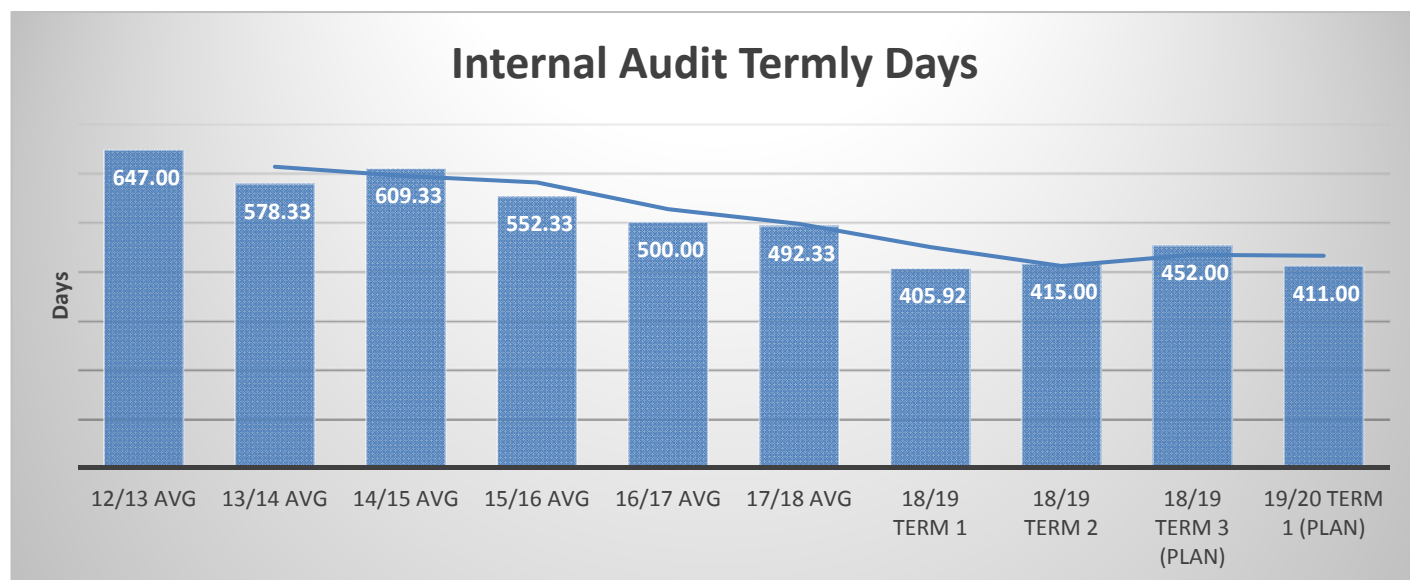
22. **Appendix 2** sets out details of the proposed coverage by Internal Audit for Term 3, and it is summarised in the following table.

Department	Days	Number of Audits			
		High Priority	Med Priority	Other	Total
Council-wide	114	5	1	-	6
Children & Families	53	1	2	-	3
Adult Social Care & Health	75	3	2	-	5
Place	107	2	2	1	5
Chief Executive's	62	-	3	-	3
Total	411	11	10	1	22
External Clients (Notts Fire & Rescue Service)	35				
Grand Total	446				

23. As can be seen from the table, a total of 411 days are planned for Term 1 of which 446 (92%) will be spent on the Authority's systems and procedures. The remaining 35 days will be spent on external contracts, providing an internal audit service to Nottinghamshire Fire and Rescue Service. The costs incurred in delivering external contracts are fully recovered.

24. With regard to schools, Nottinghamshire's Scheme for Financing Schools requires all local authority maintained schools to have an internal audit once every five years. The Council's Internal Audit Service offers to deliver these audits on a buy-back basis.

25. The chart below shows the trend in the number of actual days delivered in recent years. The figures for past years are expressed as the average coverage per termly period in those years, in order to provide a meaningful comparison with the plan for Term 3 in 2018/19. Internal Audit's staffing resources were reduced from April 2016, which explains the higher number of days delivered prior to that time.

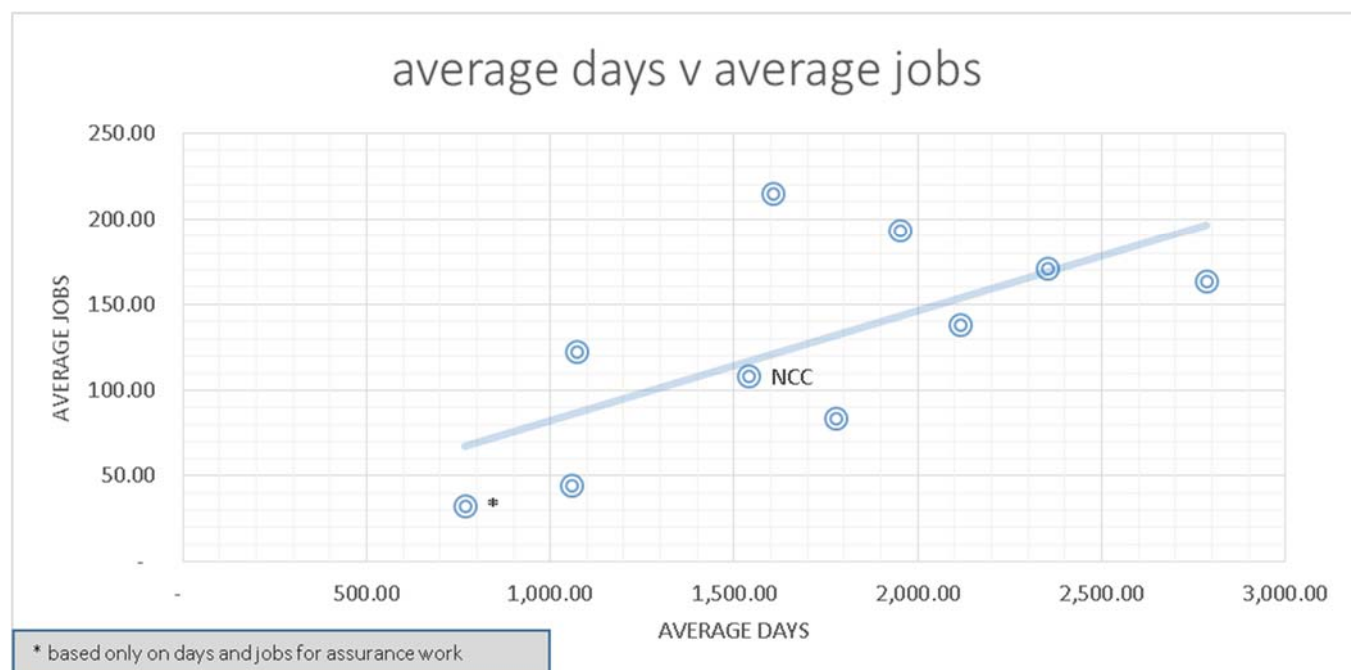


26. The number of days delivered in Terms 1 and 2 of 2018/19 was impacted by the issues set out above at paragraph 6. It is anticipated that the short and longer-term actions identified in paragraph 6 will enable an increased level of input for Term 1 in 2019/20. It should also be noted that, from April 2019, responsibility for delivering audits in schools will transfer to the Children & Families Finance Team. One member of the Internal Audit team will transfer into the Finance Team, to integrate with a larger cohort of Accounting Technician staff who will deliver a combined range of financial assurance services to schools. Consequently, the level of direct Internal Audit resource is reduced. However, the assurance delivered by the new team will continue to feature in these updates, in terms of the outcomes of the audit visits.

Benchmarking data

27. The Section participates in the Chartered Institute of Public Finance and Accountancy (CIPFA) benchmarking club for internal audit services. Extracts from the latest benchmarking report received in August 2018 were included in the previous update, along with comments expressing that the outcomes from this exercise are of limited value, due to the declining total number of participants and the fact that very few County Councils are members. It was also noted in the previous update report that the Group Manager - Assurance initiated a separate benchmarking exercise with his counterparts in the Midland Counties' Heads of Internal Audit Group (MCHIAG). This exercise was carried out in the summer of 2018, and the outcomes are presented below. These show the following for NCC and nine other county internal audit teams in the midlands region:
- The x-axis identifies the average number of days in annual plans in the period 2016/17 to 2018/19.
 - The y-axis identifies the average number of jobs in the annual plans over the same period.
 - The trend line provides for a simple productivity comparison of inputs (plan days) against outputs (plan jobs).

The data used for NCC Internal Audit included the initial version of the annual plan for 2018/19, which was subsequently replaced by the Termly Plans. These plan figures do not take account of the resourcing issues which have persisted for much of 2018/19. Nonetheless, the exercise provides an indication of the comparative context of the NCC service, being positioned around the average mark in terms of inputs and outputs.



Other Options Considered

28. The Audit Section is working to the Public Sector Internal Audit Standards during 2018/19. This report meets the requirement of the Standards to produce a risk-based plan and to report the outcomes of Internal Audit's work. No other option was considered.

Reason/s for Recommendation/s

29. To set out the Report of the Group Manager – Assurance for Term 2 of 2018/19, and to propose the planned coverage of Internal Audit's work in Term 1 of 2019/20, providing Members with the opportunity to make suggestions for its content.

Statutory and Policy Implications

30. 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.

Individual audits completed and in the proposed Termly Plan may potentially have a positive impact on many of the above considerations.

Financial Implications

The Local Government Act 1972 requires, in Section 151 that the Authority appoint an officer who is responsible for the proper administration of the Council's financial affairs. The Service Director for Finance, Infrastructure & Improvement is the designated Section 151 officer within Nottinghamshire County Council. Section 6 of the Accounts and Audit Regulations 2011 requires Local Authorities to undertake an adequate and effective internal audit of its accounting records and of its system of internal control. The County Council has delegated the responsibility to maintain an internal audit function for the Authority to the Service Director for Finance, Infrastructure & Improvement and Section 151 Officer.

RECOMMENDATION/S

- 1) Arising from the content of this report, Members determine whether they wish to see any actions put in place or follow-up reports brought to a future meeting.
- 2) That Members consider whether the planned coverage of Internal Audit's work in Term 1 of 2019/20 will deliver assurance to the Committee in priority areas.

Nigel Stevenson

Service Director for Finance, Infrastructure & Improvement and Section 151 Officer

For any enquiries about this report please contact:

Rob Disney

Group Manager - Assurance

Constitutional Comments (GR 04/03/19)

31. Pursuant to the County Council's constitution the recommendations contained within this report are within the scheme of delegation to this committee.

Financial Comments (RWK 28/02/2019)

32. 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

Org Unit1 Name	Audit	Type	Report Actual D	Rating (report item)	
Cross cutting	 2018-80 - Council-wide - Payment Card Industry Compliance	Assurance	27/11/2018	 Limited Assurance	Draft
Children and Families	 2018-18 - Education, Learning and Skills - C&R SEND Recoupment	Assurance	19/11/2018	 Reasonable Assurance	Draft
Cross cutting	 2018-45 - Business Intelligence Hub	Assurance	09/10/2018	 Reasonable Assurance	
Resources	 2018-47 - Treasury Management	Assurance	19/10/2018	 Reasonable Assurance	
Children and Families	 2018-54 - Specialist Education Provision - Commissioning	Assurance	26/09/2018	 Reasonable Assurance	
Cross cutting	 2018-55 - Ethical Framework	Assurance	29/10/2018	 Reasonable Assurance	
Resources	 2018-44 - ICT Project Delivery	Assurance	14/09/2018	 Substantial Assurance	
Resources	 2018-50 - Payroll - Data Analytics	Assurance	30/10/2018	 Substantial Assurance	
Cross cutting	 2018-76 - Information Governance Improvement Programme	Assurance	11/12/2018	 Substantial Assurance	
Cross cutting	 2018-91 - Counter Fraud - Procurement Cartels	Assurance	04/01/2019	 Substantial Assurance	email
	 2018-02 - Action Tracking 2	Assurance	30/11/2018	 Not assessed	
	 2018-03 - National Anti-Fraud Network - updates	Counter Fraud	30/11/2018	 Not assessed	
	 2018-04 - NFI Data Submission	Counter Fraud	30/11/2018	 Not assessed	

Org Unit1 Name	Audit	Type	Report Actual D	Rating (report item)	
	 2018-06 - Assurance Mapping Update phase 2	Assurance	30/11/2018	<input type="checkbox"/> Not assessed	
	 2018-07 - Mosaic Unallocated cases	Advice & Consultancy	30/11/2018	<input type="checkbox"/> Not assessed	
	 2018-08 - Ollerton Day Centre	Assurance	30/11/2018	<input type="checkbox"/> Not assessed	
	 2018-09 - Cloud Programme - Term 2	Advice & Consultancy	30/11/2018	<input type="checkbox"/> Not assessed	
ASCH	 2018-15 - Resource Allocation System	Assurance	15/10/2018	<input type="checkbox"/> Not assessed	
Place	 2018-69 - Bus Services Operators Grant	Certification	30/09/2018	<input type="checkbox"/> Not assessed	
Place	 2018-72 - Platt Lane Playing Fields accounts	Certification	30/09/2018	<input type="checkbox"/> Not assessed	
Children and Families	 2018-79 - Beeston Youth Community Centre	Certification	28/08/2018	<input type="checkbox"/> Not assessed	
ASCH	 2018-86 - Care Home fees investigation - Gedling Village	Advice & Consultancy	25/01/2019	<input type="checkbox"/> Not assessed	
Cross cutting	 2018-88 - Counter Fraud Training - E-Learning	Counter Fraud	31/10/2018	<input type="checkbox"/> Not assessed	
Cross cutting	 2018-89 - Counter Fraud - Recheck Pilot	Counter Fraud	31/10/2018	<input type="checkbox"/> Not assessed	
Resources	 2017-81 - Complaints service	Assurance	30/11/2018	<input checked="" type="checkbox"/> Substantial Assurance	Draft

Council-wide areas (i.e. across departments)

Area of activity	Priority Level	Job count
Access management	H	0 (expected T2)
Accounting Clearing House	H	1
Business Continuity	H	1
Learning, Development & Workforce Planning	M	1
Service Planning & Performance Management	H	0 (expected T2)
<i>Counter Fraud</i>	H	
Pro-active counter-fraud – NFI 2018-20 - Review of Matches		1
Fraud alerts		1
<i>Governance & Scrutiny</i>		
Assurance mapping & Statutory Officer updates		1
<i>Advisory & support</i>		
Governance & Ethics Committee		
Risk, Safety & Emergency Management Board		
Client management		
Sub-Totals		
Grand Total		6

Days planned and nature of audit coverage			
Assurance	Advice/ Consultancy	Counter-Fraud	Certification
15			
15			
20			
20			
20			
		5	
		1	
5			
	10		
	1		
	2		
95	13	6	0

Likely scope
Review of processes for giving, changing and removing access to resources.
Review activities within Business Management Systems (BMS) to ensure the controls, integrity and operating of financial systems are complied with.
Review business processes employed across the council to ensure that operations continue to be provided.
Review completion of EDPR processes used to drive employee and departmental development. Examine how workforce planning is coordinated across the council to determine budgets for workforce requirements.
Review compliance with service planning across the council to support the Strategic Objectives and how these are used to measure and monitor performance.
Review and report on the completion of Recommended matches by the Key Contacts within departments for Cabinet Office
Review and dissemination of fraud alerts from national counter-fraud agencies
Consultation on assurance mapping for 2019/20 and quarterly update of Annual Governance Statement
Preparation of planning and progress reports, attendance at Committee meetings
Head of Internal Audit attendance at RSEMB meetings
Planning and termly progress reports to Corporate Leadership Team

Children and Families

Area of activity	Priority Level	Job count	Days planned and nature of audit coverage				Likely scope
			Assurance	Advice/ Consultancy	Counter-Fraud	Certification	
School Swimming Service (continued)	H	1	3				Pricing strategy; budgetary control; workforce controls, equipment safety; pool operators; advice to schools not buying back service; information systems
Short Breaks Offer (continued)	M	1	3				Policy roll-out and implementation; eligibility; use of direct payments; care providers; personal assistants, budgetary control
Post 18 Placements	M	1	15				Of concern to C&F leadership is the delivery of 'Staying Put' Policy, and the financial impact and opportunity costs arising from it. The likely scope will embrace the control environment in light of that.
External Placements	M	0 (expected T2)	15				Operating model; commissioning; placement agreements and contract management; payments; health and education contributions; budgetary control
Early Years Education Funding	M	0 (expected T2)	15				Alignment with national and local requirements; control over capital and revenue expenditure; market management, registration and inspection; data submission and payments
Client management				2			Planning with, and termly progress reports to, Senior Leadership Team.
Sub-Totals			51	2	0	0	
Grand Total		3	53				

Adult Social Care and Health

Area of activity	Priority Level	Job count	Days planned and nature of audit coverage				Likely scope
			Assurance	Advice/ Consultancy	Counter-Fraud	Certification	
Integrated Care Systems (continued)	H	1	12				Overview that ACSs have been set up and developed in accordance with national guidance and local agreements, and NCC's interests are being protected and served.
Care home providers (continued)	H	1	5				Pre-contract evaluation, including financial due diligence; contract formulation; contract management and compliance
Housing With Care (continued)	M	1	8				Governance and delivery of strategy; business cases for new schemes; commissioning and procurement of providers of approved schemes; commissioning of service users into places; financial control and information
Mosaic Systems Review (continued)	H	1		3			Advisory input to Mosaic Systems Review as required, to ensure the preservation of controls and audit trails
Mental Health Act and emergency admissions	M	1	15				Of concern to ASC leadership is the level of risk that council staff and service users are exposed to when emergency admissions are required, but delayed. There are protocols for these situations, but how robust are they?
External day care provision	M	0 (expected T2)	15				Policies and procedures delivering choice to service users; market management; procurement and commissioning; contracting and contract management; payments; service user contributions; budgetary control
Deputyships and appointeeships	M	0 (expected T2)	15				Application decisions and capacity; compliance with legal and regulatory requirements; accounting arrangements; management of client income (appointeeships); management of client finances and property (deputyships); fees and loans; deceased client affairs
Client management				2			Planning with, and termly progress reports to, Senior Leadership Team.
Sub-Totals			70	5	0	0	
Grand Total		5	75				

Place

Area of activity	Priority Level	Job count	Days planned and nature of audit coverage				Likely scope
			Assurance	Advice/ Consultancy	Counter-Fraud	Certification	
Strategic management of property estate	H	1	20				Review delivery of strategic property plans including the use of assets to generate income and the expected level of capital receipts. Controls in place to deliver effective asset utilisation and management including the projection of vacant properties.
Facilities Management	H	1	15				Review of controls to mitigate key risks that may arise from changes to the provision of services.
Parking – Central processing Unit & enforcement	M	0 (expected T2)	15				Review of controls to mitigate key risks in the issue of penalty notices and collection of income
Non Schools Catering	M	0 (expected T2)	15				Review the controls in place for the control of operations including procurement, operations, income collection and financial contribution.
Transport and Travel Services	M	1	15				Review the arrangement in place to provide Transport and Travel services form the procurement of services, processing of request and the financial savings achieved
Development of Partnerships	M	1	15				Review how partnerships are entered into by the department, examining the control arrangements, mutual objectives and how benefits are monitored and achieved.
Certification							
Trading Standards	N/A	1				10	Certification of various operational grants.
Operational Grants							
Client management				2			Planning with, and termly progress reports to, Senior Leadership Team.
Sub-Totals			95	2	0	10	
Grand Total		5	107				

Chief Executive's

Area of activity	Priority Level	Job count	Days planned and nature of audit coverage				Likely scope
			Assurance	Advice/ Consultancy	Counter-Fraud	Certification	
Financial Management - VAT	M	1	15				Review the management of corporate VAT completion and coordination with BMS and departments as part of the overall Financial Management arrangements. Ensure compliance with statutory requirements and readiness for subsequent HMRC reviews.
Change & Release Management	M	1	15				Review the management arrangements in place to change and release, configuration and application of updates and patches. (Cloud and non-Cloud)
Internet Controls	M	1	15				Review compliance with and monitoring of internal controls and external assessments to ensure that the internet is operated in line with corporate values.
Active Directory	M	0 (expected T2)	15				Review internal controls in place to ensure that the robustness of the directory is maintained.
Client management				2			Planning with, and quarterly progress reports to, Senior Leadership Team.
Sub-Totals			60	2	0	0	
Grand Total		3	62				

13 March 2019**Agenda Item: 6****REPORT OF SERVICE DIRECTOR FOR FINANCE, INFRASTRUCTURE &
IMPROVEMENT****LOCAL GOVERNMENT ASSOCIATION CORPORATE PEER CHALLENGE****Purpose of the Report**

1. To seek Committee's approval of a proposed scope for a Peer Challenge by the Local Government Association (LGA) in 2019.

Information

2. At the meeting on 6 November 2018, Members raised the suggestion of a Corporate Peer Challenge in 2019 and it was resolved to refer this to the Council's Corporate Leadership Team (CLT) for further consideration. The suggestion was discussed and supported by CLT, and this report now seeks Committee's input to shape the proposed scope for the review.
3. Peer Challenge is a core element of the LGA sector-led improvement offer to local authorities and is widely regarded as a tried, tested and trusted tool to support improvement. Peer Challenges are managed and delivered **by** the sector and **for** the sector. They are improvement focused, with the scope agreed with, rather than imposed upon, councils. This enables councils to shape reviews to reflect local needs and specific requirements. The peer team will comprise elected members and officers from across the sector and beyond.
4. The LGA encourages all councils to take up a Peer Challenge every 4-5 years. This Council's last Peer Challenge was in July 2012, with details of the findings and the Council's response [published](#) in September 2012. Feedback received from colleagues at that time was of a positive experience engaging with peers from other local authorities who understood local government.

Key considerations for scoping

5. The Peer Challenge process is intended to be proportionate, minimising the burden rather than making unnecessary demands that absorb capacity and divert attention from other priorities.

6. The focus of the Peer Challenge is typically pitched at a broad organisational level. The LGA would not expect it to include in-depth service reviews, since this would duplicate other services they provide. However, it can include a service specific element. Recent examples of this have been the following:
- Surrey County Council (March 2017) - the emphasis was on children's social care performance and demand management across a range of council services as a result of demographic change
 - Gloucestershire County Council (June 2018) – a strong focus on the Council's response to its 'Inadequate' Ofsted rating in 2017
 - Staffordshire County Council (September 2018) – the review centred on the Council's transformation programme for children's services and its arrangements for managing demand in this area.
7. There is significant flexibility to enable the Peer Challenge to focus on those priorities, outcomes and ambitions which are important locally. The Council's previous peer review focused on the following areas:
- strategic planning process
 - performance management arrangements
 - transformation and improvement programme
8. Current Peer Challenge reviews are typically comprised of the following core components:
- a) Understanding of the local place and priority setting: Does the council understand its local context and place and use that to inform a clear vision and set of priorities?
 - b) Leadership of Place: Does the council provide effective leadership of place through its elected members, officers and constructive relationships and partnerships with external stakeholders?
 - c) Organisational leadership and governance: Is there effective political and managerial leadership supported by good governance and decision-making arrangements that respond to key challenges and enable change and transformation to be implemented?
 - d) Financial planning and viability: Does the council have a financial plan in place to ensure long term viability and is there evidence that it is being implemented successfully?
 - e) Capacity to deliver: Is organisational capacity aligned with priorities and does the council influence, enable and leverage external capacity to focus on agreed outcomes?

Early discussion with the LGA representatives confirmed that the above components will adequately cover the Council's framework for an integrated approach to strategic and financial planning and performance reporting. This was a particular area of interest for CLT:

Timeframes and conduct of the review

9. The Peer Review is scheduled to take place in week commencing 3rd June 2019. Prior to this, a scoping meeting will be held, involving a visit by LGA representatives to discuss the council's needs, the areas on which it wants to concentrate and the results it wants to achieve.

10. The Council also has the opportunity to shape the team that it would like to visit. Discussions to date have confirmed the following lead members of the team:
- Baroness Jane Scott, Leader at Wiltshire County Council
 - John Henderson, Chief Executive at Staffordshire County Council
- Other members of the team will be agreed with the LGA. It is expected the Peer Challenge will involve four days on-site.
11. Feedback from the review team is typically provided on a daily basis to the Leader and Chief Executive at an evening debrief, to manage the process and facilitate a 'no surprises' approach. The end outcome of the review can be flexible to the Council's needs. The previous review included:
- Member to Leader feedback
 - Lead Peer to Chief Executive feedback
 - Verbal feedback session in the Rufford Suite
 - Written summary
12. It is best practice to publish any written summary, although not a requirement. For the Council to gain value from the process it would be expected to produce and implement an action plan to address any issues identified and accepted from the Peer Review. The Improvement and Change Sub-Committee will be well placed to performance manage delivery against this, along with the Council's Extended Corporate Leadership Team.

Costs

13. There is no direct charge for the Peer Challenge. Indirect costs for the review team can be met from a budget held by the Office of the Chief Executive.

Other Options Considered

14. There is flexibility offered by the LGA in scoping the Peer Challenge. CLT considered that the standard, core components set out above will deliver the assurance it is looking for from the review.

Reason for Recommendation

15. To seek the Committee's views on the scope for the Peer Challenge, to enable the arrangements for the review to be finalised with the LGA.

Statutory and Policy Implications

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

RECOMMENDATION

1) That Committee agrees the proposed scope for the Peer Challenge, as set out above in the report.

Nigel Stevenson

Service Director for Finance, Infrastructure & Improvement

For any enquiries about this report please contact:

Rob Disney

Group Manager – Assurance

Constitutional Comments (SLB 28/02/2019)

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

Financial Comments (SES 01/03/19)

18. The financial implications are set out in paragraph 13 of the report.

Background Papers and Published Documents

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

- None

Electoral Division(s) and Member(s) Affected

- All

REPORT OF THE MONITORING OFFICER

LOCAL GOVERNMENT & SOCIAL CARE OMBUDSMAN DECISIONS JANUARY –FEBUARY 2019

Purpose of the Report

1. The purpose of this report is to inform the Committee about the Local Government & Social Care Ombudsman's (LGSCO) decisions relating to the Council in the period 05 January – 14 February 2019.

Information

2. The Committee has asked to see LGSCO decisions regularly and promptly after the decision notice has been received. This report therefore gives details of all the decisions received since the last report to this Committee on 30 January 2019.
3. The LGSCO provides a free, independent and impartial service to members of the public. It looks at complaints about Councils and other organisations. It only looks at complaints when they have first been considered by the Council and the complainant remains dissatisfied. The LGSCO cannot question a Council's decision or action solely on the basis that someone does not agree with it. However, if the Ombudsman finds that something has gone wrong, such as poor service, a service failure, delay or bad advice and that a person has suffered as a result, the LGSCO aims to get the Council to put it right by recommending a suitable remedy.
4. The LGSCO publishes its decisions on its website (www.lgo.org.uk/). The decisions are anonymous but the website can be searched by Council name or subject area.
5. A total of 9 decisions relating to the actions of this Council have been made by the Ombudsman in this period (attached at annex A). Following initial enquires in into 4 complaints, the LGSCO decided not to continue with any further investigation. The reason is that in each case, the initial information gathered by the complaints team demonstrated to the Ombudsman that a further investigation was unlikely to reveal the Council was at fault.
6. Four corporate complaints were fully investigated and of these no fault was found in 2 cases. During two investigations some service failures were found. (Annex A pages1 and 25). In the first, the Council was found at fault for failing to offer the mother of a school child an opportunity to make verbal representations during the school transport appeal process. The department accepted the findings and recommendation and have invited the complainant to attend a new appeal meeting. In the second complaint fault was found in the process followed to deal with a blue car badge application. To avoid further delay to the customer, the recommendations

were been accepted and further contact has been made with the complainant to process the application. It is worth noting that this was an isolated case and the second complaint investigated by the Ombudsman regarding a blue car badge application found no fault in the process. (Annex A p16)

7. One adult social care complaint was fully investigated (Annex A p.19). This concerned the failure of an independent care provider to make proper contingency plans during adverse weather conditions which resulted in missed calls to the service user. As the commissioner of the care, the recommendations were made to the Council. These include a letter of apology and a financial remedy of £1000 to the family for the distress caused which have been actioned by the department. It should be noted that the particular care provider involved in this complaint no longer operates in the Nottinghamshire area, having exited the local market in May 2018. In addition, all home based care services were recommissioned last year, with new contracts starting on 1st July 2018.

Statutory and Policy Implications

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

Data Protection and Information Governance

9. The decisions attached are anonymised and will be publically available on the Ombudsman's website,

Financial Implications

10. One recommendation included a financial remedy of £1000 which has been paid from the ASCH&PP budget.

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

That members consider:-

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

Marjorie Toward

Monitoring Officer and Service Director – Customers, Governance and Employees

For any enquiries about this report please contact:

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

Constitutional Comments SLB (Standing)

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

Financial Comments [RWK 18/02/2019]

The financial implications are set out in paragraph 10 of the report.

Background Papers and Published Documents

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

- None

Electoral Division(s) and Member(s) Affected

- All

The Ombudsman's final decision

Summary: Ms B complains that there was fault in the way the Council dealt with her application for home to school transport for her son, C, and her appeal against its decision to refuse the application. The Council was at fault in failing to offer Ms B the opportunity to attend the appeal hearing and make verbal representations. The Council has agreed to offer Ms B a new appeal to remedy the injustice caused.

The complaint

1. Ms B complains that there was fault in the way the Council dealt with her application for home to school transport for her son and her appeal against its decision to refuse transport.

The Ombudsman's role and powers

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

How I considered this complaint

4. I have considered all the information provided by Ms B, made enquiries of the Council and considered the documents it provided. I have also considered statutory guidance and the Council's home to school transport policy.
5. I have written to Ms B and the Council with my draft decision and considered their comments.

What I found

Law and policy on home to school transport

6. Local authorities must provide free home to school transport for 'eligible children' to attend their 'qualifying school'. This is the nearest school with places available

that provides education appropriate to the age, ability and aptitude of the child, and any special educational needs the child may have.

7. Eligible children include those who:
 - live outside 'statutory walking distance' from the school (two miles for children under eight, three miles for children over eight;
 - cannot reasonably be expected to walk to the nearest suitable school because the nature of the route is deemed unsafe to walk;
 - are entitled to free school meals, or whose parents are in receipt of the maximum level of working tax credit, for transport to one of the three nearest qualifying schools. Secondary children must live more than two miles but not more than six miles from that school; and
 - those in the low income category as above where the school is between two and 15 miles and it is the nearest school preferred on grounds of religion or belief. (*Education Act 1996, Section 508 B and schedule 35B*)
8. Councils also have discretion to provide transport for children who are not entitled to free transport. (*Education Act 1996 Section 508 C*)

Key facts

9. Ms B's son, C, has been attending School X since 2015. In June 2016 Ms B applied to the Council for financial assistance for C's travel to and from school because of a change in circumstances. Ms B is a single parent and, in February 2016, she became unemployed because of ill-health and was struggling to pay C's travel costs. C receives free school meals and the family is classed as low income under the Council's criteria. School X is 12.3 miles from C's home address by car. Ms B did not want to move C to a school nearer to home as he was thriving at School X.
10. The Council's Travel Solutions team declined Ms B's application. Ms B requested a review of the decision.
11. The decision was reviewed by an officer from Transport and Travel Services. She confirmed C was not entitled to free transport assistance under the Council's policy which states, "Pupils of secondary school age are entitled to free transport to their nearest qualifying (catchment) school if that school is 3 miles or more from home. Free transport to a preferred school is only available if that school is 3 miles or more from home and closer than the catchment area school". She explained that School X was 12 miles from C's home whereas the catchment school is only 1.56 miles from home.
12. She also explained that C was not entitled to transport assistance to School X under the low income criteria. The Council's policy states, "Pupils of secondary school age from low income families are entitled to free transport to one of the three nearest qualifying schools (catchment or preferred) between 2 and 6 miles from their home". But School X did not fall within this provision being 12 miles from C's home address. The officer therefore upheld the decision not to award free transport.
13. Ms B appealed against this decision. The appeal was considered by the Transport Review Panel in August 2016.
14. The typed notes of the panel hearing show the panel considered Ms B's arguments that: she was a single parent and had paid C's bus fares until recently but had not been employed since February 2016 due to ill-health and was now

on benefits; and C was thriving at School X and has a positive ethnic minority male leadership role model there so he should not be moved.

15. The panel also noted that Ms B's social worker contacted the Council stating Ms B's mental health had been affected by losing her employment and that the worry of transporting C to school was contributing to this. The panel also considered the fact that C was attending a preferred school rather than his catchment school.
16. The panel upheld the decision to refuse transport. The Council wrote to Ms B explaining the panel had considered her reasons for choosing School X and her current circumstances. They sympathised with her situation but did not consider her circumstances to be exceptional in relation to the home to school transport policy. The letter confirmed the panel's decision not to award travel assistance for C.

Analysis

The Council's decision to refuse transport

17. It is not the Ombudsman's role to decide whether someone should receive free transport to school. We can only consider if there was fault in how the Council reached its decision.
18. I have considered the Council's home to school transport policy which says free transport is available for secondary school children living more than three miles from the nearest school. It also says that, if the family has a low income and the child is in secondary school, it will provide free transport if the child attends one of their three nearest schools and the school is between two and six miles from their home. It will also provide free transport if the child attends their nearest faith school and the school is between two and 25 miles from their home.
19. I am satisfied the Council's policy complies with school transport law and that officers acted in accordance with the policy when deciding Ms B's application. In the absence of administrative fault, there are no grounds to criticise the decision that the Council has no duty to provide transport for C.

The appeal panel's decision

20. I have also considered how the appeals panel dealt with Ms B's appeal. I have read the minutes of the appeal and the decision letter sent to Ms B.
21. The Education Act 1996 gives local authorities discretionary powers to go beyond their statutory duties and provide transport for children who are not entitled to free transport. In addition, local authorities may pay all or part of the reasonable travel expenses of children who have not had travel arrangements made either under the Council's statutory duty or under their discretionary powers to make travel arrangements. It is for the individual local authority to decide whether and how to apply this discretion.
22. The panel needed to consider Ms B's circumstances to decide whether to exercise discretion to make travel arrangements or contribute towards C's travel expenses.
23. Although the minutes show the panel considered Ms B's arguments as put forward in her appeal letter, it did not hear verbal arguments from her.
24. The Home to School Travel and Transport Guidance issued by the Department for Education states that, within 40 working days of receipt of the local authority's stage 1 written decision, the parents may "request an independent appeal panel considers written and verbal representations from both the parent and officers

involved in the case and gives a detailed written notification of the outcome”. This is statutory guidance and should be followed by the Council.

25. The Council has confirmed Ms B was not invited to attend the panel hearing and make verbal representations but she was advised she could submit further evidence for consideration by the panel.
26. I find the Council’s failure to allow Ms B the opportunity to make verbal representations to the panel was fault. The Guidance clearly states parents should be given this opportunity. Although the panel considered Ms B’s written arguments, verbal arguments can often be more powerful and it is possible the outcome may have been different if Ms B had addressed the panel in person. The uncertainty of whether or not this would have been the case causes Ms B a significant injustice.

Agreed action

27. To remedy the injustice caused, the Council has agreed to offer Ms B a fresh appeal with a different panel and clerk.

Final decision

28. I find there was fault in the appeal leading to injustice.
29. The Council has agreed to remedy the injustice caused so I have completed my investigation.

Investigator’s decision on behalf of the Ombudsman

The Ombudsman's final decision

Summary: The Ombudsman will not investigate this complaint about the refusal of admission to the complainant's preferred school for his child. This is because we are unlikely to find evidence of fault causing significant injustice to the complainant in the way in which the independent appeal panel (IAP) hearing the complaint made its decision.

The complaint

1. The complainant, who I refer to here as Mr D, says that:
 - The clerk and a panel member were changed at short notice without informing him;
 - One of the panel members appeared to be asleep;
 - The decision was based on class numbers not the relevant factors that he raised;
 - Subsequently a child left the class and was not replaced; and
 - The decision letter did not cover all the points that he raised in the hearing.

The Ombudsman's role and powers

2. We investigate complaints about 'maladministration' and 'service failure'. In this statement, I have used the word 'fault' to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. I refer to this as 'injustice'. We provide a free service, but must use public money carefully. We may decide not to start or continue with an investigation if we believe:
 - it is unlikely we would find fault, or
 - the fault has not caused significant injustice to the person who complained.

(Local Government Act 1974, section 24A(6), as amended)

How I considered this complaint

3. I considered the information provided by Mr D and by the Council. I have also sent Mr D a draft decision for his comments.

What I found

4. Mr D decided to change his children's school, and applied for places at his preferred school. Three of his children now have places at the School, but the fourth child was refused a place as the school is full.
5. Mr D appealed against the refusal, but the appeal was refused. Mr D has now complained to the Ombudsman, as he believes his appeal was not heard properly.
6. Mr D firstly complains that the clerk and an IAP member were changed at short notice without informing him.
7. There is no fault in the clerk being changed and the Council is under no obligation to inform the appellants.
8. The Council says it wrote to Mr D regarding the change to the panel membership, but it cannot produce any evidence to show that it did so. As it has copies of letters sent to the other appellants, my view, on the balance of probability, is that Mr D's letter was overlooked. This is fault.
9. However, the clerk's notes show that the panel members were introduced at the start of the hearing and assurances given regarding their independence. If Mr D had any concerns about the new panel member he could have raised them at that point. As he did not do so, and has not raised any concerns to me about the panel member, I consider the lack of the letter to him did not cause him significant injustice.
10. Mr D further says that one of the members of the IAP hearing the case appeared to be asleep, as her eyes were closed. I have looked at the clerk's notes for the hearing and I see no evidence to support the view that any panel member was sleeping. All three members asked questions at some point in the proceedings, and the lack of questions during part of the hearing is not evidence of being asleep.
11. Mr D also complains that the decision to refuse entry was made on the basis of class numbers rather than on his case. Schools must admit up to their PAN, but beyond that, can only admit if directed to do so. As such, the class numbers are the first point to be established in an education admissions appeal. After that, however, the IAP must consider the competing cases made by the School. The clerk's notes show that the panel did consider carefully all of the other points raised by both the Council and Mr D, but felt that Mr D's case was not made.
12. The IAP provided strong reasons not connected to the question of roll numbers, for its decision. They placed weight on the facts that Mr and Mrs D chose the school that they now want to leave; Mr and Mrs D chose to apply for a school which is 7 miles from their home, with the obvious potential for transport difficulties; and that the preferred school is not the only school which can provide for their child's support needs.
13. Mr D also says that the decision letter refusing his appeal is not compliant with the Code of Practice because it doesn't cover everything he raised in the hearing. I consider the letter an appropriate summary of the points raised and discussed. Mr D specifies that the letter does not address his point that the school has previously managed with higher numbers in that year group previously. However, this is not a relevant consideration. The numbers in the class were above the School's PAN and the decision the IAP had to make is whether the School had

made a case that an additional child would prejudice the provision of efficient education this year.

14. Mr D asserts that “the School” confirmed his child could be accommodated but the School’s case does not support this assertion. Mr D says that is what the Headteacher told him, but that would be inadmissible under the School Admission Appeal Code..
15. Mr D alleges that the IAP didn’t consider properly the problems of having to travel to two different schools. In fact it did discuss the issue as is recorded in the clerk’s notes, but concluded this was the parents’ responsibility as all the children could have remained together at the school they were attending. Any fault in not recording this in the refusal letter did not affect the outcome of the appeal and did not cause injustice.
16. Finally, Mr D says subsequent to the appeal, a child has left the class, bringing the numbers down to 20. He feels that as the School had agreed to admit 21, a place should be offered to maintain that number.
17. This is not a matter that the IAP could have considered so it cannot form part of this complaint. However, as the 21st child was the second of a pair of twins it would be a reasonable decision to admit both children but not to replace the child leaving the class.

Final decision

18. Subject to any comments Mr D might make, my view is that the Ombudsman should not investigate this complaint. This is because the minor faults in the handling of the case did not cause significant injustice warranting further investigation.

Investigator’s decision on behalf of the Ombudsman

The Ombudsman's draft decision

Summary: The Ombudsman will not investigate this complaint about a child protection investigation carried out by the Council. This is because we are unlikely to find fault in its actions.

The complaint

1. The complainants, who I refer to here as Mr and Mrs X, say that the Council:
 - Investigated unexplained injuries to their son in an unprofessional and inappropriate manner;
 - Has not corrected inaccurate information in the Closing Statement on their file; and
 - Has not investigated their complaint properly.

The Ombudsman's role and powers

2. We investigate complaints about 'maladministration' and 'service failure'. In this statement, I have used the word 'fault' to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. I refer to this as 'injustice'. We provide a free service, but must use public money carefully. We may decide not to start or continue with an investigation if we believe:
 - it is unlikely we would find fault, or
 - there is another body better placed to consider this complaint.

(Local Government Act 1974, section 24A(6), as amended)

How I considered this complaint

3. I considered the information provided by Mr and Mrs X and by the Council. The Council sent me copies of the complaints from and responses to Mr and Mrs X. I have not spoken to any one at the Council. I have sent Mr and Mrs X a draft decision for their comments.

What I found

4. Mr and Mrs X's son was referred to social services due to bruising on his legs. He was examined by a paediatrician who concluded that some of the bruising appeared to be non-accidental but unexplained.

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5. This triggered the Council's child protection procedures, and a child protection plan was put in place. No further action was taken, and the child is no longer subject to a child protection plan.
 6. Mr and Mrs X explain that the whole process has been deeply distressing to the family. They were unhappy with the action taken, and complained to the Council.
 7. Mr and Mrs X questioned whether the paediatrician was qualified to judge whether there was evidence that some of the bruising was non-accidental. They felt that if the bruising was unexplained then it could have been accidental, and the interventions taken were therefore unnecessary and overzealous.
 8. Mr and Mrs X also felt that the Closure Statement by the Council retained on their file was inaccurate and misleading.
 9. The Council investigated the complaint, but did not uphold it. It was very clear that it considered the paediatrician to be a qualified expert who had stated that some of the bruising was suggestive of non-accidental injury, although unexplained. This meant that the Council had to follow its child protection procedures.
 10. The Council further said that the information on the files was an accurate portrayal of the paediatrician's findings.
 11. Mr and Mrs X have now brought their complaint to the Ombudsman, but we will not investigate it.
 12. Where the Council considers it has been given evidence of unexplained non-accidental injuries, it must investigate the matter through its child protection procedures and there is no fault in it doing so. I do not accept Mr and Mrs X's view that the Council has inflated and misrepresented the medical opinion given by the paediatrician. It may not have quoted him verbatim, but it has reflected his view accurately and used it appropriately to support its decisions.
 13. It also has a duty to retain on file the judgements that have given rise to the investigation. Mr and Mrs X do not agree with the Closure Statement on the file, consider it misleading and would like it to be rewritten. However it is an accurate portrayal of professional opinion reflecting the reasons for the Council's decision. Mr and Mrs X's differing view of that decision does not make the Closure Statement wrong.
 14. Finally Mr and Mrs X complain that the Council refused to progress the complaint to stage two of its procedures, as they say there should have been an independent investigation, which they feel the stage one procedures did not provide. However, it is normal practice in complaint handling for the initial stage to be looked by the relevant team, as they are best placed, in many cases, to resolve matters quickly.
 15. Although a stage two investigation does then provide an independent view, in this case the Council has explained that it could not provide the outcome that Mr and Mrs X seek. A complaint investigation cannot challenge the core decision that the medical evidence was sufficient to trigger Child Protection procedures.
 16. I do not therefore consider there was fault in its refusal to progress the complaint to stage two.

Final decision

17. The Ombudsman will not investigate this complaint. This is because we are unlikely to find fault in the Council's actions

Investigator's decision on behalf of the Ombudsman

The Ombudsman's final decision

Summary: Mrs X complains about noise and vibration from the traffic calming measures installed in the road behind her home. The Ombudsman will not investigate this complaint. This is because it is late and I have not seen any evidence of fault in the way the Council made its decision.

The complaint

1. Mrs X complains about noise and vibration from traffic caused by traffic calming measures installed by the Council in the road behind her home.

The Ombudsman's role and powers

2. The Local Government Act 1974 sets out our powers but also imposes restrictions on what we can investigate.
3. We cannot investigate late complaints unless we decide there are good reasons. Late complaints are when someone takes more than 12 months to complain to us about something a council has done. (*Local Government Act 1974, sections 26B and 34D, as amended*)
4. We cannot question whether a council's decision is right or wrong simply because the complainant disagrees with it. We must consider whether there was fault in the way the decision was reached. (*Local Government Act 1974, section 34(3), as amended*)

How I considered this complaint

5. I considered the information provided by Mrs X, including the Council's response to her. I have also considered the information available on the Council's website.
6. Mrs X commented on the draft version of this decision.

What I found

7. Following three serious road accidents involving children, the council proposed installing three raised platforms on the road behind Mrs X's home. In January 2017, it sent out consultation letters to the resident who live closest to the site and others such as a school, a children's centre, the Police and a bus company.
8. Mrs X responded to the consultation. She objected to the Council's proposals because of noise from vehicles crossing the raised platforms. The Council received two other objections and three letters of support.

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9. In June 2017, the Council carried out a formal consultation. It wrote again to those it had contacted previously. It also placed a notice in the press and put up site notices. It did not receive any responses.
 10. A case officer wrote a report for the Council's Communities and Place Committee. This report noted the objections received by Mrs X and others. However, it confirmed that while other methods of traffic calming had been considered, the three raised platforms was the preferred choice for a bus route. It also noted the council could not decide to take no action, given the previous child casualties.
 11. The officer report recommended the Council approved the scheme. The committee agreed with the recommendation. The platforms were installed by the end of August 2017.

Assessment

12. The Ombudsman cannot consider complaints that we receive more than 12 months after the person became aware of the matter, unless there is a good reason to do so.
13. Mrs X was aware of the noise she says is caused by the traffic calming in August 2017. We did not receive her complaint until December 2018. Therefore, it is late.
14. I have considered whether to exercise my discretion and investigate this late complaint. By law, the Ombudsman may consider only the administrative process by which a council has reached a decision; he may not question the merits of a decision taken without administrative fault. He can consider matters such as whether a council took into account all information which was material or took into account information which was not material. Or whether a council has failed, without good reason, to follow guidance on relevant matters; and whether there has been any bias or procedural impropriety.
15. The council carried out two consultations and considered a report on the proposal before it decided to install the traffic calming measures. Mrs X's objection due to noise was noted. However, the Council decided the scheme was appropriate.

Final decision

16. I will not investigate this complaint. This is because it is late and I have not seen any evidence of fault in the way the Council decided to install traffic calming measures.

Investigator's decision on behalf of the Ombudsman

The Ombudsman's final decision

Summary: Mrs G complains that the Council did not properly follow up her concerns about her grandchildren's welfare in 2007. The Ombudsman will not investigate because after all this time it is unlikely an investigation would be effective or would achieve anything of significance.

The complaint

1. The complainant, whom I shall call Mrs G, complains that the Council failed to protect her grandchildren. She says that it did not properly follow up her concerns about the children and that its records are incorrect.

The Ombudsman's role and powers

2. We investigate complaints about 'maladministration' and 'service failure'. In this statement, I have used the word 'fault' to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. I refer to this as 'injustice'. We provide a free service, but must use public money carefully. We may decide not to start or continue with an investigation if we believe:
 - any possible fault has not caused injustice to the person who complained, or
 - the injustice is not significant enough to justify our involvement, or
 - it is unlikely further investigation will lead to a different outcome, or
 - we cannot achieve the outcome someone wants.

(Local Government Act 1974, section 24A(6), as amended)
3. We cannot investigate a complaint about the start of court action or what happened in court. *(Local Government Act 1974, Schedule 5/5A, paragraph 1/3, as amended)*
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 about something a council has done. *(Local Government Act 1974, sections 26B and 34D, as amended)*
5. The Ombudsman normally expects someone to refer the matter to the Information Commissioner if they have a complaint about data protection. However, the Ombudsman may decide to investigate if he thinks there are good reasons. *(Local Government Act 1974, section 24A(6))*

How I considered this complaint

6. I have considered information provided by Mrs G who has had the opportunity to comment on my draft decision.

What I found

7. In 2007, Mrs G told the Council that her daughter's partner had links to a man, X, convicted of sex offences who she believed could pose a threat to her grandchildren. She says that she believed that the Council would take action to protect the children.
8. Mrs G says that she later discovered that the Council had not followed up her concerns but that the files referred to another man, Y, about whom she was unaware.
9. Mrs G says that the records are inaccurate and have been used as the basis for court reports which are therefore also inaccurate. She also says that the children were exposed to avoidable risks.
10. The Council says that there were links between X and Y which it considered at the time and that it gave appropriate advice about protecting the children. Mrs G does not believe that this is the case and says that her daughter was unaware that concerns had even been raised until 2017.

Assessment

11. Mrs G's complaint is potentially very serious but, in my view, it is not one that we should investigate.
12. The complaint relates to events many years ago. Although the restrictions described in paragraph 4 do not necessarily apply as Mrs G first saw the information which concerned her much more recently, the fact that the events are historic has implications. First, it is harder to satisfactorily investigate issues from over a decade ago. Secondly, it is difficult to know what injustice any possible fault might have caused or how that could be addressed in a meaningful way. Mrs G says that the children were put at avoidable risk. The Council says it took measures to protect them. After all this time, it is not possible to say with any degree of certainty whether such measures were sufficient. However, Mrs G does not say that the children were harmed by X during the period in question and she does not say that she had concerns after 2007 that the children were at risk from X.
13. Mrs G says that there is incorrect information on the children's files and that this has led to inaccurate reports being drawn up for court. The Ombudsman cannot investigate the accuracy of any information presented to court as evidence (see paragraph 3 above). Such evidence needs to be challenged in court at the time. This potentially means that a lot of Mrs G's concerns are outside the Ombudsman's jurisdiction.
14. In addition, the accuracy of the files is more a matter for the Information Commissioner and is a matter which would be better raised by Mrs G's daughter as the files relate to her children.
15. Therefore, I am doubtful that an investigation by the Ombudsman could achieve anything of substance.

Final decision

16. I have decided that the Ombudsman should not investigate this complaint. This is because the events complained of happened too long ago to make investigation effective and it is unlikely that the Ombudsman could achieve anything significant through investigation.

Investigator's decision on behalf of the Ombudsman

The Ombudsman's final decision

Summary: The Council followed the correct process, in line with government guidance, to decide a Blue Badge application.

The complaint

1. The complainant, who I will call Ms B, says the Council failed to properly assess her granddaughter (Ms C's) application for a Blue Badge. The Council refused Ms C's application. Ms C gave up her job, as did not feel able to continue without a Blue Badge enabling her to park close to the buildings she needed to visit. Ms C suffered severe depression and took an overdose.

The Ombudsman's role and powers

2. We investigate complaints of injustice caused by 'maladministration' and 'service failure'. I have used the word 'fault' to refer to these. We cannot question whether a council's decision is right or wrong simply because the complainant disagrees with it. We must consider whether there was fault in the way the decision was reached. (*Local Government Act 1974, section 34(3), as amended*)
3. We may investigate complaints made on behalf of someone else if they have given their consent. (*Local Government Act 1974, section 26A(1), as amended*)
4. If we are satisfied with a council's actions or proposed actions, we can complete our investigation and issue a decision statement. (*Local Government Act 1974, section 30(1B) and 34H(i), as amended*)

How I considered this complaint

5. I considered:
 - Information provided by Ms B, and discussed the complaint with her.
 - Information provided by the Council, in response to my enquiries.
 - The 'Blue Badge Scheme Local Authority Guidance (England)' issued by the Department for Transport in October 2014.
 - Responses to a draft of this statement.

What I found

Blue Badge scheme

6. The Disabled Persons' Parking Badge Scheme (Blue Badge) provides a national arrangement of on-street parking concessions for severely disabled people.

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7. The Blue Badge scheme is for people with severe mobility problems. It allows Blue Badge holders to park close to where they need to go. The scheme operates throughout the UK and is managed by local authorities, who deal with applications and issue Blue Badges.
 8. To be eligible for a Blue Badge without further assessment the applicant must be more than two years old and:
 - Receive the Higher Rate of the Mobility Component of the Disability Living Allowance; or
 - Be registered blind; or
 - Receive a War Pensioner's Mobility Supplement.
 9. To be eligible for a Blue Badge subject to further assessment the applicant must be more than two years old and:
 - Drive a vehicle regularly, have a severe disability in both arms, and be unable to operate, or have considerable difficulty in operating, all or some types of parking meter; or
 - Is unable to walk or have considerable difficulty in walking because of a permanent and substantial disability.
 10. If the applicant does not automatically qualify, the local council will need to assess eligibility. The council is likely to ask the applicant some questions and might also ask the applicant to be assessed by an independent health professional, like an occupational therapist or physiotherapist.

What happened

11. Ms C applied for a Blue Badge, she was not automatically eligible so the Council asked her to attend a mobility assessment. An Occupational Therapist (OT) completed the assessment. The applicant needs to show that because of their permanent and substantial disability, they cannot walk very far without experiencing severe difficulty. Several factors may be relevant to decide this, government guidance gives advice on what to consider.
12. Ms B confirms she told the OT about her medical condition and how she is affected. Ms B explained the day of the assessment was a good day for her, but on other days she would not have been able to attend the assessment as she cannot walk or stand on those days. Ms B explained her constant pain levels and how they are made worse by walking.
13. The guidance says an applicant may be deemed eligible if they can walk 30-80 metres without pain or breathlessness, but demonstrate very considerable difficulty in walking through a combination of other factors.
14. The OT saw Ms B walk indoors and outdoors, and on a flat surface and a slope. The OT saw Ms B walk on an uneven surface and negotiate a step. Ms B walked more than 80 metres. Ms B walked very slowly, was hesitant, and had some fatigue and discomfort. Ms B used a walking aid. Ms B showed no signs of being out of breath; she could walk and talk despite her pain.
15. The OT considered all the factors suggested in the government guidance. The OT recommended the Council did not issue a Blue Badge, because although Ms B has a permanent and substantial disability she was able to walk around 145 metres without severe difficulty.

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16. Ms B complained, and sent a photograph showing her swollen foot following the assessment. The guidance says it does not matter whether excessive pain occurs at the time of walking, or later. What counts is that it is a direct result of their attempt to walk.
 17. The Council considered the information Ms B gave, including the photograph. The Council reviewed Ms B's application for a Blue Badge, considering all information it had. The Council decided Ms B was not eligible as she could walk a considerable distance on the day of the assessment. The Council commented that on the day of the assessment Ms B used one crutch; she was prescribed two and therefore it expected her mobility would improve with the use of the second crutch. The Council invited Ms B to send any new medical information for consideration. Ms C says they sent a letter from Ms B's GP, but I have no evidence of this. The Council says it received nothing further.

Was there fault causing injustice?

18. The Ombudsman cannot decide whether Ms B is eligible for a Blue Badge, I must consider whether the Council followed the correct process to reach its decision.
19. The Council completed a mobility assessment, which was in line with government guidance. The Council considered the information Ms B provided and invited her to send any further medical evidence.
20. Ms B queries how much consideration the Council gave to her application, given it issued its decision three days after the mobility assessment. The mobility assessment would carry much weight in the decision making. Once the results of that were known, I would not expect it to take long for the Council to decide the application. The timescale is not evidence of fault.
21. As there was no fault in the Council's process, I cannot criticise its decision, even though Ms B disagrees with it.
22. The Council invited medical evidence but did not receive it. Ms B should send the Council her GP evidence and any other medical evidence she may wish to send. The Council should consider whether any new evidence changes its decision.

Final decision

23. I have completed my investigation on the basis there is no fault by the Council.

Investigator's decision on behalf of the Ombudsman

The Ombudsman's final decision

Summary: Failure to make proper contingency arrangements caused injustice to Mrs X's family, who are left with uncertainty of not knowing whether their mother's death was hastened by her fall. The Council will now apologise for the actions of the care provider Carewatch (acting on its behalf), and offer a payment to Mrs X's family to recognise their distress.

The complaint

1. Ms A (as I shall call the complainant) complains that Carewatch, the care provider commissioned by the Council, failed to visit her elderly mother (Mrs X) as stipulated on the night of 28 February 2018, having assured Ms A that the visit would go ahead as planned. Mrs X fell that night and was taken to hospital on 1 March where she died the following day.

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. If we are satisfied with a council's actions or proposed actions, we can complete our investigation and issue a decision statement. (*Local Government Act 1974, section 30(1B) and 34H(i), as amended*)
3. We have powers to investigate adult social care complaints in both Part 3 and Part 3A of the Local Government Act 1974. Part 3 covers complaints where local councils provide services themselves, or arrange or commission care services from social care providers, even if the council charges the person receiving care for the services. We can by law treat the actions of the care provider as if they were the actions of the council in those cases. (*Part 3 and Part 3A Local Government Act 1974; section 25(6) & (7) of the Act*)

How I considered this complaint

4. I considered all the written information provided by the Council, Carewatch and Ms A. Both Ms A and the Council had the opportunity to comment on an earlier draft of this statement and I took their comments into account before I reached a final decision.

What I found

5. The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 set out the fundamental standards those registered to provide care services must achieve. The Care Quality Commission (CQC) has issued guidance on how to meet the fundamental standards below which care must never fall.
6. Regulation 9 says that care must be appropriate and meet people's needs. The guidance says that "*providers must do everything reasonably practicable to make sure that people who use the service receive person-centred care and treatment that is appropriate, meets their needs and reflects their personal preferences*".
7. Regulation 18 concerns provision of staff in an emergency. The guidance says "*there should be procedures to follow in an emergency that make sure sufficient and suitable people are deployed to cover both the emergency and the routine work of the service.*"

What happened

8. Mrs X was an elderly lady living alone. She had a history of coronary heart disease. The Council arranged and funded a home care service for four calls a day to Mrs X from Carewatch.
9. At the end of February 2018 there was heavy snow.
10. On the morning of 28 February Mrs X's neighbour telephoned Ms A to say the morning carer had not arrived, and she had gone round to help Mrs X instead. The morning carer did not arrive until midday. Carewatch says its records show that the carer contacted Mrs X to tell her she would be late.
11. Ms A says due to the late morning call, she telephoned the neighbour again later that afternoon. The neighbour said she had made Mrs X some tea as the tea-time carer had not arrived. Ms A telephoned Carewatch twice in the late afternoon to ask if the night-time carer would be able to attend. She says the care provider told her there would be a night time carer attending. She says Carewatch then telephoned her again to say the carer would be late, but would be able to attend as she lived locally. Ms A told the neighbour the carer would be attending.
12. On 1 March Carewatch telephoned Ms A to say no carers would be able to visit Mrs X that day or possibly on 2 March. Ms A says she was telephoning neighbours to ask someone to visit her mother when she received a call to say Mrs X had fallen the previous evening, spent the night on the floor and had been taken to hospital. Sadly Mrs X died in hospital the following day.
13. Ms A complained to Carewatch. She said as she had been assured twice on 28 February that a carer would attend her mother that night, she did not make different arrangements for someone to call round. She said a manager had told her she thought the Council had taken over the service in view of the bad weather conditions.
14. Carewatch replied to Ms A. The branch manager said the night-time worker had told the office she would be able to attend the late call but the weather situation deteriorated during the day and the area was only accessible by 4x4 vehicles. He said the on-call manager had tried to telephone Mrs X to let her know but the line was engaged. He said the on-call manager contacted the Council to say the roads to some service users (including Mrs X) were inaccessible. He said the on-call manager said the Council confirmed its own team would deliver care to the

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- areas which were hard to reach, including to Mrs X. The branch manager said he had evidence of the phone call but not its contents (which were not recorded).
15. The branch manager said Carewatch was now taking action to ensure that next of kin was contacted if they could not contact the service user, and that agreements with the Council were followed by email confirmation.
 16. Ms A replied to Carewatch that there was nothing in the response which reassured her that what had happened to her mother might not recur. She said she could not see any suggestion which would ensure that the care would be delivered as planned.
 17. The Council says, *"It is a standard requirement for this type of Contract that providers have business continuity and contingency arrangements in place to cover events such as this. The complaint response letter from Carewatch confirms there was such a plan in place and activated at the time, as a result of the severe weather.....All regulated providers are also required to comply with CQC regulations and requirements. These include requirements to provide safe care and to ensure there are procedures to follow in an emergency to ensure sufficient, suitable people are able to cover the work of the service."*
 18. The Council also says that where providers know they cannot deliver services and this may result in risk to the service user, it would be expected that they contact the Council to make the Council aware and discuss the risks and contingencies. It says the first record of contact it has from Carewatch was on 1 March, not 28 February as the care provider says. It has no record that anyone from the Council spoke to Carewatch on 28 February confirming the Council would deliver care instead. It says immediate enquiries from a duty social worker about Mrs X's welfare when the care provider contacted it on 1 March found she had already fallen and been taken to hospital.
 19. Carewatch no longer works in the area.

Analysis

20. Carewatch (acting on behalf of the Council) failed to provide the care as stipulated and left a vulnerable elderly service user without care. That was fault, and a breach of the regulations. That was compounded by the assurances it gave to Ms A that it *could* provide care that night: had she not been assured of that, Ms A would have made arrangements for a neighbour to attend instead. It was fault for the care provider to fail to give the right information.
21. Carewatch says it was assured by the Council that an in-house team would deliver care instead. The Council has no record of a call from Carewatch that day at all.
22. The Council rightly says that care providers are required to comply with the relevant regulations in terms of providing emergency care. It did not do so however, nor did it make any plans for care to be provided by another body, nor did it notify Ms A that it could not provide care.
23. The injustice caused to Ms A and her family is the uncertainty of not knowing whether Mrs X would have fallen that evening and subsequently died if Carewatch had taken the right action.
24. As the Council arranged Mrs X's care through Carewatch, it remains responsible for the actions of the care provider.

Agreed action

- 25. Within one month of my final decision the Council will apologise to Ms A for the distress caused by the actions of the care provider;
- 26. Within one month of my final decision, the Council will offer a payment of £1000 to Ms A to recognise the distress caused by the failures of the care provider it commissioned.

Final decision

- 27. There was fault on the part of the care provider acting on behalf of the Council, which caused injustice to Ms A.

Investigator's decision on behalf of the Ombudsman

The Ombudsman's final decision

Summary: Mr P complains the Council has not provided the goods and services that his son, Q, requires. Mr P is responsible for providing Q with those services as Q is being electively home educated. There is no evidence of Council fault.

The complaint

1. The complainant, whom I shall call Mr P, complains the Council has failed to provide services that his child, Q, needs. He also says the Education, Health and Care Plan (EHCP) Reviewing Officer made groundless complaints about him and his wife and their care of Q and has not issued a revised Education, Health and Care Plan (EHCP) for Q even though the current EHCP is out of date.

The Ombudsman's role and powers

2. We investigate complaints of injustice caused by 'maladministration' and 'service failure'. I have used the word 'fault' to refer to these. We cannot question whether a council's decision is right or wrong simply because the complainant disagrees with it. We must consider whether there was fault in the way the decision was reached. (*Local Government Act 1974, section 34(3), as amended*)
3. We provide a free service, but must use public money carefully. We may decide not to start or continue with an investigation if we believe:
 - it is unlikely we would find fault, or
 - it is unlikely we could add to any previous investigation by the Council, or
 - it is unlikely further investigation will lead to a different outcome, or
 - we cannot achieve the outcome someone wants.(*Local Government Act 1974, section 24A(6), as amended*)
4. When considering complaints, if there is a conflict of evidence, we make findings based on the balance of probabilities. This means that we will weigh up the available relevant evidence and base our findings on what we think was more likely to have happened.
5. SEND is a tribunal that considers special educational needs. (*The Special Educational Needs and Disability Tribunal ('SEND')*)
6. If we are satisfied with a council's actions or proposed actions, we can complete our investigation and issue a decision statement. (*Local Government Act 1974, section 30(1B) and 34H(i), as amended*)

How I considered this complaint

7. I considered the information sent by Mr P and I spoke to him, and Q's mother, on the telephone. I have sent a copy of my draft decision to Mr P and the Council and will take any comments I receive into account before reaching a decision.

What I found

Services for Q

8. Mr P complains the Council failed to provide services to his child, Q, which were specified in his Education, Health and Care Plan. He says this meant Q was not receiving hydrotherapy or physiotherapy or any other goods and services he needed.
9. Mr P is electively home educating Q. He says Q has never been registered at a school. The family went to SEND wanting a placement for him at an independent special school. SEND thought another provision could meet his needs. Mr P was unhappy because he said the school SEND ordered had no hoists or any means to look after Q. He says that after this the family became aware of an email written by a Council officer saying; 'don't tell the parents they are able to appeal'.
10. Mr P could have told the school he was intending to send Q. He could have asked it to tell him when it had the services in place that Q needed and, when it did not do so (if it did not) Mr P could have returned to SEND. It seems that because Mr P did not want Q to attend the school ordered by tribunal, he did not do this. There is no evidence of Council fault. Mr P had the right to appeal if he did not agree with SEND's findings – he did not need the Council to tell him to appeal or not.
11. Because Mr P is electively home educating Q, he is responsible for providing services to Q – including therapy. He needs to approach his GP and ask for these services and follow the NHS complaints process if they are not provided.

Complaints raised by the EHCP Reviewing Officer

12. Mr P also complained that the EHCP Reviewing Officer had 'made several unfounded allegations about misusing funds, missing important appointments and denying access to (the child, and placing) incorrect information in (the) referral'. Although I acknowledge it must have been extremely challenging, when the family was already under a great deal of pressure, we would not criticise Council officers that expressed concerns about a child's care and then investigated them appropriately. Mr P says following investigation the family was completely exonerated – that is the process that should be followed. I cannot achieve more for Mr P by investigating that point further.

Amendments to Q's EHCP

13. Mr P is unhappy that amendments to Q's EHCP have taken a long time. He felt the Council would offer improved services if it fully assessed Q's needs. Given Mr P is responsible for providing Q with services, investigating this will not achieve the outcome Mr P wants. I am not investigating that part of his complaint..

Final decision

14. No fault.

Investigator's draft decision on behalf of the Ombudsman

The Ombudsman's decision

Summary: Mr X complains about the Council's decision to refuse his wife a blue badge. The Ombudsman found fault because the Council failed to follow its own guidance. As a result, Mrs X has been left uncertain about her eligibility for a blue badge. The Council has agreed to carry out a mobility assessment of Mrs X and arrange training for officers dealing with blue badge applications. It has also agreed to apologise to Mr and Mrs X and pay them £100 to recognise the impact on them because of its failures.

The complaint

1. The complainant, Mr X, complains the Council has not issued his wife, Mrs X, with a blue badge. He also complains the Council has not returned the photograph or postal order which were submitted with the application.

The Ombudsman's role and powers

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

How I considered this complaint

5. I have considered the complaint made by Mr X and discussed the complaint with him.
6. I considered the Council's comments about the complaint and the documents it provided in response to my enquiries.
7. I gave Mr X and the Council an opportunity to comment on my draft decision and I considered their responses.

What I found

What should have happened?

8. Local authorities are responsible for the day to day administration and enforcement of the blue badge scheme. Local authorities must ensure they only issue blue badges to residents who satisfy one or more of the eligibility criteria. The government has issued 'The Blue Badge scheme local authority guidance (England)' to help local authorities manage the scheme.
9. Some people are automatically entitled to a blue badge (without further assessment). This includes people who receive the Higher Rate of the Mobility Component of the Disability Living Allowance.
10. Where further assessment is required, a blue badge can only be issued to an adult who:
 - Drives a vehicle regularly, has a severe disability in both arms and is unable to operate, or has considerable difficulty in operating, all or some types of parking meter; or
 - Has a permanent and substantial disability that causes inability to walk or very considerable difficulty in walking. Applicants will need to demonstrate that their ability to walk is affected to the extent that they would be unable to access goods and services unless allowed to park close to shops, public buildings and other facilities.
11. The guidance says that if the local authority cannot make a clear and robust decision on eligibility based on the application, it should refer an applicant for an independent mobility assessment.
12. The guidance sets out several factors that are relevant in deciding whether an applicant meets the criteria for a badge:
 - Excessive pain reported by the applicant when walking, or because of the effort of walking;
 - Any breathlessness reported by the applicant when walking, or because of the effort of walking;
 - The distance an applicant can walk without excessive pain or breathlessness, considering the environment the individual usually walks;
 - The speed at which they can walk;
 - The length of time that an applicant can walk for;
 - The manner in which the applicant walks;
 - An applicant's use of walking aids;
 - The applicant's outdoor walking ability; and
 - Whether the effort of walking presents a danger to the applicant's life, or would be likely to lead to a serious decline in their health.
13. The Council's 'Blue Badge Scheme Staff Guidance' says, "If the application has not been completed properly or the appropriate evidence is not returned, staff should return the application along with a template letter, requesting the required information."
14. The Council's own guidance also says, "Staff should arrange a mobility assessment for anyone who appeals against the decision not to award a badge, if the applicant has not already had one."

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15. The regulations governing the blue badge scheme allow authorities to charge a fee on the issue of a badge, which cannot exceed £10.

What did happen?

16. Mrs X applied for a blue badge. She included a postal order for the £10 fee and a photograph.
17. In her application, she ticked the box to show she received the Higher Rate of the Mobility Component of the Disability Living Allowance.
18. Mrs X completed some other sections of the application form. In those sections, she said she could walk for “500 yards with difficulty”. She also said she struggles with longer distances or hills; cannot walk around the supermarket to do her own shopping; and cannot walk or use public transport for some of her local trips.
19. Mrs X described the way she walked as “poor” and said she could not walk outside without help from another person. She said she used a walking stick and would shortly begin using a wheelchair. Mrs X said she had to stop for breath while walking at her own pace on level ground.
20. On a scale of zero to ten where ten was “the worst pain imaginable”, Mrs X scored her experience of pain while not walking at five. She scored her experience of pain while walking at zero.
21. Mrs X named a nearby place she could comfortably walk to from home. By my estimates this destination was within 250 metres of her home. She stated it took her “10 minutes plus” to cover this distance, indicating a walking speed of less than 25 metres per minute.
22. Mrs X did not complete the mandatory declarations on the application or sign and date the form.
23. The Council received Mrs X’s application and assessed it. Not all completed areas of the application form have been scored. The Council has not provided any explanation of its scoring system.
24. The Council wrote to Mrs X in July 2018 to advise her that her application was unsuccessful. The reason given was because her walking difficulties did not appear to be severe enough to qualify for a badge.
25. Mrs X appealed the decision. I asked for copies of the letters Mrs X sent to the Council but the Council could not find them in its records. Mrs X provided the Council with a copy of a referral for a wheelchair assessment completed in July 2018, which included some extra details about her health needs.
26. The Council wrote to Mrs X again advising the information she had provided was not enough to allow it to reverse its decision. The Council did not offer Mrs X a mobility assessment. The Council says it returned the postal order and fee with this letter.
27. Mr and Mrs X moved to a new house around this time.
28. Mrs X contacted the Council in September 2018 about her application. The Council wrote to her at her new address advising it would not be changing its decision.
29. The letter, postal order and photograph were returned to the Council undelivered in October 2018 and were placed in a safe.
30. The Council says it has tried to confirm Mrs X’s new address but has not received the proof it needed to enable it to return the postal order and photograph.

Analysis

31. Mrs X did not present any evidence confirming her entitlement to the Higher Rate of the Mobility Component of the Disability Living Allowance. If she had, she would have been eligible for a blue badge without further assessment.
32. Given Mrs X also did not sign or date the form or complete any of the mandatory declarations, the Council should have followed its own guidance and issued a letter asking for the missing information and evidence. This would have provided the Council with an opportunity to clarify if Mrs X received the correct benefits to qualify for a badge without further assessment. I have not seen any evidence the Council did this, and this was fault.
33. The information provided within the application is contradictory in places and does not lend itself to making a clear and robust decision according to the government's guidance. The Council should have referred Mrs X for a mobility assessment. It failed to do so, and this was fault.
34. The Council has failed to comply with its own guidance when it did not offer a mobility assessment in response to any of Mrs X's appeals. This was fault.
35. Because of the information Mrs X provided about her health needs as part of her appeal, the Council should have considered whether she needed more support to complete her application effectively. This would be in line with the government's guidance on assisted completion of applications for blue badges. The Council would also be meeting its duties under the Equality Act 2010.
36. The Council says it has not returned the postal order and photograph because Mrs X has not provided proof of her address. However, it wrote to her about her blue badge application at her new address. Either the Council was satisfied that it had the correct address and therefore should have returned the postal order and photograph to the new address; or it should not have written to Mrs X about her application without receiving proof of her new address.
37. Mrs X remains without a blue badge and she and her husband have gone to the time and trouble of putting in appeals and making their complaint. There is uncertainty about whether she would have received a badge if the Council had made further enquiries about her benefit entitlement, or referred her for an independent mobility assessment as it should have done.

Agreed action

38. The Council expressed reservations about the findings of this investigation. However, it has agreed to undertake the following actions within four weeks of this decision:
 - Carry out an independent mobility assessment and write to me and Mrs X with the result of this assessment.
 - Apologise for the faults identified and pay £100 to Mr and Mrs X.
 - Reimburse Mr and Mrs X £10 for the cost of the expired postal order.
39. The Council also agreed to arrange training for relevant officers to ensure they are complying with the Council's own guidance when considering blue badge applications. It will complete this within eight weeks of this decision.

Final decision

40. For the reasons explained in the Analysis section, I have completed my investigation and uphold Mr X's complaint. I am satisfied the actions the Council has agreed to take are sufficient to remedy the injustice caused.

Investigator's decision on behalf of the Ombudsman

REPORT OF THE MONITORING OFFICER

OUTCOMES FROM THE COMPLAINTS PROCESS - APRIL 2017 TO MARCH 2018

Purpose of the Report

1. The purpose of this report is to present a summary of complaints made to the County Council between 1st April 2017 and 31st March 2018

Introduction

2. The Complaints and Information Team (C&IT) is based at County Hall and deals with all formal complaints made to the Council including those made through the Local Government Ombudsman. The team is distinct from the Customer Service Centre. C&IT also deals with all requests made under the Freedom of Information Act and Subject Access requests.
3. The service aims to provide a responsive and outcome focussed local complaints system and it is worth noting that the majority of all formal complaints are completed at the earliest stage of the complaints process and resolved at local level without further escalation.
4. Members will be aware that there are three complaints processes; two of which, children's and adult's social care processes, are statutory. The corporate complaints process deals with all other areas of Council service. Members receive quarterly reports giving details of completed complaints in their area and the outcome for each complaint.
5. Where complaints are partially or fully upheld, the remedies offered aim to be proportionate to the nature of the fault found and the level of impact this has caused to the customer or service user. Remedies offered at the early stages include a full written explanation with an apology and in some cases a meeting may be arranged.
6. In recent years there has been a reduction in the number of children's social care complaints which are escalated to an independent investigation at Stage 2 and Stage 3. This is due to the complaints team's emphasis on working with the complainant and department to explore alternative resolution options at the initial stage of the complaints process. Mediation type meetings have been found to be successful in many instances however this approach can impact on the response timescales in some instances.

7. The outcomes of complaint investigations are valuable for the Council to monitor so themes from upheld complaints can be identified quickly and service improvements implemented without delay. It is also important to know however that in the majority of cases where complaints are partially or fully upheld, the service failures identified relate to individual cases rather than across a whole service area.
8. Where the evidence demonstrates that a change in policy or procedure is required, an action plan is created, monitored and shared with leadership teams to ensure that service improvements are made. The Service and Corporate Directors receive the findings, conclusions and recommendations from all independent investigations and review panels at the final stage of the statutory process.
9. On completion of the Council's complaints process a complainant has the right to refer any remaining concerns to the independent Local Government and Social Care Ombudsman (LGSCO). Committee Members have requested to receive all final LGSCO decisions on a regular basis and monitor the outcome of these complaints. The Ombudsman provides an annual review of all the complaints received against the Council which was reported to this Committee in December 2018.
10. The Complaints Team are committed to ensuring all Nottinghamshire residents and their representatives receive an equitable and independent service in response to any concerns or complaints they raise with the Council. As we aim to seek a considered response and resolution to all complaints, we welcome contact from Members at the earliest opportunity when raising concerns on their constituents' behalf.
11. The statistical information relating to complaints made directly to the Council is set out in Appendix A to this report.
12. The total number of complaints received is consistent with previous years' figures however anecdotal evidence suggests the focus and nature of some complaints is changing. For example we have seen an increase in complex complaints which cover more than one area of service; including children and adults with complex needs requiring coordinated services from more than one organisation or independent service provider. These inevitably require specialised skills and knowledge to manage however are also more likely to be escalated by the complainant or their representative if the outcome they are seeking is unlikely to be achieved, which, can interrupt the formal complaints process.
13. The information provided for this year provides a breakdown of the reasons why some formal complaints do not complete the complaints procedure. During the initial assessment of some complex complaints they can appear to be matters eligible for the complaints process. Following further enquires and a detailed assessment of the concerns, it may be established that the substantive complaint needs to be referred on to be managed through a separate procedure. Examples include complaints relating to an insurance claim, where the issue relates to custody of a child and court proceedings or disputes about where an elderly person should live who lacks capacity to make decisions which would be for the court of protection to decide.
14. Each initial complaint enquiry is assessed before it is logged as a formal complaint. Although the number of formal complaints received has remained fairly consistent over

the past 5 years, the number of initial enquiries to the complaints team have increased. The graph (appendix B) shows the total number of formal complaints received with the number of additional enquiries above in the lightly shaded area.

15. The complaints team also responds to a range of enquiries from Council colleagues, external professionals or members of the public. Many are seeking advice about the complaints process or have a query which may require a response from the Council but they are managed outside the formal process.
16. The following information relates to the formal complaints which were investigated and received a formal response by the Council.

Adult Social Care

17. It is important to understand complaints in the context of whole service provision. During 2017/18 Adult Social Care received new contact for 5,320 younger adults, 20,919 older adults. The number of complaints received this year is 378 which is an increase from the previous year.
18. The main themes relate to the provision of services following changes in assessment criteria and decisions in some cases not to fund long term care for service users. Other issues are paying for care, financial assessments, hospital discharge arrangements, the reduction in care packages and the quality of care from homecare or residential care providers. More complex complaints arose from disputes about the process or outcome of safeguarding investigations or where there was conflict between family members regarding the care and best interests of elderly parents.
19. Of the 378 complaints received during this period 311 were investigated. Of these 144 were not upheld, 94 were partially upheld and 73 were fully upheld. The uphold rate of 54% and resolution timescale is consistent with the previous years' figures.
20. Where complaints were upheld the remedies offered in addition to an explanation and apology included; offers to reassess the service user which in some cases led to a change of decision about provision of services and in some cases partial waivers of care charges were agreed.
21. As most complaints relate to the individual circumstances of each case, where fault has been found themes are difficult to identify and there are not ongoing lessons that can be drawn from them.

Children's Social Care

22. Children's Social Care dealt with 22,880 enquiries with 10,414 progressing to referrals in the year ending 31/03/18. During this period there were 818 children on child protection plans, 798 Looked After Children and 1218 children assessed as Children in Need. Within the three groups 115 children had a recorded disability.

23. The number of complaints received during the year is 320 and of those 252 were investigated at Stage 1. The statutory children's social care complaints process has 3 stages: initial response from the relevant team or service manager, independent investigation, and finally a review by a panel of 3 independent people.
24. Of the 252 complaints completed at Stage 1 during this period 118 were not upheld, 82 partially upheld and 52 fully upheld. The 20 working day response timescale at Stage 1 remained at 83% which is consistent with the previous years. During the year 2 complaints were independently investigated at Stage 2. Both investigations found case specific communication failures and the recommendations made were accepted and actioned by the department. One complainant referred their complaint to the Independent Review Panel at Stage 3 who made an additional recommendation of a further apology which was offered in this case.
25. The main themes of children's social care complaints include; delay in an assessment process, concerns about the content or outcome of assessments, professional decisions in child protection cases, communication, conduct or action of individual workers and the way referrals have been handled. It is worth noting that a significant number of children's social care complaints arise where there is conflict within families and disputes regarding contact arrangements between children and family members.
26. Other more complex complaints which may involve more than one organisation include those relating to historical and contemporaneous allegations made against adults who have or currently work with children. These can be difficult to manage and resolve. They are also very difficult for the subjects of the complaints as they potentially have a significant impact in terms of their employment. Disputes commonly arise when the person at the centre of the allegation wishes to dispute the evidence provided by third parties, the process of the investigation into the allegation and the outcome decision reached by the concluding multi-agency strategy meetings.
27. The learning outcomes from complaints identified; that some information in assessments and social work reports should be recorded more accurately and shared with parents promptly to allow an opportunity for further discussions and factual amendments to be made. In cases where a complainant strongly disagreed with a professional view, the remedy offered was the opportunity to submit their own written views to be considered alongside the social work assessment. The reasons for most complaints to be upheld or partially upheld relate to individual cases and often involve some form of communication issue.

Corporate Complaints

28. The number of corporate complaints received during the year was 328 and of these 270 were considered at Stage 1 with 131 not upheld, 45 partially upheld and 94 fully upheld. Although there appears to have been a significant reduction in the number of complaints received during this period, the nature of these complaints covers a range of services and can involve seasonal fluctuations. As was seen in the previous year a single issue relating to the implementation of the policy to ask residents to register to use local household waste recycling centres generated 220 complaints.

29. A large proportion of complaints received each year relate to highways issues including highways maintenance, potholes, traffic management, tree, hedge and verge maintenance and the lack of response to fault reporting in this area of work. Others include, transport complaints for example issues with bus services, changes to bus timetables, the issuing of concessionary bus passes. The relocation of bus stops or installation of shelters accounts for a number of other complaints throughout this period.
30. As with previous years, a consistent number of complaints relate to school admissions and the school appeals process.
31. A further theme of the more complex complaints received concern the process followed in completing Education, Health and Care (EHC) plans which are managed by the Integrated Children's Disability Service (ICDS). EHC plans are for children and young people whose special educational needs require more help than would normally be provided in a mainstream education setting. The ICDS is responsible for maintaining approximately 2700 EHC plans and complaints raised about this service are managed through the corporate complaints process unless the substantive issue relates to the action of the children's social care team. Where a complaint relates to a dispute about the EHC plan itself and concerns the level of support offered, the complainant has the right of appeal through a separate tribunal process. These are not considered via the Council's complaints process.
32. The Integrated Children's Disability Service have used some lessons learnt from the outcome of complaints to make service improvements. This has resulted in a review and update of operational working protocols across the EHCP process including EHC Needs Assessments; Placement at Risk and Annual reviews.
33. Of the 270 complaints which were completed and resolved at Stage 1 during the year, 131 complaints were not upheld, 45 were partially upheld and 94 fully upheld. The remedies included written or verbal apologies and an explanations for the service failure. Examples of action taken included customer service training for staff, reviewing processes and updating the Council's website.
34. There were 5 complaints independently investigated at the second stage of the complaints process with 3 not upheld and 2 partially upheld. These were unrelated concerns involving different services and appropriate remedies were offered and accepted by the individual in each case. Both involved a further apology and in one case some additional IT support was offered to the customer.

Reason/s for Recommendation/s

35. To enable members to scrutinise complaints dealt with using the Council's complaints procedure between 1st April 2017 and 31st March 2018.

Statutory and Policy Implications

36. 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

37. A number of Adult Social Care complaints that were partially or fully upheld involved disputes about the payment of outstanding care fees. In some cases the remedy offered and accepted in each case was a waiver of a proportion of the charge. The information held by the complaints team indicates that in one case the amount waived was £32,000 due to a system error which dated back to 2011 and has subsequently been resolved. In a further 7 complaints waivers of approximately £7000 were agreed. The payments and waivers are covered by the service area involved in the complaint and the ASCH&PP department's budget.

RECOMMENDATION/S

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: Laura Mulvany-Law, Temporary Team Manager, Complaints and Information Team 9772788

Legal Comments SLB 19/02/2019

Governance and Ethics Committee is the appropriate body to consider the content of this 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 25/02/2019]

The financial implications are set out in paragraph 37 of the report.

Background Papers and Published Documents

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

- None

Electoral Division(s) and Member(s) Affected

All

Formal complaints. 1 April 2017-31 March 2018

Adult Social Care	2015/16	2016/17	2017/18
Total received	288	334	378
Completed process.			311
Not upheld	104	85	144
Partially upheld	64	67	94
Fully upheld	55	50	73
Completed within 6 month timescale	93%	99%	99%

Adult Social Care	2017/18
Total received	378
Completed	311
Incomplete	67
Ineligible	4
Issues previously responded to	2
Outside timescale	2
Safeguarding procedure	4
Not NCC complaints	4
Withdrawn	44
Not known	7

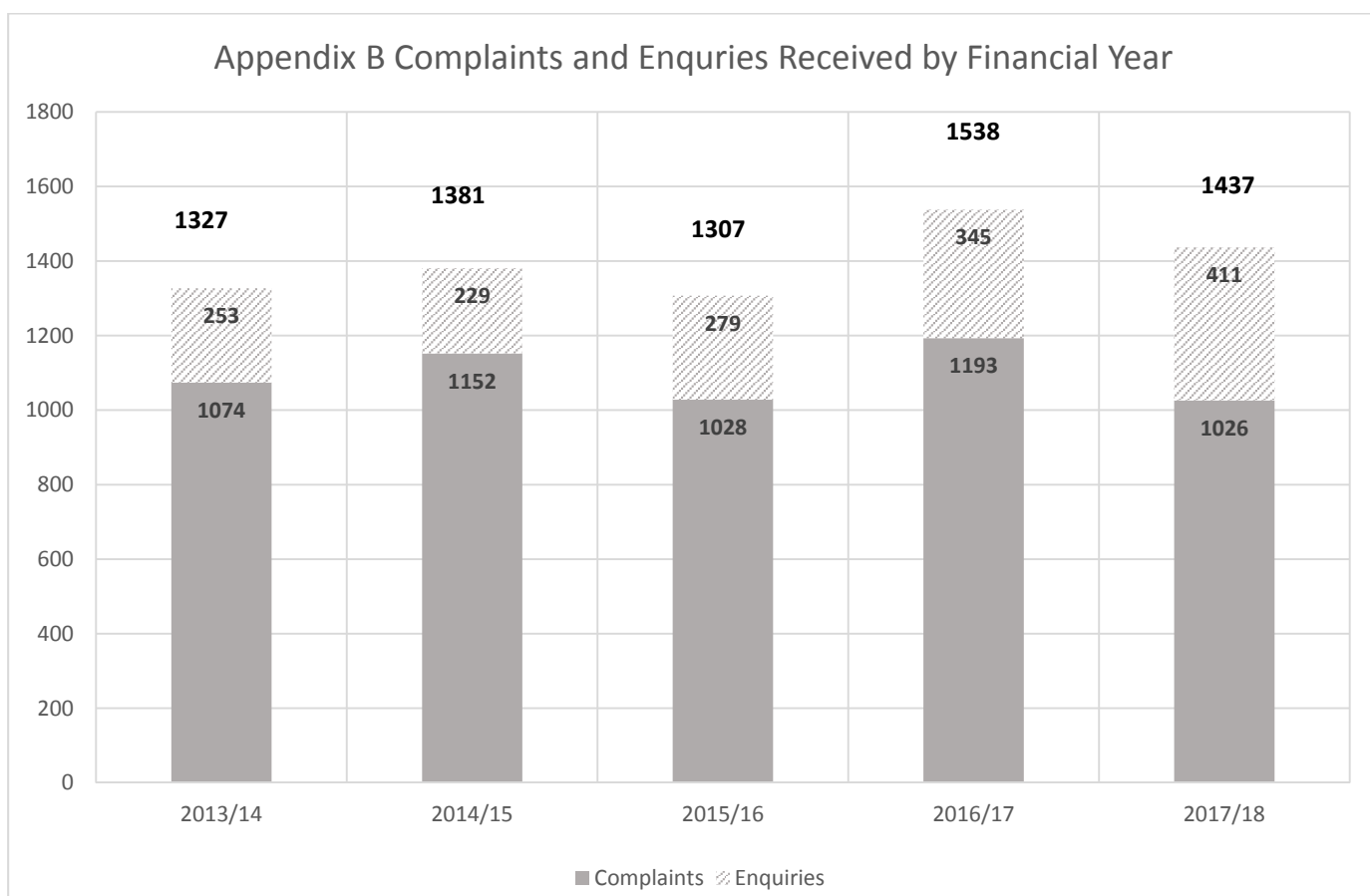
Children's Social Care	2015/16	2016/17	2017/18
Total received	312	271	320
Completed			252
Not upheld	129	114	118
Partially upheld	83	61	82
Fully upheld	45	31	52
Response in 20 working day timescale	82%	83%	83 %
Complaints investigated at Stage 2	9	4	2
Complaints considered at Stage 3	5	3	1

Children's Social Care	2017/18
Total received	320
Completed	252
Incomplete	68
Alternative Dispute Resolution	2
Alternative procedure / appeal process	2
Inconclusive	4
Ineligible	6
Issues previously responded to	1
Outside timescale	1
Safeguarding	2
Withdrawn	38
Not known	12

Corporate service	2015/16	2016/17	2017/18
Total received	428	588	328
Completed process			270
Not upheld	181	303	131
Partially upheld	84	65	45
Fully upheld	153	127	94
Stage 1 response in 20 working day timescale	84%	81%	80%
Complaints investigated at S2	7	5	5
Complaints considered at S3	0	0	0

Corporate service	2017/18
Total received	328
Completed process	270
Incomplete	58
Alternative procedure / appeal process	5
Inconclusive	7
Ineligible	4
Issues previously responded to	3
Not known	10
Not NCC	3
Policy Decision	10
Withdrawn	16

Appendix B



13 March 2019**Agenda Item: 9****REPORT OF THE SERVICE DIRECTOR, CUSTOMERS, GOVERNANCE AND
EMPLOYEES****WORK PROGRAMME****Purpose of the Report**

1. To review the Committee's work programme for 2018 - 19.

Information and Advice

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

Other Options Considered

4. None.

Reason/s for Recommendation/s

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

Statutory and Policy Implications

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

RECOMMENDATION

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

Marjorie Toward
Service Director, Customers, Governance and Employees

For any enquiries about this report please contact:

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

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

Constitutional Comments (SLB)

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

Financial Comments (NS)

There are no financial implications arising directly from this report.

Background Papers

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

None

Electoral Division(s) and Member(s) Affected

All

GOVERNANCE & ETHICS COMMITTEE - WORK PROGRAMME (AS AT 19 FEBRUARY 2019)

Report Title	Brief summary of agenda item	Lead Officer	Report Author
1 May 2019			
Update on Local Government and Social Care Ombudsman Decisions	To consider any recent findings of the Local Government Ombudsman in complaints made against the County Council (item to be confirmed).	Marjorie Toward	Laura Mulvany-Law
Accounting Policies 2018/19	To outline proposed changes to the accounting policies used for the Authority's Statement of Accounts for 2018/19 for review and approval	Nigel Stevenson	Glen Bicknell
Annual Waiver Report	Outcomes of Annual Waivers	Kaj Ghattaora	Nigel Stevenson
Information Governance Action Plan	To seek approval for this new Action Plan.	Marjorie Toward	Caroline Agnew
Statement of Accounts 2018/19 – Informing the Risk Assessment	To provide information on the external auditors' requirement for the provision of information regarding the Council's approach to dealing with fraud, litigation, laws and regulations as part of their audit	Nigel Stevenson	Glen Bicknell
Assurance mapping annual report and review of pilot	To present the outcomes of the pilot approach to assurance mapping and to present proposals for its application in 2019/20	Rob Disney	Rob Disney
Annual Governance Statement 2018-19	To approve the Annual Governance Statement for 2018-19	Rob Disney	Rob Disney
Governance & Ethics Committee's Annual Report 2018-19	To approve the draft Annual Report on the work of the Governance & Ethics Committee, for subsequent reporting to Full Council	Rob Disney	Rob Disney
12 June 2019			
Update on Use of the Councillors' Divisional Fund	To consider the six monthly update.	Marjorie Toward	Keith Ford
National Audit Office Cyber Security and Information Risk Guidance for Audit Committees	To consider a six monthly update and any subsequent actions required.	Nigel Stevenson	Adam Crevald
Information Governance Improvement Programme Update	To consider a six monthly update, as agreed by the Committee on 18 December 2018	Marjorie Toward	Caroline Agnew

Update on Local Government and Social Care Ombudsman Decisions	To consider any recent findings of the Local Government Ombudsman in complaints made against the County Council (item to be confirmed).	Marjorie Toward	Laura Mulvany-Law
Presentation on 2018/19 Statement of Accounts and Status of External Audit	A presentation of the main headlines from this year's Statement of Accounts	Nigel Stevenson	Glen Bicknell
Annual Fraud Report 2018-19	To review the latest Annual Fraud Report and consider any follow-up actions required	Rob Disney	Simon Lacey
Follow-up of Internal Audit Recommendations	To consider the latest progress with the implementation of agreed actions from Internal Audit's reports	Rob Disney	Rob Disney
National Audit Office report on Local Government governance	To consider any implications for NCC of the findings of the NAO report	Rob Disney	Rob Disney
CIPFA statement on the role of the Head of Internal Audit	To consider any implications for the arrangements at NCC arising from the updated CIPFA statement	Rob Disney	Rob Disney
24 July 2019			
Update on Use of Resources by Councillors	To consider the six monthly update.	Marjorie Toward	Keith Ford
Information Governance Action Plan Update	To consider a quarterly update on performance against this new Action Plan.	Marjorie Toward	Caroline Agnew
Update on Local Government and Social Care Ombudsman Decisions	To consider any recent findings of the Local Government Ombudsman in complaints made against the County Council (item to be confirmed).	Marjorie Toward	Laura Mulvany-Law
Statement of Accounts 2018/19	To seek approval for this year's Statement of Accounts	Nigel Stevenson	Glen Bicknell
Internal Audit Annual Report for 2018-19 2019-20 Term 2 Plan	To consider the Head of Internal Audit's Annual Report and to consult on the planned work for Term 2 of 2019-20.	Rob Disney	Rob Disney