

Governance and Ethics Committee

Wednesday, 11 September 2019 at 10:30

County Hall, West Bridgford, Nottingham, NG2 7QP

AGENDA

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| 3 | Declarations of Interests by Members and Officers:- (see note below)
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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 24 July 2019 (commencing at 1.00 pm)

membership

Persons absent are marked with `A`

COUNCILLORS

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

Nicki Brooks
Richard Butler
Steve Carr **A**
Kate Foale
Errol Henry JP

Phil Rostance
Helen-Ann Smith
Keith Walker
Jonathan Wheeler

OTHER COUNCILLORS IN ATTENDANCE

John Longdon
Yvonne Woodhead

OFFICERS IN ATTENDANCE

Jill Norman Children, Families and Cultural Services
Colin Pettigrew

Caroline Agnew
Glen Bicknell
Adam Crevald
Rob Disney
Keith Ford
Andrew Howarth
Laura Mulvany-Law
Marie Rowney
Sarah Stevenson
Keith Palframan
Marjorie Toward
Matthew Walker

} Chief Executive's Department

OTHER ATTENDEES

John Gregory Grant Thornton (External Auditors)
Lorraine Noak

1. MINUTES

The Minutes of the last meeting held on 12 June 2019, having been previously circulated, were confirmed and signed by the Chairman.

2. APOLOGIES FOR ABSENCE

No apologies for absence were received.

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

- Councillor Richard Butler had replaced Councillor John Handley
- Councillor Helen-Ann Smith had replaced Councillor Rachel Madden.

3. DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

None

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

Laura Mulvany-Law, Senior Complaints Practitioner, introduced the report which detailed the LGSCO decisions received in this latest monitoring period.

Colin Pettigrew, Corporate Director – Children, Families and Cultural Services and Jill Norman, Temporary Group Manager, Integrated Children's Disability Service presented further background information and responded to Members' queries on the issue of Education, Health and Care Plans.

RESOLVED: 2019/043

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

5. INFORMATION GOVERNANCE IMPROVEMENT PROGRAMME UPDATE

Caroline Agnew, Data Protection Officer / Programme Manager, introduced the report which detailed progress in delivering the Council's Information Governance Improvement Programme.

RESOLVED: 2019/044

That a further update to the Committee be scheduled in the work programme for January 2020.

6. UPDATE ON THE NATIONAL AUDIT OFFICE CYBER SECURITY AND INFORMATION RISK GUIDANCE FOR AUDIT COMMITTEES

Adam Crevald, Group Manager, Customer & Service Design, introduced the report which provided an updated assessment of the Council's current position against the questions contained within this advice from the National Audit Office.

RESOLVED: 2019/045

That a further update be submitted to the Committee in January 2020.

7. STATEMENT OF ACCOUNTS 2018-19

Glen Bicknell, Senior Accountant, introduced the report which shared the results of the external audit of the Statement of Accounts 2018-19 and the External Audit Report 2018-19 and sought the Committee's approval for the Audited Statement of Accounts 2018-19 and the letters of representation issued in relation to the external audit.

John Gregory, Director of Grant Thornton, summarised the findings of the external audit. He highlighted that discussions were ongoing with Council officers about a number of control recommendations which had been made. These were not significant recommendations and would not prevent Members from approving the Statement of Accounts. A further report highlighting the outcomes of these discussions would be submitted to the next meeting of the Committee on 11 September 2019.

RESOLVED: 2019/046

- 1) That the letters of representation be approved.
- 2) That the Statement of Accounts 2018/19 be approved.

8. AUDIT TRAINING – PRESENTATION BY INTERNAL AUDIT AND THE BUSINESS SUPPORT CENTRE

Sarah Stevenson, Group Manager, Business Support Centre and Employee Services Centre and Andrew Howarth, Senior Auditor, gave a presentation about the internal audit process which highlighted previous practice, the current approach and planned improvements, illustrated through an audit of payroll services.

Members welcomed the presentation and felt that similar presentations on a periodic basis would help the Committee develop its understanding and insight into relevant areas of practice.

RESOLVED: 2019/047

That the contents of the presentation be noted and further presentations on areas of practice within the Committee's remit be arranged.

9. INTERNAL AUDIT 2018-19 TERM 3 REPORT AND 2019-20 TERM 2 INTERNAL AUDIT PLAN

Rob Disney, Group Manager, Assurance, introduced the report which informed Members of the work carried out by Internal Audit in Term 3 of 2018-19 and sought Members' views on the Internal Audit Plan for Term 2 of 2019-20.

The Chairman welcomed Matthew Waller, Principal Auditor for Assurance Lincolnshire to the meeting. Mr Waller was on a temporary placement within the Internal Audit team as a means of sharing best practice as part of the collaboration arrangement with Lincolnshire.

RESOLVED: 2019/048

- 1) That no further actions were required at this stage.
- 2) That the planned coverage of Internal Audit's work in Term 2 of 2019/20 was appropriate to deliver assurance to the Committee in priority areas.

10. HEAD OF INTERNAL AUDIT'S ANNUAL REPORT FOR 2018-19

Rob Disney, Group Manager, Assurance, introduced his Annual Report for 2018-19, including his opinion on the adequacy of the Council's arrangements for governance, risk management and control.

RESOLVED: 2019/049

That no actions or follow-up reports were required as a result of this report.

11. INSTITUTE OF INTERNAL AUDITORS' GUIDANCE FOR AUDIT COMMITTEES

Rob Disney, Group Manager, Assurance, introduced the report which outlined the guidance issued by the Chartered Institute of Internal Auditors (IIA) for audit committees and implications for the Council's own arrangements and practices.

RESOLVED: 2019/050

That the intention to bring a proposed restructure of the Internal Audit Section to the Committee after the summer be noted and the development of a longer term internal audit strategy be approved.

12. MEMBER COMMUNICATION AND ENGAGEMENT PROGRAMME

Marjorie Toward, Service Director, Customers, Governance and Employees, introduced the report which sought approval for a cross cutting programme of work to improve the nature, content and timeliness of communications with elected Members.

RESOLVED: 2019/051

- 1) That the proposed scope and workstreams of the Member Communication and Engagement Programme of work, as set out in Appendix A and within the report, be approved.
- 2) That an update report on the Programme's progress be brought to the Committee in November 2019.

13. UPDATE ON USE OF RESOURCES BY COUNCILLORS

Keith Ford, Team Manager, Democratic Services, introduced the report which provided an update on the use of resources by Councillors and their support staff.

RESOLVED: 2019/052

That no further information or actions were required on the resolutions on this topic agreed by the Committee at [Page 80 of 200](#) January 2019 meeting or on the resources expenditure for the period November 2018 – March 2019.

14. WORK PROGRAMME

RESOLVED: 2019/053

That the work programme be agreed.

The meeting closed at 2.32 pm.

CHAIRMAN

11 September 2019

Agenda Item: 4

REPORT OF THE SERVICE DIRECTOR FOR CUSTOMERS, GOVERNANCE AND EMPLOYEES

LOCAL GOVERNMENT & SOCIAL CARE OMBUDSMAN DECISIONS JUNE-AUGUST 2019

Purpose of the Report

1. The purpose of this report is to inform the Committee about Local Government & Social Care Ombudsman's (LGSCO) decisions relating to the Council since the last report to Committee up to 12 August 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 24 July 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 14 decisions relating to the actions of this Council have been made by the Ombudsman in this period (attached at annex A). Following initial enquires into 7 complaints, the LGSCO decided not to continue with any further investigation. In 5 cases the Ombudsman concluded that the matters were outside their jurisdiction. In one adult social care case, no consent had been given by the service user for her son to act on her behalf and one corporate complaint was refused as it dated back beyond the 12-month timescale.

6. Investigations were carried out into four complaints where no fault was found with the Council.
7. One concerned a children's social care complaint about the Council's handling of safeguarding referrals and the Child in Need process. (Annex A, page 8).
8. An adult social care complaint was jointly investigated by the Social Care and Health Service Ombudsmen. The concerns raised were against a care home, a GP practice and the Council. The complaint against the Council concerned the adequacy of two safeguarding investigations which were undertaken on two separate occasions following contact from a service user's daughter about the home's response to her father's ill health (Annex A page 16). No fault was found with the Council's action or the safeguarding investigations. Fault was found in relation to the GP and the care home. One recommendation involves further action by the Council to work with the home which is currently underway.
9. No fault was found in a further complaint about the Council's handling of a Blue Car Badge application. (Annex A, page 28).
10. A further adult social care complaint was investigated where no fault was found in the Council's decision to place a service user's mother in residential care and charge her for the care. (Annex A page 58).
11. Three Ombudsman investigations found fault against the Council. The first is detailed on page 32 (Annex A). The complaint involved a delay in the allocation of an occupational therapist to assess the complainant's children for adaptations to the family home and the delays in applying for a disabled facility grant. Fault was found during the Ombudsman investigation which resulted in several recommendations. These included further assessment of the family, a financial remedy of £500 in recognition of the distress caused by the delay, £6,600 for the children in recognition of their unsuitable living accommodation due to the Council's delay. Two further recommendations include staff training and a Council review of its resources, targets and procedures. All recommendations were accepted by the department.
12. The second complaint where fault was found is an adult social care complaint as detailed on page 39 of Annex A. The Council was at fault for not providing the service user with the holiday care as set out in her support plan. The department accepted and implemented the investigator's recommendations which were a letter of apology with a financial remedy of £200 in recognition of the time and trouble and the loss of service.
13. The third complaint is an adult social care complaint which was jointly investigated by the social care and health service Ombudsmen. The Council was found at fault for delay and failing to adequately respond to the service users change in needs and her request to increase social care support hours. The investigation found the delay and uncertainty caused unnecessary distress to the service user. The department accepted the recommendations which include a letter of apology and financial remedy of £250 for distress, time and trouble and a review of the Council's practice and procedures. (Page 46).

Statutory and Policy Implications

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

Data Protection and Information Governance

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

Financial Implications

16. Case ref: 18 016 793 remedy of £7,100 has been paid from the CFCS budget.
Case ref: 18 008 760 and 18 016 787 payments of £200 and £250 respectively have been paid from the ASCH budget.

Implications for Service Users

17. 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 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 Comment)

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

Financial Comments (SES 21/08/19)

The financial implications are set out in paragraph 16 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: The Ombudsman will not investigate this complaint about an uneven road surface causing damage to the complainant's cycling equipment. This is because it is reasonable to expect the complainant to take court action if he thinks the Council is liable for the damage.

The complaint

1. The complainant, whom I refer to as Mr B, says the Council should pay for the damage caused to his cycling equipment by a strip of sunken and defective tarmac in the road.

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

How I considered this complaint

4. I have considered:
 - Mr B's statement of complaint to the Ombudsman;
 - The 10 May 2019 letter from the Council's Claims Team to Mr B; and,
 - The comments and supporting documents submitted in response to a draft version of this statement.

What I found

5. The role of the Ombudsman is to consider complaints about administrative fault. We cannot establish negligence and liability in complaints involving damage to property. Adjudication on such matters usually involves making decisions on contested questions of fact and law which require the more stringent and structured procedures of civil litigation for their proper determination.
6. Claims for damage to property are therefore a matter for the Council's insurers and then, ultimately, for the courts.
7. The Council's insurers rejected a claim by Mr B, so it is now open to him to pursue the matter further. [Page 16 of 20](#) Mr B thinks the Council has failed to properly

maintain the road for cyclists. I consider it reasonable for him to do so, because only the courts can decide if the Council has been negligent and is liable for the damage. In addition, only the courts can decide what compensation/damages must be paid; the Ombudsman has no powers to enforce such a remedy.

Final decision

8. The Ombudsman will not investigate Mr B's complaint. This is because it is reasonable to expect him to pursue a court remedy if he thinks the Council should pay for the damage to his property.

Investigator's decision on behalf of the Ombudsman

The Ombudsman's final decision

Summary: The Ombudsman will not investigate this complaint relating to the deeds of the complainant's property. The complainant was aware of the matter in October 2016 and it is now too late for him to complain to the Ombudsman.

The complaint

1. The complainant, who I refer to here as Mr B, has complained about a plan included with the deeds of his property. He says the Council's records are inaccurate and it should change them so they accord with those held by HM Land Registry.

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. It says 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*)
3. We provide a free service but must use public money carefully. It is not a good use of public resources to investigate complaints about complaint procedures, if we are unable to deal with the substantive issue. (*Local Government Act 1974, section 24A(6), as amended*)

How I considered this complaint

4. I have considered what Mr B said in his complaint. I have also considered our records on previous complaints he has made to us. Mr B commented on a draft before I made this decision.

What I found

5. Mr B complained to us in January and August 2018 about matters relating to rights of way on a footpath. These were not the same complaint as the one he has made now.
6. Mr B stated in this complaint that he has attempted to resolve the matter with the Council since October 2016. He complained to us in April 2019 and was clearly aware of the issues more than 12 months before he did so. Given he had made two complaints to us in the intervening period, I see no exceptional reason the restriction on our jurisdiction described in paragraph 2 should not apply.

Final decision

7. I have decided we cannot investigate this complaint because it is made too late. We will investigate how the Council has dealt with Mr B's complaint as this would not be a good use of public funds.

Investigator's decision on behalf of the Ombudsman

The Ombudsman's final decision

Summary: The Ombudsman will not investigate Ms X's complaint the Council issued her with penalty charge notices for her children's non-attendance at school. This is because we cannot achieve the outcome she wants, and the court is the appropriate body to consider the Council's decision.

The complaint

1. The complainant, whom I shall call Ms X, complains the Council issued her with penalty charge notices for her children's non-attendance at school. Ms X says there were good reasons she took her children out of school. Ms X is also unhappy that Headteachers can decide not to approve absence during term-time, and then ask the Council to issue a penalty charge notice.

The Ombudsman's role and powers

2. We have the power to start or discontinue an investigation into a complaint within our jurisdiction. We may decide not to start or continue with an investigation if we think the issues could reasonably be, or have been, raised within a court of law. (*Local Government Act 1974, sections 24A(6) and 34B(8), as amended*)
3. We cannot investigate complaints about what happens in schools. (*Local Government Act 1974, Schedule 5, paragraph 5(b), as amended*)

How I considered this complaint

4. I considered Ms X's complaint to the Ombudsman and the information she provided. I also gave Ms X the opportunity to comment on a draft statement before reaching a final decision on her complaint.

What I found

5. The procedure for a Council to enforce against non-attendance at school is for it to issue a penalty notice. If a parent accepts the penalty and pays it, the Council need take no further action. If the parent disputes the penalty by not paying it, the Council must prosecute the offence in the magistrates' court. Only the Court can consider any evidence put forward in defence and then decide whether the parent committed the offence. The Ombudsman can do neither. (*Education Act 1996, sections 444 and 444A*)
6. If Ms X believes the penalty charges are not justified, or have not been correctly issued, and the Council pursues a prosecution, she can put forward an argument

in court. There is no dispute over whether Ms X took her children out of school. But there is dispute about the merits of the decision to issue a penalty charge. The court is in the best place to decide the merits of the opposing arguments, as the law provides.

7. Also, the Ombudsman has no powers to consider whether a Headteacher was right to refuse to authorise a child's absence. This is because we have no powers to consider complaints about the internal management of schools. An investigation by the Ombudsman is not therefore appropriate.
8. Ms X is also unhappy with the Council's process for administering penalty charges and would like it reviewed. The process on the Council's website explains that only Headteachers can decide to authorise absence during term-time. Schools have powers to issue penalty charges, but the Council issues them on their behalf.
9. Ms X believes Headteachers will not always make decisions in a child's best interests, and that the Council should make an "independent judgment" about whether to issue a fine. In her complaint to the Ombudsman, Ms X referred to the different systems other councils operate. But the role of the Ombudsman is to look for fault causing injustice. It is not our role to say how councils should operate. These are decisions for council officers and elected members. We cannot therefore achieve the outcome Ms X wants.
10. Ms X has complained to the Council but is not happy with how it has dealt with her complaint. The Ombudsman will not normally investigate a council's complaint handling if we are not going to look at the substantive issue complained about. This applies here.

Final decision

11. The Ombudsman will not investigate Ms X's complaint. This is because we cannot achieve the outcome she wants, and Ms X can challenge the Council's decision in court.

Investigator's decision on behalf of the Ombudsman

The Ombudsman's final decision

Summary: The Ombudsman cannot investigate this complaint about the execution of a search warrant by the Council at the complainant's home. This is because the matter is connected to court proceedings.

The complaint

1. Mr X says the Council executed a search warrant on his property for a business that has nothing to do with him. He says the business relates to a previous tenant who moved out 5 years ago. Mr X believes the Council should not have done this and should have been aware the business it had a search warrant for no longer trades at his address.

The Ombudsman's role and powers

2. The Local Government Act 1974 sets out our powers but also imposes restrictions on what we can investigate.
3. We cannot investigate a complaint about the start of court action or what happened in court. (*Local Government Act 1974, Schedule 5/5A, paragraph 1/3, as amended*)

How I considered this complaint

4. I considered the information provided by Mr X. He comment on the draft version of this decision.

What I found

5. The Council says it has information that evidence connected to a current trading standards investigation may be stored at Mr X's address.
6. It says it presented the evidence to the magistrates' court when it requested a search warrant. The court granted the Council a warrant to enter and search Mr X's home. This was then executed in the presence of police officers.

Final decision

7. I cannot investigate this complaint. This is because the information used by the Council to get the search warrant was considered by the magistrates' court as part of criminal proceedings before a court of law. Therefore, the restriction I describe in paragraph 3 applies and we have no jurisdiction to investigate this complaint.

Investigator's decision on behalf of the Ombudsman

The Ombudsman's final decision

Summary: Ms X complains about how the Council handled safeguarding referrals about her children, and the Child in Need process. She complains the Council has not properly responded to her complaint. She says this has caused her distress. The Ombudsman does not find fault with the Council.

The complaint

1. The complainant, who I refer to here as Ms X, complains that:
 - a) her children's paternal grandmother, who has not been involved with the family for 18 years, was invited to a Child in Need meeting;
 - b) the Child in Need plan had nothing to do with the children;
 - c) the Child in Need process was not handled properly and should never have started;
 - d) the Council said Ms X said her son is her full-time carer, which she disputes;
 - e) the children's paternal grandmother makes malicious safeguarding referrals, which the Council could deal with better; and,
 - f) the Council has not properly responded to her complaint.
2. Ms X says this has caused her distress.

The Ombudsman's role and powers

3. We investigate complaints of injustice caused by 'maladministration' and 'service failure'. I have used the word 'fault' to refer to these. We cannot question whether a council's decision is right or wrong simply because the complainant disagrees with it. We must consider whether there was fault in the way the decision was reached. (*Local Government Act 1974, section 34(3), as amended*)

How I considered this complaint

4. I considered the information and documents provided by Ms X and the Council. I spoke to Ms X about her complaint. Ms X and the Council had an opportunity to comment on an earlier draft of this statement. I considered all comments before I reached a final decision.
5. I have considered the relevant statutory guidance and policies, set out below.

What I found

Guidance and policies

Safeguarding referrals and the Child in Need process

6. The government publishes guidance on safeguarding children and promoting children's welfare, 'Working Together to Safeguard Children' (regularly updated). This outlines the specific duties of different agencies working with children and families.
7. The guidance stresses the importance of timeliness and sets out timescales that actions should be completed within. It says within one day of receiving a referral, a local authority should make a decision about the next steps and what kind of response is needed. This includes determining if the child needs immediate protection, if urgent action is needed, if the child is in need, and if there is reasonable cause to suspect the child is suffering, or is likely to suffer, significant harm.
8. Once a decision has been made on what action is needed, the guidance says this should be followed by an assessment. Assessments should determine if the child is in need, what kind of services the child needs, and if specialist assessments are needed to help the local authority's decision-making. The assessment should take no more than 45 days to complete.
9. After this, the social worker should agree the next steps with the family and other professionals. This could be to agree a Child in Need plan or a Child Protection Plan. The social worker coordinates the provision of appropriate services.
10. The next stage is to review the plan and the outcomes for the child. This could be referring the child for non-statutory services, a referral for more in-depth enquiries, or to close the case.
11. If the plan is a Child in Need plan, the first review should be held within three months of the start of the plan. Further reviews should take place at least every six months after that.
12. The Council publishes its safeguarding procedures on its website. This says that a Child in Need planning meeting must be convened within ten working days. It says that the social worker should agree with the family who should be invited from their family to attend the meeting.
13. The Council's safeguarding policy says Child in Need plans should be based on the identified needs of the child, and be focussed on the outcomes.

Complaints procedure

14. The Council's complaints procedure says it will respond to complaints within 20 working days, in most cases. If the complainant is not happy with the Council's response, they can discuss the next steps with the complaints team.
15. The procedure says that if a complainant remains dissatisfied once a complaint has completed the process, they can contact the Ombudsman.

What happened

16. Ms X and her late-husband, Mr Y, have two children: M who is 17, and F who is seven. Ms X and Mr Y were separated.
17. In February 2018, the Council received a referral about possible concerns for M and F. The Council decided to do an assessment. This was allocated to the assessment team the day after the referral was received.

18. In March, the Council completed its assessment. Shortly after this, it held a Child in Need meeting. Both parents were invited to attend. Mr Y was not able to attend, so his mother (Mrs L) attended the meeting on his behalf.
19. The meeting was held in two halves, with Ms X in the first half, and Mrs L in the second half.
20. In April, the Council held a Child in Need review meeting where the Child in Need plan was ended.
21. In December, Ms X complained to the Council. She said the Council lied about M being a full-time carer. She said the Council did not tell her Mrs L would be at the Child in Need meeting in March. She said she was unhappy with how the Council had treated her.
22. In January 2019, the Council responded to Ms X's complaint. It said Mr Y had asked the Council that his mother, Mrs L, attend the Child in Need meeting on his behalf.
23. The Council said the meeting was held in two halves, with Ms X attending the first half of the meeting, and Mrs L attending the second half.
24. The Council said there had been an anonymous referral in November 2018 which the Council assessed. It said it closed the case with no further action because there was no evidence of harm. The Council said it has a duty to explore the concerns raised regardless of where or who the referral comes from.
25. Ms X called the Council and spoke to a complaints officer. The Council followed this up in writing. It said it could not investigate an allegation Ms X made about Mrs L stealing from her. The Council signposted Ms X to the Ombudsman.

Analysis

Mrs L at the Child in Need meeting

26. Ms X complains that Mrs L, who has not been involved with the family for 18 years, was invited to the Child in Need meeting in March 2018 (part a of the complaint).
27. The Council's complaint response said Mr Y had the right to ask someone to attend the meeting on his behalf. The Council said it was aware that Ms X had raised concerns about Mrs L before which is why the meeting was held in two halves. It said Mrs L was not in the meeting with Ms X.
28. Ms X acknowledges that Mr Y asked for Mrs L to attend on his behalf. Ms X says the Council did not tell her Mrs L would be there.
29. The Council says initially the social worker had agreed with Mr Y that she would visit him after the meeting and share the outcome with him, because he was too ill to attend. It says that on the day of the meeting Mr Y contacted the Council and asked that Mrs L attend the meeting on his behalf. The Council says it respected this request.
30. The Council says that Ms X only asked that she did not sit in the same room as Mrs L. It says Ms X did not tell the social worker she did not want Mrs L there at all.
31. The Council's procedure says social workers should agree with the family which family members should be invited to the meeting. Up until the day of the meeting, the Council complied with this.

32. Mr Y had a right to ask the Council for Mrs L to attend the meeting on his behalf. The Council respected this wish. Mr Y told the Council on the day of the meeting that he wanted Mrs L to attend.
33. It is my view that there was insufficient opportunity for the Council to have told Ms X in advance that the plans had changed, and Mrs L would be attending on Mr Y's behalf. For this reason, I do not find fault with the Council.
34. The Council allowed Mrs L to attend on Mr Y's behalf, and it allowed the meeting to be held in two halves so that Ms X did not have to sit in the same room as Mrs L. For this reason, I find that the Council acted appropriately and respected the wishes of both parents. Because of this, I do not find the Council at fault.

Child in Need plan

35. Ms X complains that the Child in Need plan had nothing to do with the children (part b of the complaint).
36. Ms X says all the Child in Need plan had in it was for her and her children to attend bereavement counselling. This was to prepare for when Mr Y passed away.
37. Ms X says that she was not told that M and F would be referred for counselling for children with substance misusing parents. She says she stopped misusing alcohol in October 2017. She says M got a phone call from a counsellor 'out of the blue' and was upset by it.
38. The minutes of the Child in Need meeting say that Ms X said the only support she and the children needed was counselling.
39. The Child in Need plan includes access for counselling for M and F, social worker to visit both children and complete direct work with them every four to six weeks, to monitor Ms X's alcohol misuse, and for both parents to identify family members to support Ms X and the children, including providing care for the children.
40. I find that the main and central focus of the Child in Need plan was the children's wellbeing, as it should have been, in line with the guidance and the Council's own policy. The plan gave specific outcomes that relate to the identified risks and needs. I find that it was an entirely appropriate plan.
41. The plan says that the children will be referred for counselling. It does not specify which agency or organisation would provide the counselling. I find that the Council acted in line with the Child in Need plan, and referred the children to a service that could provide the support the children needed. For this reason, I do not find the Council at fault.
42. It is unfortunate that M was upset by the phone call. However, this is not evidence of fault by the Council.

Child in Need process

43. Ms X complains that the Child in Need process was not handled properly and should never have started (part c of the complaint).
44. Ms X thinks that the children were put on the Child in Need plan because Mr Y raised concerns about her alcohol misuse. She does not understand why the children were put on the plan.
45. The Council says there has been a long history of referrals due to Ms X's alcohol misuse and allegations of domestic violence between Ms X and Mr Y. It says the safeguarding concerns at the time the children were put on the plan were to do

with how Ms X would support M and F when Mr Y (who was seen as a protective factor) passed away.

46. The Council says there were also concerns about M providing some of F's basic care when Ms Y was at work every weekday evening.
47. The Council received the referral, completed an assessment, placed the children on a Child in Need plan, and then removed the children from the plan at the first review meeting. It did so because there was no evidence of Ms X misusing alcohol. It found the children were coping well, and Ms X and the children had access to specialist support services. For this reason, it identified no further need for social care involvement.
48. I find that the Council followed the process within the timescales and in line with the guidance. I also find it acted in line with its own policy. There were no delays in the process. I find that the Council acted appropriately and proportionately. It did not keep the children on the plan for longer than necessary, and did not remove them from the plan earlier than necessary.
49. For these reasons, I do not find the Council at fault.

Full-time carer

50. Ms X complains that the Council said she had said M is her full-time carer, which she disputes (part d of the complaint).
51. Ms X says she has never needed a carer, and M has never cared for her.
52. The Council says concerns were raised about M caring for F, rather than for Ms X. It confirms that it has no records that say M was caring for Ms X.
53. I find no evidence that the Council said Ms X said M was her full-time carer. For this reason, I do not find fault with the Council.

Malicious safeguarding referrals

54. Ms X complains that Mrs L makes malicious safeguarding referrals, which the Council could deal with better (part e of the complaint).
55. She says she has called the police about this. She says the police are writing to Mrs L to tell her to stop harassing Ms X. Ms X says Mrs L has not made any referrals to the Council since December 2018. Ms X says the Council should not 'jump on' these referrals.
56. The Council has a duty to investigate all safeguarding referrals, regardless of where or who they come from. I do not find the Council at fault for exploring or investigating each referral it receives.

Complaint response

57. Ms X complains that the Council has not properly responded to her complaint (part f of the complaint).
58. Ms X says the Council 'skirted around' the issues she complained about, and did not give her proper answers. She is frustrated the Council did not answer her questions.
59. I cannot find any evidence of unanswered questions. Ms X is not able to give me any examples of questions that remain unanswered.
60. The Council's response to her complaint explained its decision and actions.
61. Ms X did not ask the Council to deal with her complaint at the next stage of its complaints procedure. The Council decided not to deal with Ms X's complaint at

the next stage. It says it was unclear how escalating the complaint would help Ms X because it was unlikely to have a different outcome.

62. The Ombudsman agreed that this was an appropriate course of action in this case.
63. The Council's complaints procedure says if a complainant is not happy with the complaints response, they can discuss the next steps with the complaints team. This is what happened.
64. I find the Council acted in line with its procedure. For this reason, I do not find fault with the Council.

Final decision

65. I have completed my investigation. I do not uphold Ms X's complaint because I have found no evidence of fault in the Council's actions.

Investigator's decision on behalf of the Ombudsman

The Ombudsman's final decision

Summary: The Ombudsman cannot investigate this complaint about the involvement of the Council's social services with the complainant's family. This is because the actions complained of were for the courts to consider and are out of our jurisdiction.

The complaint

1. The complainant, who I refer to here as Mrs J, says that the Council's social services have treated her unfairly and with bias, and have not provided her with the support that she needed to care for her children.

The Ombudsman's role and powers

2. The Local Government Act 1974 sets out our powers but also imposes restrictions on what we can investigate.
3. We cannot investigate a complaint about the start of court action or what happened in court. (*Local Government Act 1974, Schedule 5/5A, paragraph 1/3, as amended*)

How I considered this complaint

4. I considered the information provided by Mrs J and by the Council. I have also sent Mrs J an initial view for her comments.

What I found

5. Mrs J has 4 children. She complains that officers from the Council's social services have acted unfairly and with bias towards her. She feels that she was not provided with the support that she needed, and as a result, has lost care of her children.
6. Three of her children are now placed with their father, under a Child Arrangement Order imposed by a court in 2017.
7. The youngest child has been placed with their grandmother under a Special Guardianship Order imposed by a court in 2018.
8. It was for the court to consider the action of the Council's social services when making these orders. The complaint is therefore out of our jurisdiction.

Final decision

9. I cannot investigate the complaint, as it is out of jurisdiction. The LGSCO may not consider actions which could or should have been considered as part of court proceedings.

Investigator's final decision on behalf of the Ombudsman

Complaint reference:

LGSCO: 17 017 711

PHSO: C2046588

Complaint against:

Nottinghamshire County Council

Church Street Medical Centre

The Moorlands Nursing Home



The Ombudsmen's decision

Summary: Ms P complained that a care home and GP practice failed to properly respond to her father Mr D's ill health, which put him at unnecessary risk. On another occasion, a nurse at the care home failed to call an ambulance in time, reducing his chance of surviving the infection he died of. Further, that a council failed to carry out safeguarding investigations adequately. The Ombudsmen find some fault with the response of the GP practice and care home in the first incident, which caused Ms P distress. In the second incident the nurse failed to call an ambulance in time which reduced Mr D's chance of surviving. The Ombudsmen recommend action to address this. They find no fault with the safeguarding investigations.

The complaint

1. Ms P complained about Moorlands Care Home (the Home), which is run by Regal Care Trading Ltd., Church Street Medical Centre (the Practice), and Nottinghamshire County Council (the Council). She said:
 - a) In April 2017, the Home took too long to seek medical attention for her father Mr D, which caused a delay in his admission to hospital for treatment. This put Mr D at risk, and caused his condition to become life threatening. It caused significant distress to her.
 - b) A GP at the Practice did not review her father face to face, which contributed to the delay in his admission to hospital. The GP refused to discuss this with Ms P after she went to the surgery later that day.
 - c) The Council's safeguarding investigation into this incident was biased, did not allow her to have enough input, and did not identify the failings in care.
 - d) In August 2017, the Home again took too long to seek medical attention for Mr D, and a nurse did not call an ambulance despite being advised to by the 111 service because of suspected sepsis. This prevented Mr D from having the best opportunity to survive.
 - e) The Council's safeguarding investigation into this did not adequately consider the role of the nurse at the Home the day before Mr D's hospital admission.
 - f) In mid-June 2017, Mr D developed bowel problems but the Home failed to send a stool sample to the Practice for testing.

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- g) Ms P is unhappy with the way her complaint was handled. In particular, she did not receive an adequate response to her complaint about the Home's actions, and the response she received was significantly delayed.
2. Ms P says these events caused her significant stress, distress, and caused her ill health to worsen. She seeks better explanations about what happened, an acknowledgement of what went wrong, apologies, and changes to practice and procedures.

Parts of the complaint I investigated

3. I investigated all the complaint except part f. I have explained why at the end of this statement.

The Ombudsmen's role and powers

4. The Ombudsmen investigate complaints about 'maladministration' and 'service failure'. We use the word 'fault' to refer to these. If there has been fault, the Ombudsmen consider whether it has caused injustice or hardship (*Health Service Commissioners Act 1993, section 3(1) and Local Government Act 1974, sections 26(1) and 26A(1)*). If it has, they may suggest a remedy. Recommendations might include asking the organisation to apologise or to pay a financial remedy, for example, for inconvenience or worry caused. We might also recommend the organisation takes action to stop the same mistakes happening again.
5. We investigate complaints about councils and certain other bodies. Where an individual, organisation or private company is providing services on behalf of a council, we can investigate complaints about the actions of these providers. (*Local Government Act 1974, section 25(7), as amended*)
6. The Ombudsmen have the power to jointly consider complaints about health and social care. Since April 2015, these complaints have been considered by a single team acting for both Ombudsmen. (*Local Government Act 1974, section 33ZA, and Health Service Commissioners Act 1993, section 18ZA*)
7. We normally name care homes in our decision statements. However, we will not do so if we think someone could be identified from the name of the care home. (*Local Government Act 1974, section 34H(8), as amended*)
8. The Ombudsmen cannot question whether an organisation's decision is right or wrong simply because the complainant disagrees with it. We must consider whether there was fault in the way the decision was reached. (*Local Government Act 1974, section 34(3), as amended, and Health Service Commissioners Act 1993, sections 3(4)- 3(7)*)
9. If the Ombudsmen are satisfied with the actions or proposed actions of the bodies that are the subject of the complaint, they can complete their investigation and issue a decision statement. (*Health Service Commissioners Act 1993, section 18ZA and Local Government Act 1974, section 30(1B) and 34H(i), as amended*)

How I considered this complaint

10. I considered information provided by the parties to the complaint, including relevant health and social care records from the Home, the Practice, the hospital to which Mr D was admitted, the 111 service, the out of hours GP service, and the ambulance service. I took account of relevant policy, law and guidance. I took clinical advice from an experienced GP, and a senior nurse with expertise in the care of older people. [Page 29 of 200](#)

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11. I shared a draft of this decision with the parties to the complaint and considered their comments.

What I found

Legal and administrative context

Safeguarding

12. The safeguarding responsibilities of local authorities and their partners are set out in the Care Act 2014 and the accompanying statutory guidance. Section 42 of the Care Act 2014 says that a council must make necessary enquiries if it has reason to think a person may be at risk of abuse or neglect and has needs for care and support which mean he or she cannot protect himself or herself. It must also decide whether it or another person or agency should take any action to protect the person from abuse or risk.

Fundamental Standards of Care

13. 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 which care must never fall below.
14. Regulation 12 says care must be delivered safely. Providers must minimise risks to a person as much as reasonably practicable. People providing care must have the appropriate skills.

The Code for Nurses and Midwives

15. The Nursing and Midwifery (NMC) issued *The Code* in 2009 (updated 2015). This sets out standards of conduct, performance and ethics for nurses and midwives. It says clear and accurate records should be kept of discussions, assessments, treatment and medicines given, along with how effective these have been. Nurses and midwives must “accurately identify, observe and assess signs of normal or worsening physical and mental health in the person receiving care”. They must promptly refer a person to another practitioner when necessary for care or treatment.

Background

16. Mr D lived in a nursing home (the Home). He had a range of health problems, including swallowing difficulties, weakness on one side of his body, and confusion.
17. In the evening of 25 April 2017, Mr D was admitted to hospital with aspiration pneumonia (a chest infection caused by inhaling something rather than swallowing it) and hypoactive delirium (a condition where a person who is unwell becomes unusually sleepy and withdrawn). Ms P complained to the Council that the carers at the Home had not sought medical attention for him soon enough. The Council investigated under the safeguarding process but concluded that Ms P’s concerns were not substantiated.
18. In the morning of 20 August 2017, Mr D was admitted to hospital after becoming unwell overnight. He sadly died on 25 August.

Complaint about the events of April 2017

19. Ms P said:

- She went to the Home in the late morning of 25 April because the GP said they would visit to review Mr D's medication at lunchtime. However, the GP did not come to Mr D's room, and Ms P found out in the early afternoon that the GP had left.
- When she entered Mr D's room, she found him not alert, with noisy, gurgling, breathing and unable to eat or drink. Two carers told her they'd heard a problem with his breathing, and also told the Home's senior care worker (the Senior Carer) this. However, the Home did not act on this, and the nurse did not see that he was unwell.
- Ms P said she spoke with the Senior Carer about Mr D's breathing, who said she would contact the Practice for a home visit. Then Ms P went to the Practice to express concerns about Mr D. The Practice receptionist said the GP was busy so they took Ms P's details, but no one called her back.
- The Home did not seek medical attention for Mr D until that evening, when he was very poorly. This delay meant Mr D's condition became life threatening.
- When the Home called out of hours health services, it gave incorrect information about Mr D. It said he'd only had breathing difficulties for the last twenty minutes, disregarding the problems earlier that day. This made it harder for the out of hours service to diagnose the problem.
- When she phoned the Home around 16:00 that day, the Senior Carer said she was waiting for the doctor to get back to her, but the Practice said this was not correct.
- The safeguarding investigation did not take into account that: the Senior Carer's statement said Mr D had been struggling to breathe, which she did not tell the out of hours medical service; no one called the GP when Mr D was seen to struggle to breathe in the afternoon; the Home did not tell the out of hours services that Mr D had a history of chest infections; and parts of the Senior Carer's statement were inaccurate.
- The social worker who completed the safeguarding investigation did not take proper account of the information from Ms P, and clearly believed the Home.
- The social worker told Ms P she would organise a meeting at the Home to discuss Ms P's concerns, but the social worker did not do this.
- If the safeguarding investigation into the April events had been upheld, the events of August may have been avoided.

The records

20. The Home's records of 25 April say Mr D ate all his breakfast, and drank fluids that morning. Staff provided personal care in the morning and had no concerns about him.
21. The Practice's records show that a receptionist sent a message to the GP at 15:09 to say Ms P attended and said she had sat in Mr D's room for three hours waiting for the GP. Ms P said two carers noticed that morning that Mr D was wheezing, and asked whether the GP knew this, since the carers did not tell the nurse on duty (Nurse B). The GP replied to the receptionist at 15:31 to say the carers had not mentioned Mr D wheezing or said he needed to be seen. She asked the receptionist to check with the Home whether he needed a visit.
22. At 15:27, the Senior Carer recorded that after the GP left Ms P said Mr D sounded chesty and wheezing, so she would phone the GP if they saw any further

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- wheeziness. Carers noted at 15:30 that Mr D drank coffee and ate most of a snack. At 17:16, carers recorded that Mr D ate most of his evening meal and drank all his drink.
23. At 18:38, carers recorded that they provided personal care to Mr D and his breathing seemed strained and he was in pain. They told Nurse B and the Senior Carer.
 24. Nurse B told the 111 service at 18:46 that care staff had just reported that Mr D was very chesty and wheezy, but he had been fine that day. She had just been to see Mr D, and he was chesty and wheezy.
 25. The out of hours service recorded that Nurse B said she had seen Mr D a few times that day, and neither she nor the care staff had noticed any problems. He had been eating and drinking. Now, he was chesty and wheezy and had a cough. The Senior Carer took over the call. She said Mr D had had breathing problems in the past. Earlier that day Ms P said Mr D was very chesty and she wanted him to see the GP, but the GP had left. The Home's staff had seen him since, and he was "not too bad", but he now sounded "quite bad" and did not look comfortable. The out of hours doctor said it sounded like the start of a chest infection and they would visit within two hours.
 26. Before the out of hours doctor arrived, the Home called an ambulance for Mr D. The out of hours doctor visited at 20:07. They recorded that Mr D became "very chesty" that evening, with a raised temperature of 39. He ate dinner about 17:00 that day, with no coughing or choking. The doctor felt he probably had aspiration pneumonia. While the doctor was present, the ambulance arrived to take Mr D to hospital.
 27. The hospital records show that Mr D was diagnosed with aspiration pneumonia and hypoactive delirium. A doctor recorded that his prognosis was uncertain. He could "take a turn for the worse".
 28. At 09:35 on 26 April the Practice's receptionist messaged the GP to say they had checked with the Home whether Mr D needed a visit, and the staff from the Home said they would let the Practice know when they had spoken with the Senior Carer.
 29. The Council's records, following discussion with the Home, say Ms P's concerns were resolved by the meeting with the GP and the Home on 12 May.
 30. A social worker called the Home on 24 May. The Home said Mr D was usually wheezy. Staff on duty on 25 April did not consider that he was more wheezy than normal until later in the day. The Home said it told Ms P when they met that if she had concerns about Mr D that morning she should have told the nurse in charge.
 31. The social worker decided that since Ms P had met with the Home to discuss her concerns and the issue may have been "lack of communication" between Ms P and the Home, the matter did not need a safeguarding investigation.
 32. Ms P contacted the Council again in early June. She said she was not satisfied with the meeting in May. She was not happy that the Home told the out of hours services Mr D did not have a history of chest infections, when he did. It did not say that carers saw Mr D struggling to breathe. She said the Home should have called the GP sooner, and that if the Home gave the correct information to the out of hours services they would have called an ambulance straight away. The Council decided it would conduct a safeguarding enquiry.

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33. The social worker visited the Home on 9 June. They reviewed Mr D's care plan, care logs, statements from staff, and spoke with the Home's manager and Nurse B. Nurse B wrote a statement that staff had seen Mr D throughout the day and they were not concerned about his breathing until teatime. The social worker also got the records from the 111 and out of hours service.
 34. The Home's manager said Mr D was often deeply asleep over meal times, so his meals were kept for when he was awake. Ms P felt his deep sleep was of concern, when it was not. Care staff said Mr D was often short of breath following personal care, and it was at this time that Ms P told staff she was concerned about his breathing. The social worker noted that the transcript of the out of hours call said the staff said Mr D did not have frequent chest infections. The Senior Carer and nurse said they thought they had said that he had a history of chest infections.
 35. The social worker concluded that they could find no evidence of neglect. They noted that whether staff gave incorrect information about Mr D's history of chest infections did not affect the fact that emergency services were called.
 36. The social worker called Ms P on 11 July and explained they found no evidence that the care staff acted inappropriately. Ms P said she appreciated that there was a lack of evidence, but she felt strongly that the Home did not get Mr D to hospital quickly enough.
 37. Ms P called the Council on 21 July. She said she was not happy with the outcome of the safeguarding investigation. The social worker agreed to contact the Home. On 24 July the social worker spoke with the Home's manager. The Home's records say the social worker would meet with Ms P and the Home to discuss various concerns (related to the way Ms P fed Mr D), but he was admitted to hospital before this happened.
 38. On 15 August the Council recorded that Ms P called to say she understood the social worker may not want to pursue the safeguarding investigation further, but she considered that her concerns were justified. She said she did not want to make a complaint or further action to be taken.

Findings about the Home

39. Ms P said the Home's carers told her they heard a problem with Mr D's breathing in the morning. The Home provided a copy of statements by the carers who saw Mr D that morning. One said Mr D was quite wheezy, which they had mentioned to Ms P, but this was normal for him in the morning and he did not seem worse than he did at other times. The other also said that Mr D was a little chesty in the morning, but this was normal for him and they did not worry because they knew once he was sitting correctly it would settle down.
40. Having considered the evidence, I find that there was no reason for the Home to seek medical attention for Mr D based on the observations of the carers in the morning.
41. The Senior Carer documented in the Home's records at 15:27 that Ms P said Mr D sounded "chesty/wheezy" so she would phone the GP if they saw further wheeziness. Ms P says the Senior Carer told her she would call the GP for a home visit, and that when she rang the Home later in the afternoon the Senior Carer said she was waiting for the Practice to get back to her. The accounts of this discussion conflict. I cannot resolve these two differing accounts without any additional evidence, and there is no such evidence available. In these circumstances, I cannot establish that there was fault here.

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42. Mr D was at significant risk of aspiration because of his medical conditions, and aspiration does not always cause coughing. Therefore, the Home needed to be alert to possible signs of aspiration. The Senior Carer should have reported Ms P's concerns to Nurse B, which should have prompted Nurse B to monitor Mr D's respiratory rate, temperature and oxygen saturation levels to check for signs of aspiration.
 43. In its comments on a draft of this decision, the Home told me the Senior Carer did report Ms P's concerns to Nurse B, who carried out physiological observations, but they did not document this. Based on the evidence I have seen, I am not persuaded by this.
 44. I find that the Home failed to properly respond to Ms P's concern by ensuring that the nurse was aware of Ms P's observation and that the nurse monitored Mr D's physiological signs as a result. This was fault, and was a potential breach of the fundamental standards of care.
 45. The records say the Home's staff saw Mr D several times during the afternoon and did not see cause for concern about him, which indicates that they did not witness the abnormal sounds Ms P heard.
 46. Signs of aspiration pneumonia can develop very quickly, and we do not know at what time during that day Mr D's physiological observations would have become abnormal. Therefore, it is possible that if a nurse had checked them soon after Ms P reported her concerns to the Senior Carer they would have been normal. Therefore, I cannot say that the Home would have found cause to seek immediate medical attention for Mr D were it not for the fault. This means I have not found that the Home's fault affected the course of Mr D's illness or put him at increased risk.
 47. When the carers saw that Mr D seemed unwell in the evening, the Home promptly sought medical assistance for him. Ms P complained that the Home did not tell the out of hours service that he'd had breathing difficulties earlier that day. But the records show that the Senior Carer told the out of hours service that Ms P said he was chesty earlier in the day. I have not seen evidence of fault with the way the Home responded after staff saw that Mr D was unwell.

Findings about the Practice

48. There is no fault with the GP discussing Mr D with the Senior Carer rather than going to see him in his room. It is usual practice for GPs to discuss patients with care home staff and to make decisions based on what care home staff report, without necessarily seeing each patient in person.
49. When the receptionist told the GP that Ms P was concerned about Mr D wheezing, the GP correctly asked the receptionist to speak with the Home and find out whether Mr D needed a visit. However, reception staff did not do this until the following morning. Further, the GP did not follow up the request that afternoon by asking the receptionist whether the Home said Mr D needed a visit or not. By the time the Practice contacted the Home to offer a visit, Mr D was in hospital. The Practice was at fault here, because it did not follow good practice for the circumstances.
50. Since the Home was not concerned about Mr D at the time Ms P attended the Practice, it would probably have said he did not need a visit, had the Practice contacted the Home when it should have. Even if the Home had acted without fault and checked Mr D's observations when it should have, and it had found an abnormality, the Home would then have had to consider contacting the Practice

or emergency services itself, rather than waiting for the Practice to call back. Therefore, I have not found that the fault by the Practice caused an injustice.

51. The Practice completed a significant analysis of this event, but not until December 2018, after Ms P brought her complaint to the Ombudsmen. The analysis is inadequate because it does not contain a thorough review of what went wrong and fully identify what the Practice needed to do to prevent similar incidents.

Findings about the Council

52. The records show that the safeguarding officer discussed Ms P's concerns with her and considered what she said. They also considered information from the out of hours services and reviewed the Home's records. The Council's records do not suggest it planned to discuss Ms P's safeguarding concerns with her further at a meeting at the Home.
53. Having considered the evidence, I can find no fault with the way the Council reached its decision to find that the safeguarding concerns were not substantiated. I have not seen evidence of bias or a failure to take Ms P's concerns seriously. I have not seen any indication that the Council should have done anything differently which may have prevented the August incident.

Conclusions about the April incident

54. There was fault because staff at the Home failed to properly respond to Ms P's concern by ensuring that a nurse monitored Mr D's physiological observations.
55. It is not possible to know whether earlier monitoring would have shown signs that Mr D was unwell, so I have not concluded that the Home should have sought medical attention for Mr D earlier. Even if it had, it is likely that Mr D would still have become very unwell and needed an emergency hospital admission for treatment. However, the uncertainty around this is a source of distress to Ms P, and that is an injustice to her.
56. The Practice is at fault for failing to appropriately follow up Ms P's concerns, but this did not allow Mr D's condition to become worse or put him at increased risk.
57. There was no fault with the Council's safeguarding investigation.

Complaint about the events of August 2017

Ms P's complaints

58. Ms P said:
- Mr D became very unwell during the morning of 19 August 2017, but the nurse on duty at the Home in the daytime (Nurse K) was not concerned.
 - The local out of hours service told the nurse on duty that night (Nurse Q) to call 999 for an ambulance for Mr D, but she did not.
 - As a result, Mr D lost the chance to survive his illness.
 - No one referred Nurse Q to the Nursing and Midwifery Council (NMC), the professional regulator for nurses, so she had to do this herself.
 - The safeguarding investigation only looked at the actions of Nurse Q. It did not look at the actions of Nurse K, who did not take seriously Ms P's concerns that Mr D was in an altered state of consciousness and could not swallow pureed food that day.

The records

59. The Home's records of 19 August show staff provided care to Mr D throughout the day. He chatted with staff, ate food, drank fluids and passed urine.
60. At 00:25 on 20 August, a carer noted Mr D was breathing hard, seemed to be in pain, and was not responding. They told Nurse Q.
61. Nurse Q called 111 at 00:46. She said Mr D was not responding when spoken to, when he was normally alert at night. His blood pressure was a bit high, his eyes were a bit sunken, his breathing was not good and she could hear some bubbling. The 111 service said it would arrange a call back from an out of hours doctor.
62. The out of hours service called Nurse Q at 00:53. Nurse Q said Mr D did not "look too good at all". He was lethargic, drowsy, and his breathing was not very good. He had been this way for "about a couple of hours". At this point the call recording stopped for about 30 seconds. Then, the out of hours service asked Nurse Q whether Mr D had been eating and drinking. She said his intake was quite poor. The out of hours service told Nurse Q she needed to phone an ambulance because Mr D probably had sepsis. Nurse Q confirmed she understood.
63. The hospital records contain notes provided by the Home. Nurse Q recorded at 01:30 that she was called to Mr D's room because carers were concerned that he was lethargic, not his usual self, and they had seen him trying to vomit. Nurse Q recorded Mr D's pulse at 103, blood pressure at 181/72, and temperature at 36.3. She wrote that she called the out of hours service, which advised her to call 999 if his temperature increased. She checked his observations again after an hour. These were a pulse of 101, blood pressure of 161/88 and temperature of 36.7. Mr D appeared settled and asleep.
64. The out of hours service sent an incident report to the Practice, which said it had advised Nurse Q to call 999. It did not say she should only do so if his temperature increased.
65. At 07:56 on 20 August, Nurse K rang 999 about Mr D. She said Mr D was "not really conscious", breathing more deeply than usual, cold and clammy. She had come to work and checked on Mr D, after a report that Mr D was unwell the previous night. She recorded that when night staff called 111: "[111] was a bit busy so they just said to observe him".
66. An ambulance took Mr D to hospital. On 21 August, the hospital recorded that Mr D had severe sepsis. The hospital notes of 24 August say Mr D was not responding to treatment for infection, so it started end of life care. He sadly died the next day.
67. In October, Ms P complained to the Council, which started a safeguarding investigation. Ms P gave the Council a transcript of the call between the out of hours service and Nurse Q, where Nurse Q was instructed to call an ambulance. The social worker visited the Home and found no evidence that the Nurse Q took further action about Mr D's condition.
68. In January, Nurse Q contacted the social worker. She said there was a misunderstanding and she thought the advice from the out of hours service was to keep monitoring Mr D's temperature. The social worker noted that the transcript is very clear that Nurse Q was advised to call 999 and she confirmed she would. There was no record at the Home of the telephone call with the out of hours service, and no ambulance was called until the next morning when another nurse arrived.

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69. On 31 January, the Council wrote to the agency which employed Nurse Q. It explained the findings of the safeguarding investigation about Nurse Q, and asked the agency to report the concerns to the NMC. The social worker noted that he spoke to the Home's manager on the phone, advised her about the concerns about Nurse Q's practice and asked the Home not to offer Nurse Q further employment.

Findings about the Home

70. The Home's records of 19 August indicate that there was no cause for concern about Mr D that day. Nurse K provided a statement on which she said Mr D did not appear to be ill at any time during that day. She said he took his medication as usual, and conversed with staff before and after Ms P visited. Though Ms P said she told Nurse K that she was concerned that Mr D was very sleepy, I consider that the evidence does not support a view that Nurse K should have sought medical attention for Mr D during the day.
71. The Home told me that Nurse Q maintains that during the missing section of the transcript of the phone call with the out of hours service, it told her to monitor Mr D's temperature and call an ambulance if his temperature increased. This reflects what Nurse Q documented in the notes the Home sent to the hospital. However, it does not reflect the content of the incident report the out of hours service sent to the Practice, and it is not consistent with the content of the rest of the transcript of the call.
72. Regardless, based on her observations that Mr D was less alert, unresponsive to voice, had laboured breathing, was in pain and was attempting to vomit, Nurse Q should have called an ambulance for Mr D by 01:00. Not doing so was fault, and appears to be a potential breach of the NMC Code. This caused a delay of around seven hours in his admission to hospital.
73. Had Nurse Q called an ambulance when she should have, the possibility that the hospital could have successfully treated Mr D's infection is slim. Given Mr D's very poor health, it is very likely that he would have died from the infection even if an ambulance was called at 01:00. Though I find it more likely than not that Mr D's death was not preventable, the delay did reduce his small chance of surviving the infection. The uncertainty around this caused significant distress to Ms P.

Findings about the Council

74. Ms P's complaint to the Council, following which it started the safeguarding investigation, did note that she felt Mr D was in an altered state of consciousness when she visited on 19 April, but she did not say at the time that the Home neglected him during that day. Her letter to the Council of October 2017 said her concern was the failure of Nurse Q to call an ambulance.
75. Accordingly, I do not find that the Council was at fault for not investigating the events of the daytime. In any case, the evidence from the Home and Nurse K indicates that there was no cause for alarm during that day.
76. The Council has provided evidence that it asked Nurse Q's agency to report the concerns about her to the NMC. Its letter contained details of the concerns. The Home said the agency requested documentary evidence of the Council's concerns and did not receive them, but this is not reflected in the Council's records.
77. I do not find fault with the Council here

Complaint about the complaint handling

78. Ms P's key concern here was about the lack of an adequate response to her complaint about the Home's actions in April 2017.
79. Ms P wrote to the Home in October 2017 about her concerns, and had no response until March 2018, after she complained again. The Home then told her in May it was investigating her concerns and would write to her, then it refused to do so. This was fault. However, I have not identified an injustice from this, because Ms P's complaints were investigated by the Council and it is unlikely that a separate investigation by the Home would have made a difference to the outcome.
80. Ms P complained to the Council in October 2017, and the Council replied that it had reviewed the records of the safeguarding enquiry about the April events, and it considered that this had been handled properly. It explained its reasons for this in detail. The Council was entitled to reach this view, so I do not find fault with it.

Agreed actions

81. Within two months of this decision:
- a) the Council will work with the Home to address staffs' understanding of how they should respond to relative's concerns, to prevent similar faults occurring in future. It will explain to Ms P in writing how it has done this. It will apologise to her for the impact of the Home's failure to respond properly to her concerns.
 - b) the Home will review its practice and procedures for monitoring the condition of patients who are unwell, or who may be unwell, and seeking medical attention. It will write to Ms P to apologise for the distress caused to her by the failure of Nurse Q to call an ambulance for Mr D and to explain the outcome of its review. It will share a copy of this letter with the Ombudsmen.
 - c) the Home will share a copy of this decision statement and its action plan with CQC and the Clinical Commissioning Group which funded Mr D's nursing care. It will provide evidence to the Ombudsmen that it has done this.
 - d) the Home will pay Ms P £500 to acknowledge the distress and uncertainty she was caused by the failure of Nurse Q to call an ambulance for Mr D.

Decision

82. I find that:
- a) The Home failed to properly act on Ms P's concerns about Mr D's breathing. This was fault, and caused distressing uncertainty to Ms P, which is injustice. I find fault with the Council for this, since the Council commissions social care from the Home.
 - b) The Practice failed to respond properly to Ms P's concerns about Mr D's breathing. This is fault but did not cause injustice. It also failed to produce an adequate significant event analysis. This is fault but did not cause injustice.
 - c) The Home failed to call an ambulance for Mr D when it should have on 20 August. This reduced his chance of surviving his infection and caused significant distress to Ms P. I find fault with the Home for this, as this was a failure of nursing care.
 - d) There was no fault with the safeguarding investigations.

e) The Home failed to properly respond to Ms P's complaints. This did not cause injustice.

83. I am satisfied that the agreed actions will remedy the injustice I found. Therefore, I have completed my investigation. We will share a copy of this decision statement with CQC.

Parts of the complaint that I did not investigate

84. I did not investigate part f of the complaint, about the failure of the Home to supply a stool sample to Mr D's GP. There is no evidence that this caused a significant injustice to Mr D. The Home disagrees with the hospital's note of how frequently Mr D had loose stools when at the Home, and it is unlikely we could resolve this to Ms P's satisfaction.

Investigator's decision on behalf of the Ombudsmen

The Ombudsman's final decision

Summary: Mrs C complains on behalf of her son, Mr B, that the Council did not deal with his application for a blue badge properly. The Council was not at fault.

The complaint

1. The complainant, whom I shall refer to as Mrs C, complains on behalf of her son, Mr B, that the Council failed to deal with his application for a blue badge properly because it did not:
 - take into account his disabilities and the impact on his ability to access the community when it completed a mobility assessment.
 - consider how proposed changes to eligibility rules would automatically entitle him to a blue badge.

The Ombudsman's role and powers

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

How I considered this complaint

6. I have spoken to Mrs C about his complaint and considered the information she has provided to the Ombudsman. I have also considered the Council's response to her complaint and its response to my enquiries.
7. I have written to Mrs C and the Council with my draft decision and considered their comments. [Page 40 of 200](#)

What I found

8. The Disabled Persons Parking Badge Scheme (known as the “Blue Badge scheme”) was introduced in 1971. The Government later published The Disabled Persons Badges for Motor Vehicles (England) Regulations 2000 (“the Regulations”).
9. The Department for Transport (DfT) has published non-statutory guidance for councils on the Blue Badge Scheme. This is called ‘The Blue Badge Scheme Local Authority Guidance England October 2014’ (“the Guidance”).
10. The Blue Badge Scheme allows people with severe mobility problems and registered blind people to park close to their destination. Councils are responsible for the day to day administration and enforcement of the scheme. This includes assessing whether people are eligible for the blue badge.
11. There are two ways of qualifying for a blue badge. People qualify if they receive certain benefits. This is known as automatic qualification. People also qualify through an assessed route if they have a permanent and substantial disability which causes inability to walk or very considerable difficulty in walking.
12. The Regulations say councils may refuse to issue a badge if an applicant fails to provide evidence of a substantial disability. If the application is refused, councils must give the applicant ‘particulars’ of the grounds of refusal. The Guidance also says the Council should set out clear reasons for why the applicant did not meet the criteria.
13. The Guidance strongly recommends councils establish an internal procedure to deal with appeals, which needs to be clear, straight forward and fair.
14. The Guidance states that *‘While medical conditions such as autism, psychological or behavioural issues... are not in themselves a qualification for a badge, people with these conditions may be eligible for a badge if they are unable to walk or have very considerable difficulty in walking.’*

Changes to blue badge eligibility

15. The Department for Transport (DfT) is introducing changes to the blue badge criteria so that some people with hidden disabilities will be eligible for a blue badge. The extended criteria are due to come into force on 30 August 2019.
16. One of the changes is a new eligibility criterion for people who score 10 points under the planning and following journeys activity of Personal Independence Payment (PIP).
17. The Council’s website says, “If you believe you may be eligible under the new scheme please do not apply yet. Any applications made before the new criteria are introduced will be assessed against the current criteria and may therefore be declined.”

What happened

18. Mr B suffers from Autism, learning disabilities and Epilepsy. He says this doesn’t affect his mobility and he can walk reasonably well, but he requires constant supervision due to his behaviour.
19. Mrs C completed an application for a blue badge for Mr B. His application stated his disabilities and medication that he took. It also outlined the impact having a blue badge made a difference to him being able to go out.

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20. The Council decided not to issue Mr B a blue badge. It said Mr B's medical conditions did not allow him to automatically qualify for a blue badge. The Council also explained how PIP scores would affect eligibility for a blue badge.
 21. Mrs C appealed against the Council's decision. She understood that Mr B's PIP score meant he did not automatically qualify for a blue badge. Mrs C said a blue badge enabled Mr B to make journeys and go out because he had a hidden disability and needed two people to accompany him at all times. She said she felt the Council had not taken into account Mr B's needs or safety and provided more information.
 22. The Council considered Mr B's appeal and made enquiries with Mr B's respite carers. It invited Mr B for an Independent Mobility Assessment (IMA).
 23. The Council did not agree to issue Mr B with a blue badge. It said the mobility assessment suggested he did not meet the eligibility criteria for a blue badge. It also referred to the IMA and the observations of Mr B's walking ability.

Analysis

24. Mr B's disabilities were taken into account at both the initial application and appeal. Case notes also show that symptoms affecting Mr B's access to the community were also considered after his appeal. The Council consulted with Mr B's Day Services and sought their views.
25. A written record was kept of the IMA. The assessor was aware of Mr B's disabilities and difficulties accessing the community. Mrs C was present at the assessment. The IMA showed that Mr B had little difficulty walking.
26. The Council's final decision letter was clear and included reasons, based on the IMA, why the decision had been reached.
27. The Council's website has guidance about eligibility for blue badges. The Council's website says applications will be determined under the existing criteria.
28. Mr B received PIP. He scored 12 points in the 'planning and following a journey' section and 0 points in the 'moving around' section. Mr B's PIP scores do not allow him to automatically qualify for a blue badge under the current eligibility criteria. Under the new criteria due to come into effect in August 2019, Mr B may qualify for a blue badge under the new criterion. *"people who score 10 points under the planning and following journeys activity of Personal Independence Payment by virtue of being unable to undertake any journey because it would cause overwhelming psychological distress to the claimant."*
29. The Council says the transition of individuals from higher rate Disability Living Allowance (DLA) to PIP did not coincide with the new Guidance taking into account *"hidden disabilities"*. At the time of assessment the Council says the changes to eligibility were unknown.
30. The Council assessed Mr B according to eligibility criteria in place when he applied and followed the advice published on its website. The Council was not at fault in how it dealt with Mr B's application for a blue badge.

Final decision

31. The Council was not at fault in how it dealt with Mr B's application for a blue badge. I have now completed my investigation.

Investigator's decision on behalf of the Ombudsman

The Ombudsman's final decision

Summary: The Ombudsman upholds the complaint from Ms X about the delay in assessing her children's need for adaptations. The Council took too long to allocate an occupational therapist and make a referral to the district council. It also delayed in deciding how much it would contribute to the work. The Council will apologise to Ms X and pay her and her children in recognition of the impact on them all of the delay. It will offer assessments to any other eligible children in the household. The Council will also provide additional training to staff about overcrowding and take action to reduce the time taken to allocate an occupational therapist in future.

The complaint

1. Ms X complains the Council delayed in allocating an occupational therapist to assess her children's need for adaptations to the family home. She is unhappy there have been further delays in applying for a disabled facilities grant. Ms X says the delay is having a negative impact on the wellbeing of her children and her as their carer.

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 considered the complaint made by Ms X and the documents she provided.
5. I considered the Council's comments about the complaint and the documents it provided in response to my enquiries.
6. I also considered the Ombudsman's focus report, 'Making a house a home: Local Authorities and disabled adaptations' published in 2016.

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7. I have given Ms X and the Council an opportunity to comment on my draft decision.

What I found

Legislation

8. The Chronically Sick and Disabled Persons Act 1970 places a duty on councils to provide assistance to residents in arranging adaptations to their home, or in providing additional facilities to help them live more safely, comfortably or conveniently.
9. If a child needs specially adapted housing, an occupational therapist will assess them to decide what their needs are. Occupational therapists usually work for the county council. They need to take account of other professionals' opinions to come to a view on the child's needs. Once a county council has assessed the child's needs, it needs to pass this information to the local housing authority.
10. Under the Housing Grants, Construction and Regeneration Act 1996 local housing authorities, in this case a district council, can award Disabled Facilities Grants (DFG) to people whose disability means their home needs adaptation. If the person applying meets the qualifying criteria the council must award the grant. The maximum grant is £30,000. Grants for children are not means-tested. Councils can decide to give more help if they think it is necessary.
11. 'Delivering Housing Adaptations for Disabled People: a detailed guide to related legislation, guidance and good practice' recommends target timescales for each stage. There are three stages:
 - Stage 1 is from the enquiry at first point of contact to the Occupational Therapist (OT) referral. Their recommendations are provided to the adaptation service (landlord, housing association or grant provider).
 - Stage 2 is from the OT recommendation to approval of the scheme.
 - Stage 3 is from the approval of the scheme to the completion of the works.
12. The timescales vary according to whether the work is 'urgent' or 'non-urgent'. In urgent cases the target timescale from start to finish is 55 days. For non-urgent cases the process should ideally complete within 150 days.
13. District and county councils should work together to provide a well-coordinated DFG service. They should keep service users informed about progress including any problems arising. The Ombudsman considers the duty to meet assessed eligible needs is only met when adaptations have been satisfactorily finished.
14. The law on overcrowded households is in Part X of the Housing Act 1985. Statutory overcrowding is calculated by lack of rooms or lack of space. The law provides a calculation according to the floor space and the number of people.

Nottinghamshire County Council's policy

15. The Council's policy guidance says requests for support are made to the duty team which makes an immediate decision whether to progress to an occupational therapy referral.
16. All referrals go on to an initial assessment which is completed within ten days. The outcome of the initial assessment is either no further action, a specialist occupational therapy assessment or 'fast track'.

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17. If a specialist assessment is required, a senior occupational therapist or manager will decide on the level of priority. Priority one is for children with safeguarding needs. Priority two is for children with complex needs but who are not considered to be at risk if the occupational therapy assessment is not immediate.
 18. Specialist assessments are allocated within six months of the initial assessment decision. The Council does not give a timescale for completion of the assessment.

What happened

19. Ms X has two young children, C and D, with a rare progressive condition. Both children need 24-hour monitoring and they are supported by several pieces of equipment which alert their carers to any change in their condition. They receive nutrition via a central line which puts them at high risk of infection. The children need prompt access to their local hospital if there is a sudden decline in their health.
20. The children live with their mother and siblings in a home owned by Ms X and her former partner. C sleeps in the dining room, and D sleeps in the living room. Ms X sleeps on a sofa between them. Ms X's two youngest children share the bedroom on the ground floor while the remaining siblings share the bedrooms on the first and second floor.
21. The children needed more specialist equipment to enable Ms X and others to continue to safely care for them. The living arrangements meant C and D had no privacy or space to spend time with their family. In early September 2016, Ms X contacted the Council asking for adaptations to her home.
22. The Council completed its initial assessment, of C only, on 15 September 2016 and recommended a specialist assessment. It decided the case was 'Priority two'.
23. The Council sent letters to Ms X on 1 December 2016 and 1 March 2017 as the case was still awaiting allocation. The case was allocated to an occupational therapist in early March 2017, within the six-month timescale set by the Council's policy guidance.
24. During a home visit in March 2017, the occupational therapist noted D also had significant needs that needed assessment. She suggested carrying out a joint assessment of both children.
25. Both C and D had several hospital admissions during this period. The occupational therapist was also waiting for information from health professionals to inform the assessment. She completed the assessment in September 2017.
26. In its response to me, the Council acknowledged it could have completed the referral for DFG to the district council at this point. It said it didn't do so because the district council required the occupational therapist to carry out a joint visit with one of its technical officers.
27. The actions of the district council are subject to a separate investigation by the Ombudsman.
28. An internal panel was held on 9 October 2017. The Council agreed for the occupational therapist to arrange a joint visit with a technical officer to consider a ground floor bedroom and bathroom adaptation.
29. The visit took place in the same week. The technical officers asked the occupational therapist to delay presenting the case to the district council's Disabled Facilities Panel, which considers all applications for grants likely to

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- exceed £10,000. This was so they could seek further advice from the district council's planning department and look at whether they could seek two separate grants for the children.
30. At the end of November 2017, the occupational therapist submitted her report to the Disabled Facilities Panel. In her report she set out the children's complex needs. The report outlines her recommendations to meet those needs. It does not make any reference to relieving overcrowding.
 31. The first set of plans, showing alterations across the ground, first and second floor of the property, was issued by the district council in December 2017.
 32. While the district council explored the possibility of adaptations and alternatives to adapting the property, the occupational therapist kept in regular contact with Ms X and officers on their progress.
 33. In January 2018, the occupational therapy manager contacted the local clinical commissioning group to ask if it could provide any support for the adaptations given the extensive health needs of the children. The clinical commissioning group said it could not use its funding for adaptations.
 34. The occupational therapist asked for a multi-agency meeting due to the lack of progress. This took place in April 2018. At the meeting, the district council said it could not adapt the current property and proposed several alternatives to Ms X. Ms X was very unhappy with the proposals and shared her concerns with the occupational therapist.
 35. At the beginning of May 2018, the Council told Ms X it would support her with renting a more suitable property for six months while other options were being explored. The occupational therapist and Ms X continued to look out for suitable rental properties over the following months though it appears none became available.
 36. Around the same time, the occupational therapist had a discussion with a senior manager at the district council. She asked if the district council could draw out a plan which showed the maximum space available on the existing property so they could look at any compromises which could be made on space. The district council agreed.
 37. In mid-May the district council sent a new set of plans to Ms X without consulting the occupational therapist. The plans did not meet the children's needs.
 38. At the end of May, the Council spoke to Ms X about the possibility of appointing a lead worker to act a single point of contact. The Council suggested the lead worker should be impartial as officers from both councils were heavily involved and invested in the case. Although the Council followed this up with Ms X who agreed it would be a good idea, no lead worker was appointed.
 39. The district council sent a further set of plans in June 2018, which both Ms X and the occupational therapist felt largely met the children's needs with some minor adjustments. The plans showed changes across all three floors. Discussions began between the Council and the district council about funding an architect and a drainage survey to take the proposals forward. The district council eventually took responsibility for this.
 40. Throughout the summer of 2018 there appeared to be confusion about whether the Council could apply for some funding from an integrated health and social care budget. Eventually it was told this fund was not available for adaptations.

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41. The occupational therapist formally sent referrals to the district council for DFGs for both children on 24 August 2018. The recommendations mirror those in the submission to the Disabled Facilities Panel in November 2017, with the added proposal to create more space in the living room to meet the children's social needs. The referrals say the property is overcrowded and it would not be possible to progress adaptations without addressing this. The referrals recognise that a DFG cannot be used to address overcrowding.
 42. In October 2018 the district council told the Council it would only fund the adaptations to the ground floor of the property. The Council queried this. It asked the district council if it was sure the children's needs could be met with the changes to the ground floor without addressing the housing needs of the rest of the family. It said it needed to understand how much the scheme would cost so it could decide about contributing to it.
 43. The district council said the DFG was intended to meet the needs of C and D only. It said it needed written confirmation from Mrs X to say she was happy to proceed with looking at the adaptations to the ground floor only before it could generate costs.
 44. There is no evidence either council sought this written confirmation directly from Mrs X or informed her of the district council's decision.
 45. A fortnight later, the occupational therapist emailed the district council asking it to generate costs for the work to the ground floor, as well as separately costing up the works to the first and second floor.
 46. The district council agreed to ask an architect to draw up plans for the ground floor so it could continue with the full grant application. It said it would ask for upper floor plans at the same time.
 47. There then followed a period of limited communication from the district council, despite the occupational therapist and her manager making repeated requests for an update.
 48. From January 2019 the situation progressed at greater speed with the appointment of an architect. Further plans were drawn up for alterations to all three floors of the property and these secured planning permission in early May 2019. The district council maintains its position that it will only fund the adaptations on the ground floor, which it considers will meet the needs of C and D. The plans are currently subject to a tendering process.
 49. The Council has now confirmed it will provide a financial top up for the provision of eligible works through the DFG. It decided this before formal quotes have been returned. It has also agreed to provide financial support towards any interim housing arrangements while the works are carried out.

Analysis

50. Credit should be given to the occupational therapist in this case who clearly strived to achieve the best possible outcomes for the family and advocated strongly on their behalf.
51. However, the Council took too long to make a referral to the district council. The guidance says this should take 20 working days; the Council took almost 500 working days. Even allowing for some of the delays which were outside the Council's control, the time taken from Ms X first requesting support to the referral for DFG being completed is unreasonable. This has contributed to C and D spending too long living in a situation which does not meet their needs.

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52. I consider the Council should have allocated the case within three months with a further three months for assessment. Holding an internal panel, carrying out a joint visit, and sending a report to the Disabled Facilities Panel should have taken less than eight weeks. The referral to the district council for DFG should have followed immediately afterwards. With this in mind, the delay in this case amounts to 66 weeks.
53. It is unclear at what point the proposals for adaptations changed from a ground floor bedroom and bathroom to a larger scheme. The Council should have been aware the DFG could only be used to meet the needs of C and D, and supporting a wider scheme of alterations served to unreasonably raise Ms X's expectations. This was fault.
54. The Council did not seek informed consent from Mrs X before telling the district council to proceed with drawing up costs across all three floors of the property. As a result, she lost an opportunity to make an informed decision about continuing with the DFG process. This also contributed to her raised expectations of what could be delivered via the DFG process. This was fault.
55. I cannot find fault in the Council's decision to only provide a financial top up for the works to the ground floor. It has a duty to assist residents in arranging adaptations to their home, but not to relieve non-statutory overcrowding.
56. However, the Council took a long time to decide it would only contribute to the agreed works. Had it decided sooner, Ms X would have been better informed about the shortfall in funding and may have been able to begin seeking alternative sources of funding sooner.
57. It is unclear what definition of overcrowding the Council has used in assessing Ms X's property. It does not meet the statutory definition of overcrowding. The Council has repeatedly referred to Ms X's home as overcrowded and this appears to have led to confusion and conflict in its discussions with the district council. The insistence on developing plans to address the alleged overcrowding has raised Ms X's expectations and created unnecessary delay.
58. The Council proposed a lead worker to support Ms X with communicating with the various parties involved but does not appear to have followed up on this. Ms X would have benefitted from having another officer to support her with liaising between the two councils. This would have relieved the pressure on her, and on the occupational therapist who appears to have fallen into the role of lead worker by default. This was fault.

Agreed action

59. Within four weeks of the final decision, to remedy the injustice caused by the faults identified the Council will:
- confirm with Ms X whether any of her other children might benefit from an occupational therapy assessment and if so carry out these assessments within three months.
 - apologise to Ms X and pay her £500 in recognition of the distress and frustration caused by raised expectations and delay.
 - pay £6,600 to Ms X for the children in recognition of the prolonged period C and D have been living in unsuitable accommodation; and the effect on the other children of living with restricted living space due to the Council's delays. In calculating this, I have followed guidance on remedies which says where a

complainant has been deprived of modifications which would have improved his or her daily life, we will usually recommend a payment of up to £350 per month. I have proposed a sum based on £100 per week in recognition of the number of children affected.

60. Within eight weeks of the final decision, the Council also agrees to:
- issue guidance to staff on the statutory definition of overcrowding and remind them to be cautious about describing properties as overcrowded without first assessing them against this definition.
 - remind staff to keep a written record of any meetings with DFG applicants.
 - ensure that for future DFG referrals, it agrees with the district council who will act as key contact and confirms this in writing with the applicant.
61. Within six months of the final decision, the Council has agreed to review its resources, targets and procedures with a view to reducing the time taken to allocate an occupational therapist.

Final decision

62. For the reasons given in the Analysis section of this decision, I uphold this complaint.

Investigator's final decision on behalf of the Ombudsman

The Ombudsman's final decision

Summary: Miss B complains the Council did not provide the holiday care set out in her support plan. She says her father needed to go with her on one holiday and she had no support for another. The Ombudsman finds the Council at fault for not providing the care. We recommend the Council apologise to Miss B and make a payment to recognise the loss of service.

The complaint

1. The complainant, who I refer to as Miss B, complains the Council did not provide care for her to go on two holidays and visit her consultant, in line with her support plan. Miss B says her father had to accompany her on one of the holidays and to see her consultant. Miss B had to go alone on the other holiday, without any support. Miss B says the Council should pay her father the money it would have paid to the carers who should have supported her during the trips.

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. 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 considered the initial information provided by Miss B and spoke to her about her complaint. I then made enquiries of the Council. I sent a copy of my draft decision to Miss B and the Council for their comments.

What I found

Background

5. Miss B receives a support package from the Council to help with her daily activities. She is mainly supported by her father. However, the Council commissions care of 18 hours per week, where carers help Miss B access various activities and services in the community. Each year, the Council

commissions extra care to allow two weeks respite for her father. Miss B's support plan also provided for a separate two weeks for a carer to accompany Miss B on holiday.

6. In the past, Miss B always booked her holiday through the care agency. Miss B provides the agency with the dates and they arrange for a carer to accompany Miss B.
7. In May 2018, Miss B contacted the care agency and provided dates for two weeklong holidays she wished to take in the summer. One was at the start of August 2018 and the other at in the middle of that month. Miss B spoke to a male carer who had previously gone with her. That carer said he would be happy to go again on at least one of the holidays. However, when he tried to book this, his manager raised concerns.
8. The agency manager said it was not appropriate for a male carer to go on holiday with Miss B. She said none of the other carers were willing to go with Miss B because of issues with these trips in the past.
9. The agency contacted the Council in June 2018. It said Miss B wanted to book support to go away but did not give specific dates. It said it did not have staff who were willing to go with Miss B due to past issues, other than one male support worker but it did not consider this was appropriate.
10. Miss B and her father chased the care agency several times between May and the end of July 2018 to arrange the care. They said the agency should provide this care as the Council had commissioned them to do so. There were several delays between responses from the agency and appears to have been some confusion about what it was commissioned to provide.
11. One email from the care agency to the Council in July 2018, suggests the agency only thought it was commissioned to provide care at home to Miss B while her father had respite, not to support her on holiday. The correspondence does not show the agency received a clear response to this from the Council.
12. By the end of July 2018 Miss B had still not received confirmation that the agency would support her during her holiday at the start of August 2018. Her father therefore agreed to go with and support her during this holiday.
13. In early August 2018, a social worker from the Council emailed Miss B's father asking him to provide her with the dates for Miss B's next 'respite'. She said it was a new requirement that she would need the dates of each period of respite to commission the service on a case by case basis.
14. Miss B's father did not see the email until he returned from the holiday. He responded and complained the Council had not commissioned the agency to provide care for the holiday. He asked if any arrangements had been made for Miss B's second holiday in the middle of August 2018. I have not been provided with any response to this from the Council. The Council emailed the agency to clarify what the care plan provided. However, there is no mention in this email of Miss B's second holiday.
15. Miss B's father was not available to go away with her for the second holiday, so Miss B went on her own, without any support.
16. Further correspondence took place between Miss B's father and the Council about future arrangements. In October 2018 he said Miss B was planning to visit her neurological consultant between the end of November and start of December

2018. Miss B's support plan provides additional care to allow her to visit her consultant over the weekend, three times a year.

17. The agency also contacted the Council to say Miss B had requested the support away and check the situation in relation to this. The Council said it would commission this as soon as the agency confirmed it had adequate staff.
18. In mid-November 2018, the agency emailed the Council and Miss B to say it could not provide the support due to issues it had encountered in the past, logistical difficulties and the impact on carers. By this point it was too late to find another provider who would commission the care. A social worker emailed back to ask if it could at least get her to the appointment. I cannot see a response from the agency.
19. The social worker then had a period of sick leave and it does not appear anyone responded to Miss B or her father about whether other arrangements would be made. Therefore, Miss B's father decided to accompany her again on her visit to the consultant in the absence of a support worker.
20. The Council has now discussed other alternatives going forward as the agency cannot provide care for the longer periods going away. The Council suggested setting up direct payments, whereby Miss B could commission her own care. However, her preferred option was for the Council to commission a different provider with the same arrangements. The Council has now found a potential alternative provider.

Findings

21. Miss B did not receive support for two holidays and a visit to her consultant, as outlined in her care plan. This is fault.
22. The Council produced a care plan that provided Miss B with support for holidays. This is a separate provision to the respite care that allows Miss B's father time away.
23. Miss B tried to book her holiday care three months in advance. She followed, what was at that time, the normal procedure for booking that care. The agency therefore had three months to either arrange the care or inform the Council it could not do so. It did inform the Council it could not do so in June 2018. It also questioned what care it was commissioned to provide.
24. I cannot look at why the care agency would not provide the care. It is the agency's decision whether it can do so. However, as Miss B provided plenty of notice of the dates she wished to book, more should have been done to resolve the matter or look for an alternative provider while there was still time to do so.
25. I appreciate the Council did not have exact dates for Miss B's holidays, but it was aware there were problems in June 2018 and does not appear to have provided a clear response to the agency until at least two months later. The Council is also responsible for the actions of any third-party provider it commissions to provide care. In this case, the agency did not provide clear information to the Council about when Miss B had asked to go away. It did not give a timeframe for when it needed to resolve the matter or start looking for alternatives.
26. Miss B did not receive care that was clearly outlined in her plan because of a breakdown in communication between the Council and the agency. Between them, the agency and the Council allowed the matter drag on until it was too late to make any other arrangements. There is evidence Miss B and her father chased

for the matter to be resolved through the normal channels several times, so I cannot say they contributed to this fault.

27. This caused injustice to Miss B in the sense that she lost a service the Council should have provided in line with the care plan. Miss B also spent avoidable time and trouble trying to resolve the matter. However, Miss B still went on both holidays and this limits the level of injustice caused.
28. The same applies for the trip to Miss B's consultant. Miss B provided more than a month's notice of the planned trip. The Council at first indicated it would commission this with the agency. It was not until a month later that the agency said it could not provide the care, by which point it was again too late to make any other arrangements.
29. The Council is responsible for commissioning care and for its delivery by any third party it instructs. In this case, again, the Council outlined support in Miss B's care plan, but she did not receive this because of a breakdown in communication that was not her fault. The fault therefore lies with the Council as the responsible body.

Consideration of Remedy

30. Miss B asks the Council to pay the father for the time he spent supporting Miss B on holiday, at the same rate it would have paid Miss B's carers. This suggests Miss B feels the main injustice is to her father, for the time he spent supporting her when he otherwise would not have done so. If not, Miss B asks the Council to pay her for the loss of service and says this should be at the same amount it would have paid the carers. She says, otherwise, the Council has benefited financially from not providing what is in her care plan.
31. I cannot recommend the Council pay Miss B's father for his support. The holiday provision is for Miss B and not for her father. Her father has a separate provision for respite of two weeks a year. Her father chose to go with and support Miss B during a period that did not include his own respite. I therefore cannot say the fault caused injustice to Miss B's father.
32. I recommend the Council pay Miss B for the loss of service. However, I cannot say this should be at the same amount it would have paid the carers. I understand Miss B's point that the Council will have benefited financially. However, we can only look at the personal injustice to her.
33. Miss B did not suffer any financial loss so paying her the amount the Council would have paid the carers would not put her back in the same position as before. We can only recommend the Council pay Miss B an amount to recognise the loss of service. The injustice in this case is limited because Miss B was still able to go on both holidays. I therefore recommend the Council apologise and pay Miss B £100 for the loss of service. I also recommend the Council pay Miss B £100 for the time and trouble she spent trying to resolve the matter, and in making other arrangements to be supported by her father on the first holiday.

Agreed action:

34. The Council has agreed to, within a month:
 - Apologise to Miss B for not providing the service outlined in her care plan;
 - Pay Miss B £100 to recognise the loss of service; and
 - Pay Miss B £100 for time and trouble.

Final decision

35. The Council is at fault for not providing the service outlined in her Miss B's care plan. It will apologise and pay Miss B to recognise the loss of service and time and trouble.

Investigator's decision on behalf of the Ombudsman

The Ombudsman's final decision

Summary: The Ombudsman will not investigate Miss A's complaint that the Council's school admission appeal panel failed to properly consider her appeal for a school place for her son. This is because it is unlikely that we would identify fault on the Council's part.

The complaint

1. The complainant, who I will refer to as Miss A, complains that the Council's school admission appeal panel failed to properly consider her appeal for a school place for her son.

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 cannot question whether an independent school admissions appeals panel's decision is right or wrong simply because the complainant disagrees with it. We must consider if there was fault in the way the decision was reached. If we find fault, which calls into question the panel's decision, we may ask for a new appeal hearing. (*Local Government Act 1974, section 34(3), as amended*)

How I considered this complaint

3. I have considered what Miss A has said in support of her complaint and the appeal documents provided by the Council. I have also considered her response to my draft decision.

What I found

4. Miss A applied for a Year 3 school place for her son for September 2019 admission. The school to which she applied has an admission number of 25 and does not have a Year 3 intake. There were no vacancies in the relevant year group so the Council refused the application.
5. Miss A appealed against the Council's decision. She made a written submission and provided supporting evidence for the appeal panel's consideration. She attended the appeal hearing to make her case in person.
6. Independent school admission appeals panels must follow the law when considering an appeal. The panel must consider whether:
 - the admission arrangements comply with the law;

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- the admission arrangements were properly applied to the case.
7. The panel must then consider whether admitting another child would prejudice the education of others. If the panel finds there would be prejudice the panel must then consider each appellant's individual arguments. If the panel decides the appellant's case outweighs the prejudice to the school, it must uphold the appeal.
 8. The Ombudsman does not question the merits of decisions properly taken. The panel is entitled to come to its own judgment about the evidence it hears.
 9. Having considered the cases made by Miss A and the Council's representative, the appeal panel decided to refuse Miss A's appeal. Miss A believes the panel was at fault, in that it based its decision on misleading information provided by the Council's representative. Specifically, she argues that the officer erroneously said the school's hall was not big enough to accommodate all the children and that the school has only one classroom on the first floor.
 10. Miss A argues that the Council did not prove its case that the school was full. She points out that class sizes have exceeded 25, and that the school is below its capacity of 175. She also questions why the appeal panel allowed another appeal, but not hers.
 11. The clerk's notes of the appeal hearing do not support Miss A's argument that the panel was at fault. The number of classrooms at the school was not in dispute, so their precise location is not significant. The admission number of 25 is derived from the measured capacity of the school, and the panel was entitled to conclude that the Council had proved its case that further admission would be prejudicial to the delivery of education at the school. The fact that some classes have exceeded 25 does not mean it is unreasonable to conclude that admission above this number is prejudicial.
 12. Having made that decision, the panel went on to consider the individual cases. The notes show that Miss A was able to make her case and that the panel considered it. The weight the panel members chose to give to her evidence was a matter for them, not the Ombudsman. Without evidence of fault the Ombudsman cannot criticise the panel's decision or intervene to substitute an alternative view. Miss A believes the panel decided the case on her circumstances, not those of the school. The evidence shows that it considered both.
 13. Appeals are considered on their individual merits. The fact that the panel allowed another appeal is not evidence of fault in the way it considered Miss A's case.

Final decision

14. The Ombudsman will not investigate this complaint. This is because it is unlikely that we would find fault on the Council's part.

Investigator's decision on behalf of the Ombudsman

The Ombudsmen's decision

Summary: A woman complained that a council and clinical commissioning group did not work together to meet her care needs after she fell. She said this caused her health to worsen. The Ombudsmen find that the council failed to respond properly to her request for more support hours. There was a fault with the clinical commissioning group's communication. They have agreed to take action to remedy this.

The complaint

1. A woman I will call Ms P complained about the service she received from Nottinghamshire County Council (the Council) and Mansfield and Ashfield Clinical Commissioning Group (the CCG) following a fall in April 2018. She complained that the Council and CCG failed to work together to provide the care she requires to meet her complex needs. She said the failure of the Council and CCG to support her meant her physical and mental health deteriorated.
2. Ms P also complained that the Council would not agree to fund her visiting her family in Ireland with a carer.

What I have investigated

3. I have investigated the complaint about the way the Council and the CCG responded after Ms P fell. At the end of this statement I have explained why I have not investigated the other part of the complaint.

The Ombudsmen's role and powers

4. The Ombudsmen investigate complaints about 'maladministration' and 'service failure'. We use the word 'fault' to refer to these. If there has been fault, the Ombudsmen consider whether it has caused injustice or hardship (*Health Service Commissioners Act 1993, section 3(1) and Local Government Act 1974, sections 26(1) and 26A(1)*). If it has, they may suggest a remedy. Recommendations might include asking the organisation to apologise or to pay a financial remedy, for example, for inconvenience or worry caused. We might also recommend the organisation takes action to stop the same mistakes happening again.
5. The Ombudsmen have the power to jointly consider complaints about health and social care. Since April 2015, these complaints have been considered by a single team acting for both Ombudsmen. (*Local Government Act 1974, section 33ZA, and Health Service Commissioners Act 1993, section 18ZA*)

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6. If the Ombudsmen are satisfied with the actions or proposed actions of the bodies that are the subject of the complaint, they can complete their investigation and issue a decision statement. (*Health Service Commissioners Act 1993, section 18ZA and Local Government Act 1974, section 30(1B) and 34H(i), as amended*)
 7. The Ombudsmen cannot question whether an organisation's decision is right or wrong simply because the complainant disagrees with it. We must consider whether there was fault in the way the decision was reached. (*Local Government Act 1974, section 34(3), as amended, and Health Service Commissioners Act 1993, sections 3(4)- 3(7)*)
 8. The Ombudsmen cannot decide what level of care is appropriate and adequate for any individual. This is a matter of professional judgement and a decision that the relevant responsible organisation has to make. Therefore, my investigation has focused on the way that the decisions were made.

How I considered this complaint

9. I considered information provided by Ms P and information provided by the Council and CCG, including health and social care records and complaint files.
10. I shared a draft of this decision with the parties to the complaint and considered their comments.

What I found

Legal and administrative context

Community Care Assessment

11. Sections 9 and 10 of the Care Act 2014 require councils to carry out an assessment of any adult who appears to need care and support. The assessment must be of the adult's needs and how they impact on their wellbeing and the outcomes they want to achieve.
12. An assessment should be carried out over an appropriate and reasonable timescale taking into account the urgency of needs and a consideration of any fluctuation in those needs. Councils should let the individual know of the proposed timescale for when their assessment will be conducted and keep the person informed throughout the assessment process.
13. Where more than one agency is assessing a person, they should all work closely together to prevent that person having to undergo a number of assessments at different times, which can be distressing and confusing. Where a person has both health and care and support needs, local authorities and the NHS should work together effectively to deliver a coordinated assessment.

Community Care Eligibility criteria

14. The eligibility threshold for adults with care and support needs and carers is set out in the Care and Support (Eligibility Criteria) Regulations 2014. The threshold is based on identifying how a person's needs affect their ability to achieve relevant outcomes, and how this impacts on their wellbeing. For a person to have needs which are eligible for support, the following must apply:
 1. The needs must arise from or be related to a physical or mental impairment or illness.
 2. As a result of the needs, the adult must be unable to achieve two or more of the following outcomes:

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- managing and maintaining nutrition;
 - maintaining personal hygiene;
 - managing toilet needs;
 - being appropriately clothed;
 - being able to make use of their home safely;
 - maintaining a habitable home environment;
 - developing and maintaining family or other personal relationships;
 - accessing and engaging in work, training, education or volunteering;
 - making use of necessary facilities or services in the local community including public transport and recreational facilities or services; and
 - carrying out any caring responsibilities the adult has for a child.
3. As a consequence of inability to achieve these outcomes, there is likely to be a significant impact on the adult's well-being.
15. Where councils have determined that a person has any eligible needs, they must meet those needs. When the eligibility determination has been made, councils must provide the person to whom the determination relates (the adult or carer) with a copy of their decision.

Review of Assessment/Care Plan

16. Section 27 of the Care Act 2014 gives an expectation that councils should conduct a review of a care and support plan no later than every 12 months. A light touch review should be considered six to eight weeks after the plan and personal budget have been agreed. The review should be performed in a timely manner proportionate to the needs to be met. In addition to the duty on councils to keep plans under review generally, the Act provides a duty on councils to conduct a review if a request for one is made by the adult or a person acting on the adult's behalf.

Section 117 Aftercare

17. Anyone who may have a need for community care services is entitled to a social care assessment when they are discharged from hospital to establish what services they might need. Section 117 of the Mental Health Act imposes a duty on health and social services to meet the health and social care needs arising from or related to the persons mental disorder for patients who have been detained under specific sections of the Mental Health Act (e.g. Section 3). Aftercare services provided in relation to the persons mental disorder under S117 cannot be charged for. This is known as section 117 aftercare.

What happened

18. Ms P has physical and mental health difficulties, including limited mobility because of a stroke and heart problems. She is entitled to section 117 aftercare. She receives care and support from a care agency arranged by the Council.
19. In April 2018, Ms P had a care package of 27 hours per week. This included support with personal care, shopping and laundry, support to attend health appointments and support with social inclusion.
20. On 10 April Ms P fell and broke her arm. The following day, the Council noted that it would contact her to find out whether she had additional support needs. Ms P's care agency told the Council that for some time Ms P had used her support hours for social activities to cover her health appointments, which had increased over the past few months. Her care agency told the Council this left Ms P with little time for support with domestic tasks or social activities. She would now need

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- extra health appointments because of her broken arm. The Council allocated a social worker (the Social Worker) to carry out an urgent review.
21. The Social Worker visited on 20 April to review Ms P's social care needs. She noted she was coping well with her broken arm, but Ms P did not feel she had enough hours to manage her health appointments as well as social activities. Her care agency said they generally managed to make the 27 hours work but sometimes they provided additional unpaid support. Ms P and the Social Worker disagreed about whether the CCG was jointly funding her care, and the Social Worker agreed to check this. The social care review was not completed.
 22. The Social Worker contacted the CCG. The CCG said Ms P's care was fully funded by the Council and the CCG would only review this if there was a significant change in Ms P's circumstances. This was because health and social care managers had agreed that "historical cases that were 100% funded aftercare will not be reassessed now". The CCG advised the Social Worker that assistance to get to health appointments was a social care need, not a health need. It said the Social Worker should make a referral to the CCG if Ms P's needs had changed.
 23. In early May, the Social Worker told Ms P they would arrange a joint health needs assessment with the CCG. Ms P said she wanted an increase of 6 hours to attend her health appointments.
 24. On 18 May, the Social Worker told Ms P she wanted to arrange to visit her with a nurse from the CCG. Ms P said she wanted the increased hours in place first. The Social Worker said any increase in her hours would need to be agreed by senior managers after the assessment. Ms P told the Social Worker she has having to cancel some health appointments because she could not manage them within her hours without having to sacrifice other tasks like her shopping.
 25. On 23 May the Social Worker's manager (the Team Manager) told Ms P they could not guarantee that she would get the extra 6 hours she wanted because this would depend on the outcome of the forthcoming assessment.
 26. The following day, the CCG told the Council it had advised Ms P that the referral to the CCG was because of her increased needs, but they could not guarantee that her care hours would increase until they had done the assessment and discussed her request for more hours with senior managers.
 27. On 11 June, a nurse from the CCG, the Social Worker and the Team Manager visited Ms P. The nurse did a health needs assessment. She recorded that Ms P felt her social care needs were being met but that her health needs were not being met as she felt she did not have enough hours of support to help her attend her health appointments, which had recently increased. She wanted another 6 hours of support a week for this and said she could not attend all her appointments otherwise. The nurse told Ms P she was doing the assessment to determine whether the CCG would jointly fund Ms P's care, not to decide whether her hours would increase.
 28. On 15 June Ms P called the Council, unhappy that the CCG had not considered the assessment yet. She wanted the Council to decide whether she could have the 6 hour increase to her support. The Social Worker told Ms P the Council was waiting for the outcome from the CCG. Ms P said the care should be agreed and the Council should work out the funding for it later. She said she felt stressed because she was clock watching whenever she went out with her carers. She was asking the carers to [Pages 100-200](#) for her because it was quicker, but it

meant she did not get out of her house. She did not know how she would manage to attend her forthcoming health appointments.

29. A few days later, the CCG told the Social Worker that its nurse had recommended that the CCG fund 30% of Ms P's care. However, if the Council did not decide to increase Ms P's care package the CCG would not contribute to the cost, since it would class this as an existing care package. Under the local agreement (referred to in paragraph 22) it would then stay with the Council to fund. The CCG said it did not think it unreasonable to provide Ms P with another six hours. It said the Council would still save money if it increased Ms P's care package and claimed 30% from the CCG. The Social Worker said she would discuss this with her manager.
30. The Council recorded on 25 June that it had decided to review Ms P's social care needs to understand more about her health appointments before it made a decision. The Social Worker told Ms P. She recorded that Ms P screamed and became hostile and critical of social care.
31. On 27 June, Ms P rang the Council to make a complaint. She said the Social Worker agreed in April that her needs had increased but she needed to discuss this with the Team Manager. Then, she heard that the Team Manager was referring her case to the CCG for funding. She had still not received any decision or extra hours. The Council had now told her she needed a new assessment, when it had already done an assessment in April. She said the Team Manager wanted to see whether her existing hours could be rearranged to cover support with her hospital appointments, but she felt she could not do this and still have hours left for personal and domestic tasks.
32. The Team Manager rang Ms P to say he and the social worker wanted to visit Ms P to review her care package. Ms P refused the visit, and said she wanted to meet with the social services director. She told the Team Manager she had cancelled her hospital appointments.
33. The Council's records of mid-July say the Council and CCG should jointly meet with Ms P to see what she needed and how the Council and CCG should split the funding, but Ms P was not willing to have another meeting. The CCG told the Council it had told Ms P that she needed an assessment to see whether she needed more hours, and that it had explained to her that support to access health appointments is a social care need rather than a health need.
34. The Team Manager rang Ms P to ask about her health appointments. Ms P rang the Council's complaints team to say she was unhappy with the Team Manager pressuring her for this information. She said the Council was not taking into account that she had slowed down since her last review and needed to use her wheelchair more. She said the Team Manager told her the Council did not identify that she needed more hours at her April review, but this was untrue because the Council asked the CCG for additional funding. Ms P then told the Council she would be prepared to have another review, but only if it was by a specific member of staff from another team.
35. Ms P's care agency contacted the Council on 17 July. It expressed concern that Ms P had not received the funding for additional support hours for health appointments. It said Ms P's health was deteriorating because she could not attend appointments, and the matter was causing Ms P "considerable undue stress".

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36. On 18 July, the Council's records say a senior manager agreed to increase Ms P's care package by six hours a week to help her get to appointments. This was for a 4 month period to allow time for further work with Ms P to ensure her needs were met. Ms P said she only agreed to this if it was with someone she trusted, naming a particular member of staff.
 37. The Council responded to Ms P's complaint on 26 July. It said it did not identify at her April review that she needed an additional 6 hours support a week. It said it found she had managed to attend the additional hospital appointments using her existing hours, though it acknowledged this affected the time she had available for social activities. The Council said neither Ms P or her care agency reported that her care needs were not being met. It wanted to look at the best means of supporting her to attend hospital appointments in future.
 38. Regarding Ms P's view that her health and mobility had declined, the Council said it would look at this at a review, but it was difficult to do this since Ms P refused to meet with it and refused consent for it to consult with health professionals about her needs. It said to try to resolve the dispute, it agreed to put 6 hours additional support per week in place for four months from 6 August to allow time to complete a review and agree Ms P's long term needs.
 39. When she received the response, Ms P called the Council to dispute that the 6 hours were not agreed in April. She said she had not refused to meet with the Council, she had agreed to meet with a specific member of staff. She asked for her care to be reviewed by that member of staff or a neighbouring local authority.
 40. The Council wrote to Ms P again on 27 July. It said the CCG had not agreed to fund any additional hours, and its referral to the CCG was not related to Ms P's request for 6 additional hours. It said it did not agree to the specific member of staff or the other local authority reviewing her care, but said it had allocated an experienced social worker to support the Social Worker.
 41. Records of early August say Ms P was low in mood and tearful. Her GP felt the trigger was her dispute with social services over her care hours. Ms P fell and injured her hip, and because of the combination of this and her other physical health needs she became bedbound.
 42. Later in August, Ms P got a letter from the CCG advising that it would jointly fund her care. The CCG agreed to pay 30% of the cost. Ms P thought this meant her care hours would increase by 30%. The Social Worker explained that the CCG was contributing 30% of the cost of Ms P's care, and her hours were not increasing further. The Social Worker said they would update Ms P's review when her physical health had stabilised.
 43. On 31 August, the Social Worker asked Ms P's care agency whether they could meet Ms P's needs within her agreed hours if they provided shorter, more frequent calls. The agency said it could but Ms P did not want this. She felt the Council should increase her hours because of the recent funding from the CCG.
 44. Ms P brought her complaint to the Ombudsmen on 5 September. She said social workers visited her after she broke her arm. They said she may need more care hours and they would contact the CCG about this. Ms P said she told the Council she needed the additional hours straight away and should not have to wait for the CCG to agree them. The CCG refused the request, then agreed to fund 30% of her care in July. She said she previously had 27 hours per week, and with a 30% increase she should have 35.1 hours per week. She contacted the Social Worker for an urgent review because her care package did not cover the additional care

she needed after her hip injury. She said the Council suggested she had more frequent, shorter visits but this would make her more isolated. She said as a result of these events her mental health got worse.

45. On 14 September, Ms P took part in a review of her social care assessment and support plan. Her care agency said it considered that Ms P's needs could be met within the existing 33 hours per week. As Ms P was bedbound, she could not access community facilities or attend health appointments. Ms P said she felt she should have an increase in her care hours in line with the amount of funding from the CCG. The Social Worker explained that the CCG's contribution to the funding did not mean Ms P's care hours increased.

Findings and analysis

46. The Council recorded on 4 July that at the review in April it found that there was no immediate need to increase Ms P's hours because her broken arm did not affect her personal care, and the "CHC assessment" was part of an ongoing review of her support needs.
47. The Council did find that Ms P did not need more personal care because of her broken arm, but both Ms P and her care agency told the Council in April that her health appointments had increased and that before her broken arm she had already been using the hours allocated for other tasks to manage her appointments. Her appointments would increase because of the broken arm. The Council failed to identify that this meant her broken arm did potentially affect her care needs.
48. The Council recognised that Ms P was using the hours allocated to meet other assessed needs to manage her health appointments. But it does not seem to have recognised the potential impact on whether her other needs were met.
49. There was no good reason for the Council to require involvement from the CCG to review Ms P's social care support hours. As the CCG correctly told the Council, a need for support to attend health appointments is a social care need. Even if the Council felt it should seek funding from the CCG towards the cost of Ms P's care package, it should have properly assessed her social care needs and funded any additional hours she needed first. People should not have to wait for organisations to negotiate funding arrangements with one another before their needs are met.
50. The Council and CCG's communication with Ms P in May and early June reasonably led her to believe that the planned health needs assessment was to enable a decision about whether her support hours were increased. It is therefore unsurprising that Ms P was frustrated on learning that the Council and CCG decided after the health needs assessment that she needed another assessment. The Council decided in July that it needed more information about Ms P's health appointments. It could have got this any time from April.
51. Ms P's belief that the CCG's agreement to fund 30% of her care costs meant she should get 30% more care hours was mistaken. The agreement was that the CCG would fund 30% of the cost of the care hours the Council considered she needed. But the outcome of the April review was that Ms P felt she needed more hours and the Social Worker agreed to contact the CCG. The Social Worker told Ms P in June that it was waiting for the outcome of the CCG's health needs assessment before they decided whether she should have more hours. Therefore, I can understand why Ms P reached this belief.

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52. The Council put the additional hours Ms P requested in place in July, which was a resolution to Ms P's immediate concern of not being able to access all her health appointments.
 53. The Council was entitled to consider whether Ms P's care agency could meet her needs with her existing hours if they were rearranged. If Ms P felt this would increase her social isolation, she could have asked the Council to consider with her how her needs for social engagement could best be met.
 54. I find that the Council is at fault for failing to adequately respond to Ms P's change in circumstances in April by properly considering whether it needed to increase her social care hours. I find that this led to a delay from April to July before the additional hours were agreed. The Council's response to Ms P's complaint said neither she nor her care agency had reported that her needs were not being met. This is incorrect. The records show that they had reported this several times. Therefore, there was fault with the complaint handling. This matter caused unnecessary stress and distress to Ms P. Her GP linked this to a deterioration in her mental health. This is an injustice to her.
 55. I find that the CCG's communication with Ms P contributed to the confusion about whether the outcome of the health needs assessment might result in more support hours for her. It therefore contributed to the stress and distress this caused her. I have not otherwise found fault with the CCG.

Agreed action

56. Within one month the Council will write to Ms P to apologise for the impact of its faults on her. It will copy this letter to the Ombudsmen. It will pay her £250 to acknowledge the unnecessary distress and time and trouble she was caused.
57. Within two months the Council will review its practice and procedures for responding to reports that someone has increased needs, to ensure that it assesses the person's needs and puts any additional services they need in place promptly. It will write to Ms P to explain what it has done, and copy this letter to the Ombudsmen.
58. Within one month the CCG will write to Ms P to apologise for the impact of its fault on her.

Decision

59. I find that:
 - a) The Council is at fault for failing to properly respond to the change in Ms P's circumstances in April 2018 and for including inaccurate information in its complaint response. This caused unnecessary stress and distress, which is an injustice.
 - b) The CCG is at fault for miscommunication with Ms P about an assessment. This contributed to the stress and distress she experienced, which is an injustice.
60. I consider that the actions the Council and CCG have agreed to take will satisfactorily remedy the injustice I found. Therefore, I have completed my investigation.

Parts of the complaint that I did not investigate

61. I did not investigate Ms P's complaint that the Council did not fund her visiting her family in Ireland with a carer because I have not seen evidence that this was an assessed need, and it is unlikely that we would find fault here.

Investigator's decision on behalf of the Ombudsmen

The Ombudsman's final decision

Summary: The Ombudsman will not investigate Mr A's complaint about the way he has been treated by the Council regarding his mother's, Mrs B's care. This is because the Ombudsman could not say there is any fault with the actions taken by the Council regarding the contact it has with Mr A and he does not have consent from Mrs B to complain on her behalf.

The complaint

1. Mr A says the Council has a vendetta against him and will not discuss his mother's care needs with him since he had cause to complain about the report prepared by Mrs B's social worker. Mr A says as Mrs B's carer the Council should discuss all concerns about her care and accommodation needs with him. Mr A says the Council should not have cancelled Mrs B's bank cards and should take action against the social worker who has a vendetta against him.

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 injustice to the person who complained, or
 - the injustice is not significant enough to justify our involvement, 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)
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)*

How I considered this complaint

4. I considered the information and documentation Mr A and the Council provided. I sent Mr A a copy of my draft decision for comment.

What I found

5. Mr A complained to the Council about its decision not to speak to him about his mother's care and its failure to properly investigate his allegation that a social worker was rude and abusive to him.
6. The Council responded in May 2019. It explained Mrs B is deemed to have capacity, and without her consent, it cannot disclose any information about her to him or discuss any matters relating to her. Mr A says Mrs B suffers from mental ill health and has fluctuating capacity.
7. The Mental Capacity Act 2005 says a person must be assumed to have capacity unless it is established that he lacks capacity. A person should not be treated as unable to make a decision:
 - Because s/he makes an unwise decision.
 - Based simply on: their age; their appearance; assumptions about their condition, or any aspect of their behaviour.
 - Before all practicable steps to help the person to do so have been taken without success.
8. The Ombudsman could not say Mrs B lacks capacity to make decisions. Without consent from Mrs B confirming she wants Mr A to act on her behalf the Ombudsman will not investigate Mr A's complaint that the Council will not discuss her care needs with him.
9. If Mr A disputes Mrs B has capacity to make decisions about her care needs, he can ask the Court of Protection to consider his views. Information about the Court of Protection can be found on the website below.
<https://www.gov.uk/courts-tribunals/court-of-protection>
10. Mr A is concerned the Council has not investigated his concerns about the abuse he says he received from Mrs B's social worker. The Council says it is correct the social worker has not communicated with him since January 2019. It advised Mr A this was because he was rude and abusive to the social worker during a call overheard by two senior staff members in the team. It confirmed it had noted Mr A's concerns about inaccuracies in the report regarding Mrs B's recollection she had broken her arm in the past, which he says she has not.
11. The Ombudsman was not party to the conversation and did not hear what was said in the phone call. While Mr A's recollection of what was said in the call differs to that of the social worker and those who witnessed it, the Ombudsman could not make a finding on this point when he was not there.
12. The Council wrote to Mr A in February 2019 and advised it is would not tolerate abusive and aggressive behaviour. It advised Mr A if he wanted to speak to someone about Mrs B's care he could meet with two staff members or speak to a duty Manager. Mr A can speak to staff about Mrs B and raise any concerns he has, so the Ombudsman could not say this is fault.
13. The Council explained to Mr A it knows Mrs B has delusional thoughts which is sometimes expressed as accusations. It always records what Mrs B says and if

serious enough, passes onto its Multi-Agency Safeguarding Hub (MASH) to make further enquiries. The Ombudsman could not say this is fault.

14. The Council explained Mrs B decided to change the way her finances were managed, and it cancelled the bank cards at her request. It says social workers planned to visit Mrs B regarding her care and her apparent decision to reverse the decision to allow Mr A access to her bank account and funds. However, it says Mr A refused to allow workers to speak to Mrs B alone, so it was unable to determine Mrs B's wishes. In the absence of permission from Mrs B allowing the Council to share information about her the Ombudsman could not say there is any fault.
15. Mr A says the Council is wasting his time travelling to different accommodation providers who it says can meet Mrs B's needs, but Mr A says she cannot afford. The Council has explained Mrs B is currently living in a short-term assessment placement and needs a permanent suitable accommodation which it is working to identify and secure. It has explained to Mr A it needs to consult and involve Mrs B in this process. The Ombudsman could not add to this or make a different finding even if he investigated. The Council has explained what it is doing to secure suitable permanent accommodation for Mrs B.

Final decision

16. The Ombudsman will not investigate this complaint. This is because the Ombudsman could not say there is any fault with the actions taken by the Council regarding the contact it has with him and he does not have consent from Mrs B to complain on her behalf.

Investigator's decision on behalf of the Ombudsman

The Ombudsman's final decision

Summary: Mr B complains about the Council's decision to place his late mother in residential care and to pursue the family for the cost of that care. The Ombudsman has found no fault by the Council in its decision or in charging the estate. The Council delayed in dealing with Mr B's complaint and has offered a suitable remedy.

The complaint

1. Mr B complains the Council wrongly decided to place his late mother, Mrs F, in permanent residential care in June 2017 and is now wrongly pursuing the family for the cost of that care.
2. Mr B says his mother was in reasonable health before she went into care, but sadly died following a fall at the care home. He considers her needs would have been better met if she had stayed in her own home.

The Ombudsman's role and powers

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

How I considered this complaint

5. I considered the information Mr B sent, the Council's response to my enquiries, and:
 - The Care Act 2014
 - The Care and Support Statutory Guidance ("the Guidance")
 - The Mental Capacity Act 2005 and its Code of Practice
6. I sent Mr B and the Council my draft decision and considered the comments I received.

What I found

Safeguarding adults

7. The law says councils must make necessary enquiries if it has reason to think a person may be at risk of abuse or neglect and if that person has needs for care and support which mean he or she cannot protect himself or herself. The enquiries should determine whether any action needs to be taken to prevent or stop abuse or neglect. (*section 42, Care Act 2014*)

Mental capacity

8. The Mental Capacity Act 2005 is the framework for acting and deciding for people who lack the mental capacity to make particular decisions for themselves. It says a person must be presumed to have capacity to make a decision unless it is established that he or she lacks capacity. The council must assess someone's ability to make a decision when that person's capacity is in doubt.
9. If someone lacks capacity a "decision maker" must decide on their behalf. A key principle is that any act done for, or any decision made on behalf of, a person who lacks capacity must be in that person's best interests. The Act sets out the steps that decision makers must follow to determine what is in a person's best interests. These steps include consulting close relatives. The Court of Protection may need to become involved where there are disagreements that cannot be resolved in any other way.

Deprivation of liberty safeguards

10. The Deprivation of Liberty Safeguards (DoLS) provide legal protection for individuals who lack mental capacity to consent to care or treatment and live in a care home, hospital or supported living accommodation. The DoLS protect people from being deprived of their liberty, unless it is in their best interests and there is no less restrictive alternative.
11. The code of practice sets out the procedure to follow to obtain authorisation to deprive an individual of their liberty. Without the authorisation, the deprivation of liberty is unlawful. It is the responsibility of the care home or hospital to apply for authorisation from the local authority within 28 days.

Lasting power of attorney

12. A Lasting Power of Attorney (LPA) is a legal document that allows people to choose one person (or several) to make decisions about their health and welfare and/or their finances and property, for when they become unable to do so for themselves. The 'attorney' is the person chosen to make a decision, which has to be in the person's best interests, on their behalf.
13. There are two types of LPA:
 - Property and Finance LPA – this gives the attorney(s) the power to make decisions about the person's financial and property matters, such as selling a house or managing a bank account.
 - Health and Welfare LPA – this gives the attorney(s) the power to make decisions about the person's health and personal welfare, such as day-to-day care, medical treatment, or where they should live.

Financial assessment and charging

14. Councils can charge for care and support services they provide or arrange. People who have over the upper capital limit of £23,250 are expected to pay for the full cost of their care. [Page 71 of 200](#) says councils are precluded from paying

towards the costs of care if a person is in a care home and the financial assessment identifies their resources exceed the capital limits.

15. Once a person's capital has reduced to less than the upper capital limit, they only have to pay an assessed contribution. Councils must assess the means of people who have less than the upper capital limit, to decide how much they can contribute towards the cost of their care.

Continuing healthcare funding

16. NHS Continuing Healthcare (CHC) is a package of care arranged and funded solely by the NHS. The first step in determining if someone is eligible for CHC funding is where a professional evaluates whether the individual may have enough needs to qualify. Eligibility for CHC does not depend on particular diagnoses or conditions. Rather, it rests on whether a person has a 'primary health need'. This is where a person's overall needs go beyond the limits of a local authority's responsibilities.

End of life care

17. When a person is approaching the end of life, they may be offered care in a variety of settings, such as at home, in a hospital or in a care home. If end of life care is to be provided at home, in a care home, or in a hospice, the person should be assessed for CHC.

What happened

18. Mr B's mother, Mrs F, was elderly and had dementia. She lived at home with her son, Mr G, who cared for her. Mrs F had a package of home care and attended Care Home 1 for day care. The Council had assessed her as having to contribute towards the cost of her care.
19. On 1 June 2017 the home carer raised a safeguarding alert with the Council following an incident involving Mr G. Mrs F was at Care Home 1 for day care. The Council started a safeguarding investigation and arranged for Mrs F to remain at Care Home 1 for two weeks emergency short term care. The Police were informed of the incident.
20. The Council assessed Mrs F's mental capacity and found she did not have the capacity to decide where she lived. It consulted Mr G who said he wanted Mrs F to return home, as this was where she could be best cared for.
21. The Council considered Mr G's views but made a best interest decision on 6 June 2017 that Mrs F should stay at Care Home 1 whilst the safeguarding investigation was carried out. The Council spoke to Mr G about paying for Mrs F's care if she were to remain in residential care in the long term. He asked whether the value of her property could be disregarded as he was still living in it.
22. The Council completed its safeguarding investigation. The incident was found to have occurred and the Council decided Mrs F would be at risk if she returned home. On 14 June 2017 the Council decided Mrs F should remain in residential care for the long term. Care Home 1 applied for DoLS authorisation, which was granted following a further assessment of Mrs F's mental capacity and of what was in her best interests.
23. The Council re-assessed Mrs F's finances. This found Mrs F had more than £23,250 capital and therefore had to pay for the full cost of her residential care.
24. Mrs F fell and broke her hip on 25 July 2017. She was admitted to hospital and discharged a few days later. Mr B says when he visited his mother on 29 July

2017 he was shocked at her condition. Care Home 1 sought medical advice and Mrs F was re-admitted to hospital. She was diagnosed with an infection and sadly passed away on 9 August 2017. The Council later sent her estate an invoice of £4,768 for eight weeks care from 14 June 2017 to 9 August 2017.

Mr B's complaint

25. Mr B complained to the Council in December 2017. He said when Mrs F was in hospital the family had been advised she would receive end of life care and that this was funded by the local authority.
26. The Council responded to the complaint in May 2018. It apologised for the delay in dealing with Mr B's complaint. The Council said end of life care was funded by the NHS if a person met the criteria for CHC funding. Mrs F had sadly died before this could be determined. Care Home 1 had not waived its fees whilst Mrs F was in hospital as her place had been kept open in anticipation of her return. The Council said as Mrs F had savings above the capital limit, her estate was liable for the costs of her care.
27. Mr B was dissatisfied and wrote again to the Council on 2 July 2018. He complained the Council had failed to take the family's views into account when making a decision to place her in permanent care. Mr G had told the Council he wished to continue caring for Mrs F at home and this had been her desire when she gave her children joint LPA. As the Council had made the decision, he considered the funding for her care was the Council's responsibility. Mr B said Mrs F's condition deteriorated rapidly once admitted to Care Home 1 and she had fallen several times.
28. The Council responded in February 2019. It again apologised for the delay and offered to remove £400 from the outstanding balance of Mrs F's charges to acknowledge this. The Council did not uphold Mr B's complaint. It said the DoLS assessment and best interest decision were completed in accordance with the legislation. Mr B complained to the Ombudsman.

My findings

29. Mr B disagrees with the Council's decision to place Mrs F in long term residential care. He says this was not in her best interests and was against her wishes. The Ombudsman's role is not to decide what was in Mrs F's best interests. My role is to consider whether there was administrative fault in the way the Council made its decision. I have therefore considered how the Council carried out the safeguarding investigation and how it made the best interest decision.
30. As part of the safeguarding investigation the Council took evidence from the home carer, Mr G and the Police. The investigation report sets out what happened. It found the allegation was substantiated and that Mrs F would be at risk if she returned home.
31. I am satisfied the safeguarding investigation was thorough, proportionate and in line with the Guidance. For this reason, I cannot criticise the Council's decisions that the allegation was substantiated or that Mrs F would be at risk if she returned home. These were decisions it was entitled to make based on the evidence before it.
32. The Council then took a best interest decision that Mrs F should be in residential care for the long term. I have seen no evidence it failed to follow the procedures set out in the code of practice. It consulted Mr G and his sister; the evidence shows the Council knew Mr G's view was that he wished to continue caring for Mrs F at home. Mr B or his siblings did not have a LPA for health and welfare and

the Council was not required to consult all family members. Care Home 1 applied for DoLS authorisation in line with the code of practice. The Council granted this following an assessment of Mrs F's mental capacity. There was no fault by the Council in the way it decided Mrs F was to be in residential care.

33. In response to my draft decision, Mr F said the Council had not applied to the Court of Protection for permission to keep his mother in residential care. It was not required to do so. Applications to the court to get an order authorising the restriction of someone's freedom are needed only if the person is not in a care home or hospital.
34. Mr B says the Council is responsible for the cost of the residential care. The Guidance says where a local authority arranges care and support to meet a person's needs, it may charge the adult, except where it is required to arrange care and support free of charge. No such exemptions applied in Mrs F's case. The Guidance also says councils may not pay for residential care if the person's savings are above the capital limit. I have considered the financial assessment carried out by the Council in June 2017. I have seen no evidence of fault in the way it was done. There was therefore no fault by the Council in charging Mrs F's estate.
35. The Council is correct that end of life care is not funded by local authorities. It may be funded by the NHS following a CHC assessment. Unfortunately, Mrs F died before that assessment could happen. It was therefore not fault for the Council to charge Mrs F for the cost of her care.
36. The Council has accepted there was a significant delay in dealing with Mr B's complaint. It has apologised and offered £400 to remedy the injustice caused. This is an appropriate and proportionate remedy in line with the Ombudsman's guidance.

Final decision

37. There was no fault in the Council's decision to place Mrs F in residential care or to charge her for the cost of this care.
38. There was fault by the Council in the way it dealt with Mr B's complaint. The Council has offered a suitable remedy.
39. I have completed my investigation.

Investigator's decision on behalf of the Ombudsman



11th September 2019

Agenda Item: 5

**REPORT OF THE SERVICE DIRECTOR FOR FINANCE, INFRASTRUCTURE
& IMPROVEMENT AND SECTION 151 OFFICER**

**FINANCIAL TRANSPARENCY OF LOCAL AUTHORITY MAINTAINED
SCHOOLS AND ACADEMY TRUSTS – GOVERNMENT CONSULTATION**

Purpose of the Report

1. The report informs the Committee of the current Department for Education (DfE) consultation on the financial transparency of local authority maintained schools and academy trusts and seeks approval for the proposed response, which has been agreed with the Corporate Director for Children & Families and the Chairman of the Children & Young People's Committee, to be sent to the DfE. The report also asks the Committee to consider any further actions it requires as a result of the information contained within the report/consultation response.

Information

2. The Department for Education launched a consultation on the financial transparency of local authority maintained schools and academy trusts on 17th July 2019 with a closing date of 30th September 2019.
3. The purpose of the consultation is to outline the current financial transparency arrangements for maintained schools and to consider possible changes. The belief held is that current transparency measures used in academies are generally stronger than those in the maintained school sector and the consultation focus is on using and adapting existing academy measures to help change and improve maintained schools' financial transparency and financial health.
4. The consultation also seeks views from local authorities (LAs) on whether any of the new measures proposed would constitute a new burden and if so how much that cost would be.

Consultation Proposals

5. The proposals recommended by officers are as follows:
 - i. **Making public where LAs are failing to comply with deadlines for completing assurance returns and financial collections.** This proposal applies where 2 or more of the 5 statutory returns are not completed by the deadline. This proposal is

agreed with. The LA already meets the minimum requirement and would not be impacted by it. There would be no impact for schools.

- ii. **Strengthening Dedicated Schools Grant (DSG) annual assurance returns which are signed by the S151 Officer at the end of the financial year.** There are two proposals, reporting schools with suspended budgets and monies recovered from investigating fraud. Both proposals are agreed with, the information is readily available so there would be minimal impact for the LA. There would be no impact for schools.
- iii. **Requiring maintained schools to provide LAs with 3-year budget forecasts.** This proposal is agreed with. Schools currently provide a one year budget and it would be good financial management for them to plan further ahead. The LA already provides a Budget Planner tool which will assist them with this. The impact for the LA cannot be ascertained from the information provided with the consultation. This would result in additional work and potentially costs for schools as they tend to purchase financial support for their budget setting process.
- iv. **Strengthening related party transactions arrangements in maintained schools (3 alternative proposals).** These proposals relate to the disclosure of related party transactions (RPTs) to the LA. The first proposal is for schools to provide a list of all RPTs with their statutory School Financial Value Standard return (SFVS) for collation by the LA. This proposal is agreed with as the impact would be the least resource intensive for both schools and the LA. The statutory Scheme for Financing Schools requires governing bodies to maintain a register of business interests which records RPTs. This information should, therefore, be readily available although would involve additional work for the LA to collate. The other two proposals require schools to report all RPTs above a certain threshold to the LA as they arise and to seek LA permission for RPTs above a certain amount. Officers disagree with both of these proposals because they would have additional resource implications for both the school and the LA.
- v. **Requiring maintained schools to be subject to internal audit at least every 3 years.** The current requirement under this Council's arrangements is for schools to have an internal audit at least every five years. The suggested response, neither agree or disagree, notes that the stated internal audit requirements for academies are not well defined, therefore it is not clear that LA arrangements require improvement. Clarity is also needed on what is meant by internal audit coverage, as effective assurance may be delivered by different approaches. Schools have to purchase internal audit services currently therefore this would result in additional cost for them.
- vi. **Strengthening arrangements to help schools that are in financial difficulty (3 proposals).** The first proposal is for schools to submit a recovery plan to the LA when their deficit rises above 5%. This proposal is agreed with and would have minimal impact for the LA as a recovery plan for **any** level of deficit is currently required. The other two proposals are also agreed with which cover the collection of the number of recovery plans through the DSG annual assurance return and the DfE specifying a threshold above which a deficit % would trigger contact with it.

This could have resource implications for both the LA and schools although difficult to quantify from the information provided.

- vii. **Increasing transparency in the reporting of high pay for school staff.** The proposal is that all maintained schools should be required to publish annually on their websites the number of individuals earning over £100,000 in £10,000 bandings. This information is already collated and disclosed in the County Council's annual Statement of Accounts. For 2018/19 no schools were reported in this banding. This proposal is agreed with and would have minimal impact for the LA and schools.
 - viii. **Increasing transparency in reporting maintained school income and expenditure.** This relates to schools publishing their annual statement of income, expenditure and balances, Consistent Financial Reporting (CFR) statement on their websites. This proposal is agreed with and would have minimal impact on the LA and schools. The LA already provides all maintained schools with an annual CFR statement which is in a format suitable for publication. Some schools already publish this statement on their website.
- 6. The proposed response to the consultation is attached at **Appendix 1** and the consultation document is available as a background paper.
 - 7. The potential implications for the LA have been detailed above and are assessed to be minimal with any potential costs difficult to quantify. There may be some impact for the traded service to schools offered by the Children & Families Finance team for a potential increase in the number of internal audit and budget setting visits for multi-year budget planning. These would need resourcing and should be self-funding from increased sold service income.
 - 8. There are implications for schools which would be required to incur additional cost to pay for more frequent internal audits and possibly to purchase financial support with multi-year budget planning. The information for some of the proposals is already available so may not have significant resource implications for schools.
 - 9. In general it is felt that the proposals are positive and would strengthen financial transparency in maintained schools and offer increased assurance to the LA, governing bodies, parents and carers that schools are managing their resources effectively.

Other Options Considered

- 10. No other options have been considered.

Reason/s for Recommendation/s

- 11. To take the opportunity of contributing to a review that may influence changes to the governance framework for local authority maintained schools.

Statutory and Policy Implications

12. 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

13. There has been an initial assessment of the potential implications for the LA based on the information provided with the consultation and these are assessed to be minimal with additional costs difficult to quantify. There may be some impact for the traded service to schools offered by the Children & Families Finance team for a potential increase in the number of internal audit and budget setting visits for multi-year budget planning. These would need resourcing and should be self-funding from increased sold service income.
14. There are implications for schools which would be required to incur additional cost to pay for more frequent internal audit visits and possibly to purchase financial support with multi-year budget planning. The information for some of the proposals is already available so may not have significant resource implications for schools.

RECOMMENDATION/S

That the Committee:

- 1) approves the proposed response to the government consultation on the financial transparency of local authority maintained schools.
- 2) considers whether there are any further actions required in relation to the information contained in the report.

Nigel Stevenson

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

For any enquiries about this report please contact:

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Constitutional Comments (SLB 20/08/19)

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

Financial Comments (SAS 29/08/19)

16. There has been an initial assessment of the potential implications for the LA based on the information provided with the consultation and these are assessed to be minimal with additional costs difficult to quantify. There may be some impact for the traded service to schools offered by the Children & Families Finance team for a potential increase in the number of internal audit and budget setting visits for multi-year budget planning. These would need resourcing and should be self-funding from increased sold service income.
17. There are implications for schools who would be required to incur additional cost to pay for more frequent internal audit visits and possibly to purchase financial support with multi-year budget planning.

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.

Department for Education Financial transparency of local authority maintained schools and academy trusts Launch date: 17 July 2019 – 30 September 2019.

https://consult.education.gov.uk/funding-policy-unit/financial-transparency-of-local-authority-mainta/?_ga=2.109677505.51499006.1566890117-120072633.1525967687

Electoral Division(s) and Member(s) Affected

All.

C1282

6. Annex B: Consultation Questions

A) Please provide your name:

Rob Disney

B) What is your email address?

rob.disney@nottscc.gov.uk

C) Are you responding as an individual, or as part of an organisation? (Circle)

Part of an organisation

D) What is your role?

Group Manager Assurance

E) What is the name of your organisation?

F) What type of organisation is this?

Local Authority

G) Which local authority are you responding from?

Nottinghamshire County Council

H) Are you happy to be contacted directly about your response? Yes

I) How did you hear about the consultation?

Midland Counties' Chief Internal Auditors' Group (MCCIAG)

Proposal 1: Making public where local authorities are failing to comply with deadlines for completing assurance returns and financial collections

Please refer to **paragraphs 3.2 - 3.10** of the consultation document before responding to this proposal.

Local authorities, and maintained schools, are obliged to complete the following assurance returns and financial collections:

- Schools Financial Value Standard
- Dedicated Schools Grant

We have reviewed the approach to late returns that the ESFA has adopted this year for the academy sector, whereby they publish (on GOV.UK) the names of trusts who are late in submitting more than 2 out of 4 annual returns and believe similar measures could be used in the LA maintained schools sector.

1) Please indicate whether you agree or disagree with the proposal below. Please Tick (✓)

Statement

Agree ✓

Disagree

Neither agree nor disagree

We propose to publish the names of local authorities on GOV.UK who fail to comply in any financial year with more than two deadlines from the following collections:

- School Financial Value Standard (SFVS)
- Dedicated Schools Grant CFO assurance statement
- Consistent Financial Reporting
- Section 251 Budget
- Section 251 Outturn

Comments: None

Proposal 2a: Strengthening DSG annual assurance returns: Collecting the number of schools with suspended budgets and notices of financial concern through existing DSG assurance statement

Please refer to **paragraphs 3.11 - 3.14** of the consultation document before responding to this proposal.

1) Please indicate whether you agree or disagree with the proposal below. Please Tick (✓)

Statement	Agree ✓	Disagree	Neither agree nor disagree
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We propose to collect the number of schools with suspended budgets and notices of financial concern through the existing DSG assurance statement signed by the local authority CFO at the end of the financial year.

Comments: None

Proposal 2b: Strengthening DSG annual assurance returns: Adding a new section to the DSG assurance statement that captures the amounts that LAs have recovered from investigating fraud

Please refer to **paragraphs 3.11 - 3.15** of the consultation document before responding to this proposal.

Currently, local authorities recover funds from fraud investigations but only inform DfE of the number and value of reported cases, not the value of money recovered

1) Please indicate whether you agree or disagree with the proposal below. Please Tick (✓)

Statement	Agree (✓)	Disagree	Neither agree nor disagree
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We propose to add a new section to the DSG assurance statement that captures the amounts that LAs have recovered from investigating fraud

Comments:

The new section will need to be specific about the period of time the recovered funds relate to. In view of the length of time investigations can take any funds recovered may not relate to the financial year in question.

Proposal 3: Requiring maintained schools to provide local authorities with 3-year budget forecasts

Please refer to paragraphs 3.16 – 3.21 of the consultation document before responding to this proposal.

Local authorities are required to maintain schemes for financing schools, which set out the financial relationship they have with their maintained schools. We have recently introduced a requirement for academies to send the department a three-year budget plan and we believe that this could be extended to maintained schools in the form of sending a three-year budget plan to their maintained authority.

1) Please indicate whether you agree or disagree with the proposal below. Please Tick (✓)

Statement	Agree (✓)	Disagree	Neither agree nor disagree
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We propose a directed revision of the schemes for financing schools to make it a requirement for maintained schools to provide local authorities with three-year budget forecasts

Comments:

Schools currently have to provide a budget plan by 31 May for the current financial year. Will the deadline for the 3 year budget plan be staggered to be consistent with academies submission dates? Guidance will be needed as to LAs role in reviewing the 3 year plans.

Proposals 4 (a,b,c): Strengthening Related Party Transaction arrangements in maintained schools:

Please refer to paragraphs 3.22 – 3.29 of the consultation document before responding to these proposals. The three proposals are alternatives to one another.

Academy trusts must report all Related Party Transactions (RPTs) to ESFA in advance of the transaction taking place, using ESFA's on-line form. This requirement applies to transactions made on or after 1 April 2019. Since April 2019, all academy trusts have had to seek approval from the ESFA for RPT payments of more than £20,000 and all transactions below £20,000 must be declared. The arrangements for reporting RPTs in maintained schools are not as stringent as those in academy trusts.

Proposal 4a: : Making schools append a list of RPTs to their response to the new question in the Schools Financial Value Standard (SFVS) about their arrangements for managing RPTs, so that the information goes to the local authority and can be passed on to the department

1) Please indicate whether you agree or disagree with the proposal below. Please Tick (✓)

Statement	Agree (✓)	Disagree	Neither agree nor disagree
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We propose to make schools append a list of RPTs to their response to the new question in the SFVS about their arrangements for managing RPTs. In addition, we would insert additional columns into the CFO Assurance Statement, to request the number of RPTs and value for each to be disclosed.

Comments: None

Proposal 4b: Making a directed revision to the statutory Scheme for Financing Schools to require schools to report all RPTs, or RPTs above a certain threshold, directly to the local authority

1) Please indicate whether you agree or disagree with the proposal below. Please Tick (✓)

Statement	Agree	Disagree (✓)	Neither agree nor disagree
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We propose to amend the scheme for financing schools to require schools to report all RPTs, or RPTs above a certain threshold, directly to the local authority.

Comments: None

Proposal 4c: Making a directed revision to the statutory Scheme for Financing Schools to require schools to seek permission from the local authority to enter into RPTs above a certain amount.

Please indicate whether you agree or disagree with the proposal below. Please Tick (✓)

Statement	Agree	Disagree (✓)	Neither agree nor disagree
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We propose to amend schemes to require schools to seek permission from the authority to enter RPTs above a threshold.

Comments: None

Proposal 5: Requiring maintained schools to be subject to internal audit at least every 3 years

Please refer to paragraphs 3.30 – 3.34 of the consultation document before responding to this proposal.

Schools are within the overall audit arrangements determined by the local authority's statutory section 151 officer (CFO). Authorities operate internal audit teams whose work is then relied on by their external auditors. Most audit plans use a risk-based approach with some themed audits. We have learned in discussion with local authorities that the cycles for auditing-maintained schools vary a great deal and, in some cases, have fallen into disuse. Consequently, we think there is a case for action.

1) Please indicate whether you agree or disagree with the proposal below. Please Tick (✓)

Statement	Agree	Disagree	Neither agree nor disagree ✓
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We propose to make a directed revision to the scheme guidance to require that every maintained school be subject to internal audit at least every 3 years.

Comment:

Clarification is needed as to what is envisaged by an 'internal audit' every three years, as adequate audit coverage can be achieved by different approaches. It is also noted from the consultation document that the internal audit requirements for academies are not well defined. Advances in data analytic approaches to internal audit may mean it is possible to deliver wide

assurance across LA maintained schools on key aspects of internal control, allowing follow-up, on-site work to be targeted by exception at specific schools. An alternative and valid approach would be to require an on-site visit to all schools on a rotational basis. In doing this, we would favour a proportionate, risk-based approach, taking into account the relative size of the school and an assessment its operating circumstances.

Proposals 6 (a,b,c): Strengthening arrangements to help schools that are in financial difficulty:

Please refer to **paragraphs 3.35 – 3.37** of the consultation document before responding to these proposals. These proposals are additive, and we could implement all three together. There is currently no requirement for local authorities to report to the department their plans for addressing financial difficulty in specific schools. Local authorities include both a deficit and surplus policy within their scheme for financing schools and monitor their schools' compliance with these. We have not previously collected information from authorities on the number of schools they intervene in but consider that this evidence base would help us to understand any variances in the level of support provided and target additional support from the Department.

Proposal 6a: Requiring schools to submit a recovery plan to their maintaining authority when their deficit rises above 5%

1) Please indicate whether you agree or disagree with the proposal below. Please Tick (✓)

Statement	Agree (✓)	Disagree	Neither agree nor disagree
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We propose to make a directed revision to the scheme for financing schools requiring schools to submit a recovery plan to their maintaining authority when their deficit rises above 5%.

Comment: *There needs to be a clear definition of how the deficit percentage should be calculated.*

Proposal 6b: Collecting information on the number of recovery plans in each LA through DSG annual assurance returns from the CFO

1) Please indicate whether you agree or disagree with the proposal below. Please Tick (✓)

Statement	Agree (✓)	Disagree	Neither agree nor disagree
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We propose to collect information on the number of recovery plans in each LA through the DSG annual assurance return from the CFO.

Comment: None

Proposal 6c: Writing to local authorities each year when the end-year data is published, specifying the threshold of deficit that would trigger contact with the Department

1) Please indicate whether you agree or disagree with the proposal below. Please Tick (✓)

Statement	Agree (✓)	Disagree	Neither agree nor disagree
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We propose to formalise the approach to working with LAs and include a request for high level action plans from some LAs. This will be achieved by:

- Sharing published data on the school balances in each LA
- Use this data and evidence-based requests from LAs to ensure support is focused where it is needed
- Request high level action plans from LAs in which the number or proportion of school revenue deficits over 5% is above a certain level.

Comment

Proposal 7: Increasing transparency in the reporting of high pay for school staff

Please refer to **paragraphs 3.38 – 3.41** of the consultation document before responding to this proposal.

Currently there is a disparity between public access to information on high salaries within maintained schools and academies. Salary ranges within the national pay framework are published annually in the School Teachers Pay and Conditions Document – these apply to teachers and leaders in maintained schools.

Academy trusts must disclose in their published financial statements information about each individual earning over £100k - specifically (i) their total FTE salary in £10k bandings, e.g. £100k - £110k, (ii) their job role and description and (iii) whether they are predominantly focussed on curriculum and education leadership or school business management leadership. We believe that this measure should be introduced for LA maintained schools and would require them to publish annually on their websites the number of individuals earning over £100K in £10K bandings.

1) Please indicate whether you agree or disagree with the proposal below. Please Tick (✓)

Statement	Agree (✓)	Disagree	Neither agree nor disagree
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We propose that all LA maintained schools should be required to publish annually on their websites the number of individuals (if any) earning over £100K in £10K bandings

Comment: None

Proposal 8: Increasing transparency in reporting maintained school income and expenditure

Please refer to **paragraphs 3.42 – 3.45** of the consultation document before responding to this proposal.

Local authority school accounts are part of the local authority statements of accounts that are published at gross level for income and expenditure. While individual schools are not included on the LA balance sheet, individual maintained schools are required to produce annual income and expenditure statements, known as Consistent Financial Reporting (CFR), or else local authorities produce them on the schools' behalf. The department publishes all the information from CFR in a spreadsheet but we believe it would add significantly to transparency if there were a requirement for individual schools to publish annually on their websites their latest CFR statements.

1) Please indicate whether you agree or disagree with the proposal below. Please Tick (✓)

Statement	Agree (✓)	Disagree	Neither agree nor disagree
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We propose that all LA maintained schools should be required to publish annually on their websites their latest Consistent Financial Reporting statement of income, expenditure and balances.

Comments: *The CFR upload process needs improving re the number of validation queries it produces e.g. zero pupil premium.*

New financial burdens on local authorities

Local authorities are invited to fill in the table below to indicate and quantify any new burdens they believe would arise from the proposals in this document. Please specify in as much detail as possible what costs you believe would arise and provide figures.

Proposal	Yes/No	Details and quantification of cost
2a	No	
2b	No	
3	No	
4a	Yes	Collation of information, costs difficult to quantify.
4b	Yes	
4c	Yes	
5	Yes	Increase in number of audit visits, costs should be covered by sold service income.
6a	No	
6b	No	
Other proposals (please specify)		
7	No	

Additional costs for schools

Respondents are invited to fill in the table below to indicate and quantify any additional costs they believe would arise for schools from the proposals in this document. Please specify in as much detail as possible what costs you believe would arise and provide figures.

Proposal	Yes/No	Details and quantification of cost
3	Yes	Increase in financial support. Could be an additional £250 - £1,000 per school depending on what support they choose to buy.
4a	No	
4b	No	
4c		
5	Yes	Increase in number of audit visits. The LA currently charges approx. £1,665 per audit.

6a	No
7	No
8	No

**Other proposals
(please specify)**



11 September 2019

Agenda Item: 6

**REPORT OF THE SERVICE DIRECTOR FOR FINANCE,
INFRASTRUCTURE AND IMPROVEMENT**

**NATIONAL AUDIT OFFICE GUIDANCE FOR AUDIT COMMITTEES ON
CLOUD SERVICES**

Purpose of the Report

1. To provide Members with a review of the advice for audit committees on cloud services provided by the national audit office, an assessment of the current state for Nottinghamshire County Council against this advice and to brief Members on the current activity to strengthen the Authority's position where required.

Information and Advice

Background

2. The County Council's approach to the use of cloud services has reflected national government advice and has, since 2014, adopted a cloud first stance within the ICT strategy.
3. The National Audit Office (NAO) guidance for audit committees (Appendix 1) recognises the different elements of cloud service provision and provides, in figure 1 of the advice, an effective summary of the constituent parts of a cloud platform.
4. In order to support audit committees in their oversight and governance of how cloud services are utilised within their organisations, the guidance recommends a number of questions are posed and the responses monitored.
5. These questions are broken down into 3 main groups:
 - Assessment of cloud services. This section considers cloud services as part of organisational and digital strategies; the business case process; and due diligence.
 - Implementation of cloud services. This section covers system configuration; data migration; and service risk and security.
 - Management of cloud services. This section covers operational considerations; the need for assurance from third parties; and the capability needed to manage live running.
6. When considering the advice provided by the NAO, it must be noted that Nottinghamshire County Council has embarked on a cloud journey – due to complete in 2020 - that will result in the decommissioning of the current data centre.

7. This cloud programme is currently in the implementation phase and will result in the migration of the majority of the current 600+ servers, 500+ applications, and the core technology services such as email etc to the Microsoft cloud platform.

Current state assessment

Assessment section

8. As part of the commissioning process for the current cloud program, a business case was produced which included the necessary options appraisal and due diligence referred to in section 2 of the NOA advice. This business case recommended the engagement of Microsoft, via the Navigator program, to facilitate the required cloud services platform required by the Authority. As such the assessment for section 2 is summarised as:

Assessment	
1. What are the priorities for the digital strategy?	Green
2. What are the technical requirements?	Green
3. Is the complexity of legacy system issues really understood?	Green
4. Will best practice be followed in respect of security?	Green
5. Are private cloud, public cloud, and on-premises options all considered?	Green
6. How sensitive are planned costs to scenario testing?	Green
7. What extra skills and capacity will be needed?	Green
8. What time horizon is being considered in the commercial model?	Green
9. What is the cost of implementing and operating countermeasures to mitigate risk?	Green
10. Will there be clear accountability between the organisation and cloud provider?	Green
11. Have the service features being promoted been verified?	Green
12. What are the terms of service?	Green
13. Where is the provider's infrastructure physically situated, and in what jurisdiction(s) is the organisation's data being held and accessed?	Green
14. Will the cloud service contract be governed by the law and subject to the jurisdiction of the United Kingdom?	Green
15. What security accreditation and protocols does the provider have?	Green
16. Has the technical architecture of the system been reviewed by appropriate experts?	Green
17. Does the organisation understand what security information will be fed back from the provider as part of the service?	Green
18. Has the organisation considered the costs of exiting from a cloud provider to take advantage of competition in the market?	Green

Implementation section

9. The implementation phase of the cloud programme has strong governance in place with project boards established at project, programme and corporate levels with reports presented to Members via the improvement and change sub-committee.
10. All contractual arrangements have had input from procurement and legal services and the security implications are reviewed and signed off by the technical design authority as part of the design process.
11. The adoption and change elements of the implementation have a specific workstream that includes the impact on the end user and the relevance of the technology being introduced.
12. Therefore, the summary for the implementation section of the guidance is as follows:

Implementation	
1. Is there a strong governance and project management plan in place?	Green
2. Have infrastructure, applications and data been prepared for the move?	Green
3. Is the organisation overly reliant on third-party resource?	Green
4. Is the organisation following configuration best practice?	Green
5. Will people be ready for the new systems?	Green
6. Are technical risks covered with clear responsibilities and mitigating actions?	Green
7. Are the required legal and policy agreements in place?	Green
8. Have business continuity plans been updated?	Green
9. Are plans in place to cover the event of data loss?	Green
10. Are financial controls fully tested and compliant with best practice?	Green
11. Have key stakeholders been engaged through a comprehensive change management strategy?	Green
12. Are contingency plans in place to manage implementation issues?	Green
13. What plans are there for technical and user acceptance testing?	Green
14. Is there sufficient information for a Go / No Go decision?	Green

Management

13. As part of the cloud programme an operational cloud services team has been assigned the responsibilities outlined in the operations section of the guidance. This team works closely with specialist resource provided by Microsoft and processes are in place to ensure knowledge transfer.
14. While significant focus has been on reporting and monitoring functionality available via the Microsoft Azure cloud platform and O365 cloud service, this is an evolving piece of

design that will strengthen as the project moves through implementation to operational phases.

15. A new operating model for ICT services is currently being drafted that will ensure that appropriate capacity and capability exists within the technical functions in the authority and due consideration will be given to the questions posed within the guidance. It is envisaged that this new operating model will be considered by Policy Committee during October 2019.
16. The summary for the management section of the guidance can therefore be summarised as follows:

Management	
1. Is there effective governance to prioritise the removal of any temporary workarounds?	Green
2. Is there clear oversight over what the cloud providers are planning?	Green
3. Are responsibilities clear for system changes, upgrades and patches?	Green
4. Is there sufficient capability to take advantage of the reporting functionality?	Green
5. Is the organisation monitoring its usage of the cloud to confirm that it is getting the best value?	Green
6. Does management understand the general scope and limitations of different Service Organisation Controls reports?	Amber
7. Is management clear on the scope of controls tested and the extent of testing?	Amber
8. Do Service Organisation Controls reports give assurance on the success of operational controls over time?	Amber
9. Are Service Organisation Controls reports frequent enough to keep pace with continuous improvement?	Amber
10. Does management carefully scrutinise Service Organisation Controls report findings?	Amber
11. Will the organisation retain the necessary technical knowledge post-implementation?	Green
12. Does the technical team have the capability to take full advantage of the cloud systems?	Green
13. Will there be sufficient capability to manage updates, downtime and system changes?	Green
14. Will there be sufficient commercial and legal capacity to challenge value for money and compliance?	Green
15. Is there sufficient base-level stakeholder capability to optimise cloud system usage?	Amber

17. The questions are rated as amber above as the specification and monitoring of control reports will mature as utilisation of the cloud platform evolves over time. Processes are in place to publish the new reporting and strategic guidance concerning the content of these reports will be sought from the corporate leadership team. Recommendations will then be made to the Improvement and Change sub committee and Governance and Ethics committee on the reports presented for information.

Summary

18. The NAO guidance provides a sound blueprint for considering the questions posed in consuming cloud services. The authority has taken the strategic decision to utilise cloud services extensively and the programme of work to deliver this new infrastructure and services is due to complete in 2020. As such, much of the guidance has already been considered as part of this process.
19. The new ICT operating model will ensure that the right capability and capacity are in place to deliver a reliable, efficient and effective platform in order to support the existing and new technical services provided to the authority's end users.

Statutory and Policy Implications

20. This report has been compiled after consideration of implications in respect of finance, equal opportunities, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment and those using the service and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

RECOMMENDATION

It is recommended that:

- 1) Members agree to receive an update report in 6 months' time and consider what further action they wish to take.

Nigel Stevenson

Service Director Finance, Infrastructure and Improvement

For any enquiries about this report please contact:

Adam Crevald, Group Manager Design (ICT) (0115 9772839)

Constitutional Comments (HD 26/8/2019)

The recommendations fall within the remit of the Governance and Ethics Committee by virtue of its terms of reference.

Financial Comments: (SES 03/09/19)

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

Background Papers

None

Electoral Division(s) and Member(s) Affected

All

11 September 2019

Agenda Item: 7

REPORT OF SERVICE DIRECTOR FINANCE, INFRASTRUCTURE & IMPROVEMENT

INTERNAL AUDIT RESTRUCTURE PROPOSALS

Purpose of the Report

1. To review the staffing structure for the Internal Audit service and to propose amendments to better meet current and future demand.

Information

Drivers for change

2. The current staffing structure for Internal Audit has been in place since April 2016 and provides for a staffing establishment of 8.6 full time equivalent (FTE) posts (excluding the Group Manager for the service).
3. The establishment of the Assurance Group within the Chief Executive's Department has seen the former Group Manager – Internal Audit enabled into the post of Group Manager – Assurance. As a result, the postholder has assumed wider duties beyond the delivery of the Internal Audit service. With additional responsibility for the Performance, Intelligence & Policy Team and for the Risk & Insurance Team, the workload of the Group Manager – Assurance has been impacted. As a result, a review is needed of management capacity, roles and responsibilities within the Internal Audit team.
4. From 1 April 2019, responsibility for delivery of audits in Local Authority maintained schools transferred to the Children's & Families' Finance Team. This involved the transfer of 0.81 fte Auditor and 0.4 fte Clerical Assistant. This also serves as a prompt to review the remaining internal audit resource against updated and projected assessments of audit need for the Council.
5. At the time of the previous restructure of the Internal Audit Team in April 2016, it was anticipated that demand for advice and assistance on new systems, processes and controls would continue to grow, commensurate with the continuing pace of change in the Council's services. It was identified that Internal Audit's offer in this dynamic and challenging environment would need to be delivered by people with excellent technical knowledge, a good understanding of the Authority's needs, and good inter-personal skills to communicate and

influence effectively. This has proven to be the case. Furthermore, the service is now looking to push forward with developing the new range of analytical and problem-solving skills the modern auditor will need to work in the responsive, agile and insightful way that the Council requires.

6. The past two years have seen significant difficulties in recruiting to the Senior Auditor posts in the current structure. Temporary resource has been brought in through the Council's agency worker contract, but this has only met with partial success. We have found agency auditors to be of variable quality, but the cost of this option has been constantly high. The recruitment issue has also emphasised that the opportunity for career progression within the Team, and within the wider audit profession, is limited.
7. It is opportune to consider those areas of specialist audit provision that are currently delivered from the team's resources, e.g. ICT audit and counter-fraud activities. A revised ICT audit strategy has been drawn up, and this identifies the changing landscape at the Council. The 'Journey to the Cloud' and the range of routine, external assurance the Council now obtains from technically specialist sources are impacting on what the Internal Audit team now needs to deliver. The developing approach to assurance mapping means that the service is likely to have a reducing need to deliver genuinely specialist ICT audit input. Of equal significance is the fact that much of what was once viewed as 'technical' for auditors in regard to ICT now needs to be viewed as 'mainstream'. ICT systems are a feature of most, if not all, Council systems, therefore all auditors need to be comfortable and confident in their grasp of core ICT-based controls. With regard to fraud, the service needs to capitalise on recent progress in developing counter-fraud expertise and to apply this to ensure the team works smarter, giving a sharper focus on pro-action rather than reaction.

Client context

8. The Team's primary duty is to deliver an effective internal audit service to Nottinghamshire County Council. The service currently has an external contract with one local public sector body, which is renewed on a rolling, annual basis. This brings benefits to the Team and to the Council as a whole in terms of the range of experience, reputation and the income it brings in.
9. Capacity to deliver work beyond the team's primary duties is kept under review. In the short term, the intention is to maintain sufficient resources to continue with the team's external contract. It should also be noted that the team is now an active partner in the Assurance Lincolnshire collaboration; it is anticipated that this will bring future opportunities for external work through joint-bidding and joint-delivery with partners.

Restructure proposals to address management & supervision

10. It is proposed to rationalise the overall management capacity in the team, along with the re-allocation of key management duties. This will impact on the activities currently carried out by the Group Manager, Audit Managers and Senior Auditors.
11. The Group Manager – Assurance should continue to be the Chief Audit Executive (Head of Internal Audit), as defined by the Public Sector Internal Audit Standards (PSIAS). Below this, it is proposed to establish a single direct report in the form of a Team Leader for Internal Audit, who would be responsible for the day-to-day direction and management of the team.

12. Compliance with PSIAS is an essential requirement for the service, and core to this is effective supervision to ensure quality standards are maintained. For this reason, it is proposed to introduce an Audit Supervisor, whose primary objective would be to share the workload in supervising the day-to-day delivery of audit assignments. This post would also have capacity to deliver the highest profile and most complex assignments in the audit plans.

13. For the past 5 years or so, attempts have been made to allocate some form of specialism to the individual roles of Senior Auditors. This has entailed taking the lead on areas such as: counter-fraud; contract audit; school audits; external contracts. Proposals here are to re-focus this effort to develop a lead partner role with each of the team’s clients (both NCC departments and external contracts).

14. These proposals for re-focusing roles and responsibilities are illustrated further in the table below :

Post in new structure	Managerial focus	Currently provided by:
Group Manager	Deliver the PSIAS role of Chief Audit Executive: <ul style="list-style-type: none"> - strategy and direction - resourcing and training requirements - key point of contact for senior officers and Members - reviewing all draft and final reports - delivering the annual audit opinion 	Group Manager
Internal Audit Team Manager	Overseeing the update of audit priority assessments Drafting and consulting on the audit plan at Senior Leadership Teams (SLTs), Corporate Leadership Team (CLT) and Governance & Ethics Committee Allocating work to auditors and supervising progress Reviewing draft reports prior to issue to Group Manager Reporting progress to SLTs, CLT & Governance & Ethics Committee Carrying out 1-1 and EPDR meetings with staff Managing the budget for Internal Audit	Group Manager Team Leaders at SLTs, Group Manager at CLT & Governance & Ethics Committee Team Leaders Team Leaders Team Leaders at SLTs, Group Manager at CLT & Governance & Ethics Committee Team Leaders have assumed this from the Group Manager from November 2018 Group Manager
Audit Supervisor	Assisting in drafting and consulting on the audit plan at SLTs, CLT & Governance & Ethics Committee, as directed by the Team Manager	Team Leaders at SLTs, Group Manager at CLT & Governance & Ethics Committee

Post in new structure	Managerial focus	Currently provided by:
	<p>Reviewing draft reports prior to issue to Group Manager</p> <p>Assisting in reporting progress to SLTs, CLT & Governance & Ethics Committee, as directed by the Team Manager</p> <p>Taking the lead on 1:1 supervision of the apprentices and planning and monitoring their training programme</p>	<p>Team Leaders</p> <p>Team Leaders at SLTs, Group Manager at CLT & Governance & Ethics Committee</p> <p>New duty</p>
Senior Auditors	<p>Taking the lead with a designated client department to:</p> <ul style="list-style-type: none"> - keep up to date with service developments in departments and wider horizon scanning - update audit priority assessments - assist in consultation with SLTs on proposed audit plans - assist in reporting progress on plan delivery to SLTs - assist the Team Leader at Governance & Ethics Committee in presenting reports on follow-ups 	Team Leaders

Restructure proposals to deliver audit needs

15. The previous restructure in April 2016 sought to increase Senior Auditor resources and it is proposed to maintain capacity at this level. This is the level of resource that the Council needs to see maximised in the structure. Staff at this level should be capable of delivering the greatest flexibility in terms of addressing the challenging priorities in the audit plan and delivering jobs with insight and innovation. Linked to this, there is no longer a need to retain a permanent resource at the current Auditor level in the structure. There is insufficient demand in audit plans for work requiring a lower level of skills and, if left unaddressed, this would cause difficulty when trying to allocate work appropriately to staff at different grades in the structure.
16. Recent difficulties with recruitment and progression are to be addressed in part through the establishment of a formal Internal Audit apprenticeship programme. This will not be a short-term solution to recruitment problems but, over time, it will build in a healthy balance between recruiting experienced senior auditors and developing our own talent. Once established, this programme should deliver a steady flow of newly qualified internal auditors into the structure and in to the wider audit profession. It is proposed to build in new capacity for this purpose.
17. Discussion with colleagues in Human Resources has determined that the apprenticeship should be proposed as a two-stage programme to work towards the full Chartered Institute of Internal Auditors (IIA) qualification, as follows:



18. Key features of the apprenticeship programme would be the following:
- Recruitment of apprentices on a fixed-term basis to allow the trainees to progress towards the professional qualification
 - New apprentices with the appropriate qualifications would be able to enter the programme at either Stage 1 or Stage 2
 - Apprentices would be required to satisfy gateway requirements to progress through the apprenticeship payscale indicated in the appendix. This would be based on satisfactory completion of Stage 1 within a fixed timescale in order to progress to Stage 2, followed by a fixed timescale to achieve the full Stage 2 qualification
 - On satisfactory completion of the programme, a qualified apprentice would be able to transfer into a vacant post at the Senior Auditor level
 - It is proposed to review the apprenticeship scheme after two years based on experience of how the scheme operates in practice.
19. With regard to audit specialisms, there is a need to maximise all auditors' abilities and confidence in the areas once considered specialist (e.g. ICT audit and counter-fraud). In the case of ICT audit, it is proposed that it is no longer sustainable to retain a post in the structure dedicated to this specialism. The revised ICT audit strategy identifies that the audits required routinely over the medium term should fall within the capability of Senior Auditors. When the need arises for more specialist input, all options for bringing in a suitable resource on a temporary or part-time basis will be considered. This will include opportunities to collaborate with Assurance Lincolnshire for jointly resourcing these requirements, possibly through joint employment or joint procurement from a framework of external providers.

Summary of restructure proposals

20. In order to implement the above, the proposed changes to the Internal Audit structure are set out in **Appendix 1**. The key proposals are the following:
- Dis-establishment of the current 2 fte Audit Manager posts to be replaced by the Internal Audit Team Manager (1 fte) and Audit Supervisor (1 fte) roles
 - Dis-establishment of the ICT Technical Auditor post (1 fte)

- c) Dis-establishment of the remaining Auditor posts (1.1 fte)
- d) Establishment of fixed-term Apprentice Internal Auditor posts (2 fte).

At this stage the grades of the posts in the proposed structure are indicative and will be subject to a full evaluation exercise.

Consultation

- 21. These proposals were presented to current staff in the Internal Audit team in July 2019 and a formal consultation period of four weeks was held. All staff were encouraged to submit their comments on the proposals to the Group Manager – Assurance. The Group Manager was also available to discuss any questions or concerns, and he did this with a number of members of staff. The trade unions were also included in the consultation period and their input was invited.
- 22. At the close of the consultation period, the Group Manager – Assurance fully considered all feedback received. He provided a written summary to the team of submitted comments, along with his response to them. Changes to the original proposals were made as a result of this feedback.

Implementation and timescales

23. The following table sets out key actions and timescales to take the proposals forward.

Action	Sep 2019	Oct 2019	Nov 2019	Dec 2019
Governance & Ethics Committee approval:				
Enabling process				
Dealing with staff at risk of redundancy				
Recruitment to apprentice posts				
Taking forward specialist provision – collaborate with Assurance Lincolnshire				

Other Options Considered

24. Given the drivers for change identified above, retention of the current structure was not considered to be a viable option. In the course of the consultation period, an alternative structure was proposed by some members of staff and full consideration was given to it. It was determined that the alternative would not address the objectives of the restructure in full and also not in the most economic and effective manner.

Reason/s for Recommendation/s

- 25. The proposed restructure will ensure that the Internal Audit service can:
 - adapt to its integration into the Assurance Group of the Chief Executive’s Department
 - retain and develop the diversely skilled workforce it needs to deliver the varied nature of audit work that the Council requires

- begin to address the recruitment difficulties the service has experienced in recent years by providing exciting opportunities for apprentices to commence a rewarding career with a forward-looking employer.

Statutory and Policy Implications

26. 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

27. If the existing and proposed structures were fully staffed, the staffing costs including salary, National Insurance and pensions contributions are set out below. This excludes the salary of the Group Manager – Assurance, whose time is now split across three areas of service. For the proposed structure, this assumes one apprentice having completed two years to achieve the Practitioner level, and one apprentice having completed three years to achieve the Professional level.

Current Posts	FTE (scale point)	Salary Costs (incl. oncosts)	Proposed Posts	FTE (scale point)	Salary Costs (incl. oncosts)
Audit Manager	2 (scp41)	116,400	Audit Team Manager	1 (scp41)	58,200
ICT Technical Auditor	1 (scp38)	54,200	Audit Supervisor	1 (scp38)	54,200
Senior Auditor	4.5 (scp33)	214,600	Senior Auditor	4.5 (scp33)	214,600
Auditor	1.1 (scp22)	38,100	Apprentice Auditor - Professional	1 (scp30)	43,500
			Apprentice Auditor - Practitioner	1 (scp16)	30,600
Totals	8.6	423,300		8.5	401,100

28. Under the proposed structure, the number of Senior Auditors in post and anticipated to remain in post over the coming two to three years would largely determine the number and timing of new apprentices to be recruited. Some degree of contingency would also be needed to fund the buy-in of technical ICT audit expertise when required.

Human Resources Implications

29. Paragraph 19 of the report summarises the implications in terms of the posts proposed to be dis-established and those proposed to be established. Should the restructure be approved, the advice of Human Resources colleagues would be followed to implement the Council's

enabling process for the transfer of staff from the existing structure into the new structure. Where this leads to staff being placed at risk of redundancy, the Council's agreed procedures will be followed.

RECOMMENDATION/S

- 1) That the revised staffing structure for Internal Audit, attached at Appendix 1, be approved.

Nigel Stevenson
Service Director, Finance, Infrastructure & Improvement

For any enquiries about this report please contact:
Rob Disney, Group Manager – Assurance

Constitutional Comments (KK 19/8/2019)

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

Financial Comments (SES 21/08/19)

31. The financial implications are set out in paragraph 26 of the report. The total budget for Internal Audit in 2019/20 is £426,443.

HR Comments (JP 20/8/2019)

32. The proposals have been subject to a formal consultation period with staff and the recognised trade unions. The County Council's agreed enabling process will be applied in making appointments to the posts in the revised structure. Where applicable staff will be supported through the redeployment process.

Background Papers and Published Documents

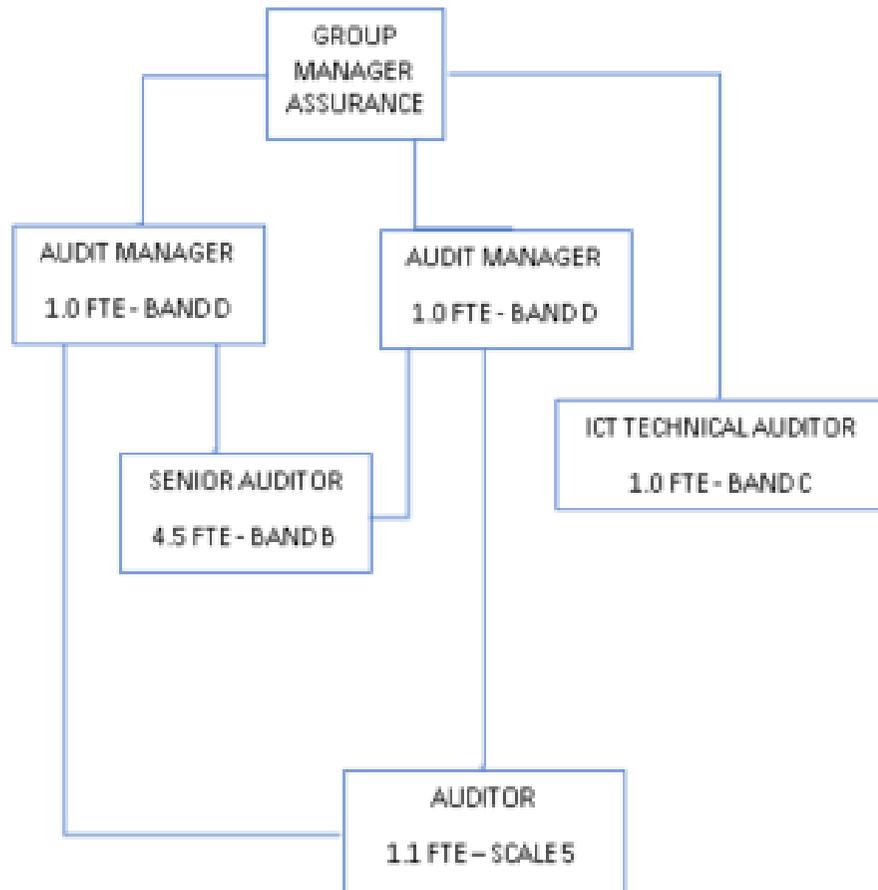
Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- None

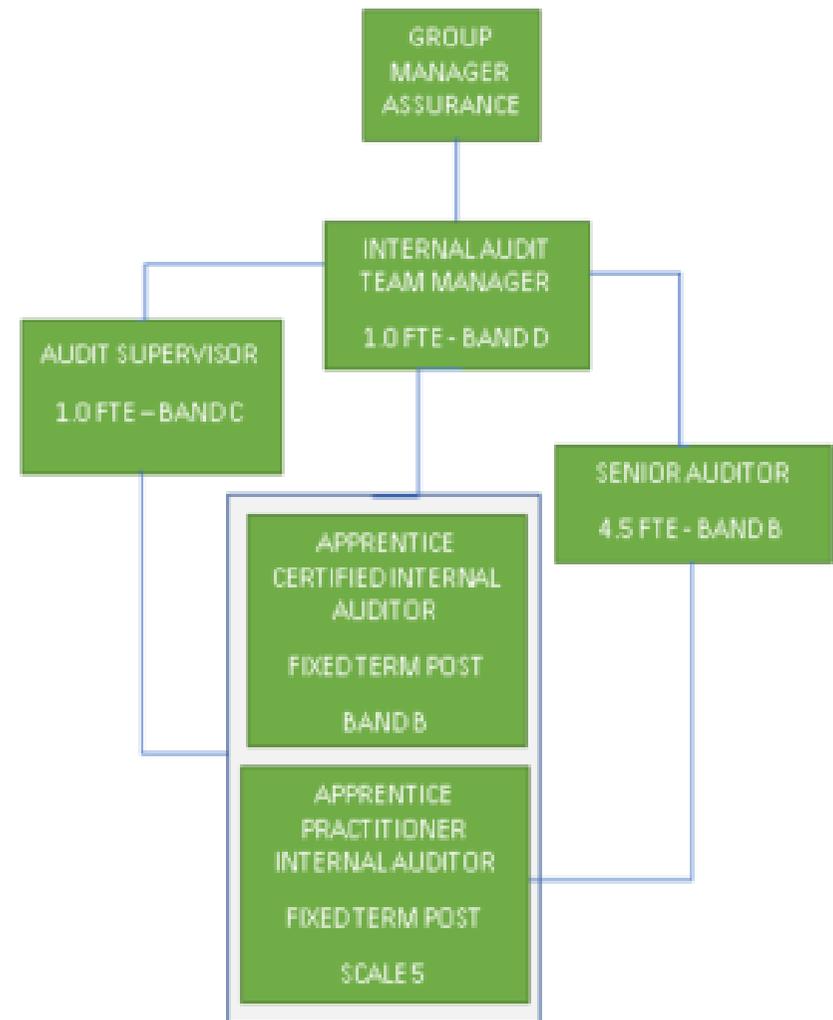
Electoral Division(s) and Member(s) Affected

- All

CURRENT



PROPOSED



11 September 2019

Agenda Item: 8

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

QUARTERLY GOVERNANCE UPDATE

Purpose of the Report

1. To inform Committee of the progress being made with the Governance Action Plan for 2019/20, and to request Members' feedback regarding the most significant governance issues currently facing the Council and whether revised actions are needed to address emerging risks.

Information

2. The Accounts and Audit (England) Regulations 2011 require the Authority to publish an Annual Governance Statement (AGS) along with its Statement of Accounts. The focus of the AGS is to assess the extent to which the Council's Local Code of Corporate Governance has been complied with over the course of a financial year, along with an assessment of the most significant governance issues the Council is dealing with. This gives rise to an annual Governance Action Plan.
3. For the past couple of years, a quarterly review process has been in place to ensure the AGS is used as a live document throughout the year, contributing towards maintaining an appropriate, strategic focus on the Council's ongoing governance arrangements. The quarterly review is also an opportunity to review the progress being made with the agreed actions.
4. The AGS for 2018/19 identified the following as the most significant governance issues for the Council.

Issue	Comment
<p>Transformation agenda</p>	<p>The Council Plan and departmental strategies are driving the Council's response to the challenging financial and policy environment. The Planning & Performance Management Framework was refreshed during 2018/19, and a revised model for transformation is being devised for implementation in 2019/20. The Council will also consider CIPFA's Financial Management Code and assess the Council's processes and governance arrangements against it (<i>see Action Plan 4</i>).</p>

Budget forecasting	Effective management of the most volatile elements of the annual budget remains a key area of focus. Concern lies around processes for budget setting, forecasting and the effective use of data.
Retention of local business rates	Preparatory work for this change in the local taxation framework continues to progress.
Pressure on core systems of internal control	The findings of Internal Audit continue to identify some areas in which only limited assurance can be provided over the effectiveness of internal controls. Areas of concern during 2018/19 were reported through to the Governance & Ethics Committee as part of the Group Manager – Assurance’s progress updates. However, the follow-up procedure for Internal Audit recommendations is providing strong evidence that agreed actions are being taken across the Council. The Governance & Ethics Committee plays an active role where progress with implementation slips against target timescales.
Vulnerability to fraud	The Annual Fraud Report 2018/19 was presented to the Governance and Ethics Committee in June 2019. The incidence of internal attacks are low, but the Council remains vulnerable to attacks from external sources. Focused efforts in high risk areas of service continue, especially in relation to social care provision. The Governance & Ethics Committee is actively monitoring the Council’s response to these risks (<i>see Action Plan 11</i>).
Risk of exposure to serious and organised crime	National evidence identifies local government as a prime target for fraudulent activity to fund serious and organised crime. Internal Audit completed a detailed review against the DCLG/Home Office recommended audit programme and the agreed actions to address areas of vulnerability are being followed through under the auspices of the Governance & Ethics Committee. Regular liaison arrangements with Nottinghamshire Police have continued. Data-sharing opportunities are progressing but need to be prioritised to bring outcomes to fruition (<i>see Action Plan 14</i>).
Independent Inquiry into Child Sexual Abuse	The strong governance framework put in place by the Council ensured the Inquiry was effectively supported in carrying out its work. The Inquiry conducted its hearings in relation to Nottinghamshire councils in October 2018, and a first report was released in July 2019 (<i>see Action Plan 15</i>).
Controversial/sensitive decisions	The risk of challenge and demonstrations at Council meetings, at which potentially controversial and sensitive decisions are to be taken, is recognised and remains under active management.
General Data Protection Regulations	The Information Governance Improvement Programme continues to help the Council manage the significant reputational and financial risks of breaches in data protection. The Programme is a two-phase approach, focusing on: compliance with the new data protection law; and a Council-wide approach to document management. Close monitoring of progress against the improvement plan is continuing to mitigate these risks.
Move to the Cloud	The County Council currently stores its software and data within the ICT Data Centre on the County Hall campus. Work is underway to provide these services using a 'cloud' based online approach, as part of the plans to use the latest technology to provide more cost effective ICT Services. The Council has been working with Microsoft to review the existing ICT estate to identify which services can be moved, and this requires very careful

	preparation. From April 2018, a team from Microsoft has been on site working with the ICT Cloud Programme.
Brexit implications for the Council	The Council has identified this as a potential matter of significance and has carried out an assessment of the organisation's exposure to the potential areas of risk. The Council is co-ordinating its preparations through a network of local authority Lead Brexit Officers and the Nottinghamshire Local Resilience Forum.
Local Government Association Peer Challenge	The Council requested a peer challenge and this was carried out in June 2019. The scope of the review was based around the LGA's standard offer, to embrace: setting priorities; leadership of place; organisational leadership and governance; financial planning and viability; and capacity to deliver. It will be a priority for the Council in the coming year to formulate an action plan to ensure opportunities for improvement identified by the Peer Challenge are implemented promptly (see Action Plan 16).

5. The thoughts and insight of Extended Corporate Leadership Team colleagues are sought on a quarterly basis to assess whether the above list continues to represent the most significant governance issues on which the Council needs to focus. To assist with this, Extended CLT colleagues are asked to consider the following:
- Colleagues' awareness of significant governance issues being dealt with by senior managers in their departments – to identify whether some issues should be added to, or removed from, the list. Alternatively, colleagues may be aware of a more specific or emerging development within one of the areas listed, which should require a refocus of the Council's response.
 - Reference to the Council's Local Code of Corporate Governance, as an aid to considering whether colleagues are aware of any emerging issues within the areas the Code covers.
6. An important part of the AGS is its Action Plan, and this should also be refreshed following each quarterly update. The Action Plan for 2019/20 is set out below, along with an update on progress that has been identified through consultation with relevant managers.

Planned action	Officer responsible	Target date for completion	Q1 Update
1. Equality Impact Assessments (EIA) – identify and share key learning from the initial review of EIAs and review progress in 12 months' time.	Monitoring Officer	Share outcomes from initial review by July 2019	 Progressing Outcomes are due to be discussed by the Corporate Equality Group in August 2019, following which any actions for improvement will be determined
2. Record of Interests – Legal Services Team to conduct a review of the Council's arrangements.	Group Manager – Legal, Democratic & Complaints	September 2019	 Progressing Progress is being made with a review of the current arrangements, and this will identify any proposals for procedural change
3. Objection to 2015/16 financial accounts:	Service Director – Finance,	To be determined on	 Progressing

Planned action	Officer responsible	Target date for completion	Q1 Update
➤ Respond to any recommended actions arising from the review of the objection	Infrastructure & Improvement	receipt of the external auditor's report	Further information exchanges between ourselves and KPMG are taking place and further updates will be provided as KPMG progress to issue their conclusions to the objection
➤ Review of the property section of financial regulations as part of the Constitution Review	Group Manager, Legal, Democratic and Complaints	Starting Sep 2019 and due to complete by Mar 2020	 Due to start Sep 2019
4. Best practice guidance for governance – Governance & Ethics Committee to consider self-assessments against:			
➤ CIPFA Financial Management Code	Group Manager – Finance Strategy & Compliance	To be agreed post-consultation	 Progressing CIPFA are redrafting the Code following consultation
➤ National Audit Office review of governance in local authorities	Group Manager – Assurance	June 2019	 Completed Considered by Governance & Ethics Committee in June 2019
➤ CIPFA statement on the role of the Head of Internal Audit	Group Manager - Assurance	June 2019	 Completed Considered by Governance & Ethics Committee in June 2019
5. Planning & Performance Management Framework			
a) implement the hierarchy approach to performance measures	Group Manager - Assurance	For all performance reporting in 2019/20	a)  Progressing Council Plan reporting for 2019/20 will commence with a first 6-monthly update in November 2019 to the Improvement & Change Sub-Committee, and this will be focused on the high-level, place-based measures agreed by Policy Committee. Quarterly reporting to service committees has commenced and is focused on the refreshed core datasets in the departmental strategies, which sit in the second row of the hierarchy.
b) implement co-ordinated reporting of finance, performance and transformation to the Extended Corporate Leadership Team			b)  Progressing The revised approach to ECLT reporting was accepted in June 2019 and this is now being developed, alongside

Planned action	Officer responsible	Target date for completion	Q1 Update
			retention of the existing format during the cross-over period.
6. Service Planning – implement simplified approach to service planning	Group Manager - Assurance	May 2019	 Completed Now in operation
7. Performance reporting in specific departments –	Group Manager – Assurance	June 2019	
a) Revised arrangements for monthly performance board reporting in the Place and Chief Executive’s Departments			a)  Progressing Working with Service Directors and Group Managers in these departments to review the performance reporting arrangements.
b) Revised arrangements for six-monthly reporting of progress against the Chief Executive’s Department strategy			b)  Progressing Revised arrangements are under discussion with Chief Executive’s Department Service Directors
8. Benchmarking - Co-ordinate CIPFA benchmarking reports and consider its use within the performance management framework, along with other benchmarking tools (eg CFO Insights)	Group Manager – Assurance	September 2019	 Yet to start
9. Performance management – carry out an internal audit review of service planning and performance management	Group Manager – Assurance	March 2020	 Progressing To be carried out as part of the Term 2 Internal Audit Plan (August – November 2019) by Assurance Lincolnshire, through or internal audit collaboration
10. Transformation Operating Model – agree and implement a revised operating model for transformation in the Council	Group Manager – Transformation and Change	Report to Committee by June 2019	 Progressing Update reports were taken to Improvement and Change Sub-Committee in April and June 2019, agreeing the principles for transformation and change in the Authority, the temporary organisational structure and development of a new governance model. A proposal on the high-level organisational structure will be taken to Policy Committee in October 2019.
11. Social care fraud risk - Continue to monitor implementation of the agreed actions from the internal audit review of the Council’s response to social care fraud.	Group Manager – Assurance and Service Directors/Group managers with responsibility for	Periodic updates to the Governance & Ethics Committee through Internal	 Progressing Agreed actions relating to the Direct Payments audit were followed up and reported to Governance & Ethics Committee in June 2019. Some actions are behind schedule and a further

Planned action	Officer responsible	Target date for completion	Q1 Update
	social care services	Audit's follow-up procedure	update will be reported in January 2020. This next update will also include agreed actions relating to the internal audit of Direct Payment Support Service providers.
12. Governance & Ethics Committee self-assessments – implement agreed action plans arising from the review of best practice guidance	Group Manager – Assurance, in close liaison with the Chairman of the Governance & Ethics Committee	In accordance with the timelines agreed with the Committee	
a) Training session on risk management			 Yet to start To be scheduled for January 2020
b) Training session on internal audit			 Completed Delivered July 2019
c) Links with Improvement & Change Sub-Committee			 Progressing Self-assessment against the NAO guidance for audit committees on transformation to be reported first to CLT in September 2019 and then to the Sub-Committee
d) Governance & Ethics Committee Annual Report			 Completed Reported to Full Council in June 2019
13. Risk appetite - Development of an approach to establishing the Council's risk appetite	Group Manager, Emergency Planning Management and Registration	Next risk management update to Governance & Ethics Committee	 Yet to start
14. Serious & Organised Crime - Implement the action plan for addressing the threat posed by serious and organised crime.	Group Manager - Assurance and key Service Directors in affected areas of service	Through timelines agreed with the Governance & Ethics Committee	 Progressing The Annual Fraud Report 2018/19 confirmed most actions have been implemented. The only action outstanding is the data-washing exercise for the Council's supplier data against known targets. This is now progressing through the national Government Agency Intelligence Network (GAIN).
15. Independent Inquiry into Child Sexual Abuse (IICSA) - Respond to any recommended actions	Corporate Director - Corporate Director Children,	To be determined on release of the Inquiry's report	 Progressing The first IICSA report was published at the end of July 2019 and consideration is now being given to the Council's

Planned action	Officer responsible	Target date for completion	Q1 Update
arising from the report into Nottinghamshire councils	Families and Cultural Services		response to its findings. A further report is expected later in 2019 regarding accountability and reparations.
16. LGA Peer Challenge – devise and approve an action plan to implement agreed recommendations from the Peer Challenge.	Group Manager - Assurance	On receipt of the Peer Team's report in the summer of 2019	 Progressing An action plan is under development following receipt of the Peer Challenge report
17. Workforce Strategy – implement the refreshed strategy	Service Director – Customers, Governance and Employees	Strategy due to be approved by Personnel Committee in July 2019	 Completed Approved by Personnel Committee in July 2019
18. Vacant property management – further progress report to Governance & Ethics Committee on actions to address the risks identified by the internal audit	Corporate Director - Place	Update report to Governance & Ethics Committee in July 2019	 Progressing To be reported to Governance & Ethics Committee in November 2019
19. Data quality in Mosaic – greater priority given to addressing issues highlighted by routine reporting	Corporate Director – Adults Social Care and Health	To commence in the first quarter of 2019/20	 Progressing Report on this issue is planned for discussion at the Senior Leadership Teams for ASCH and C&F Departments in September 2019.
20. Assessment of Brexit implications:			
a) Co-ordinated preparations through the Local Resilience Forum	Service Director Place & Communities & Group Manager, Emergency Planning and Registration	Continuing in the run-up to EU withdrawal date	 Progressing
b) Maintain risk assessment for the delivery of NCC services	Group Manager – Assurance co-ordinating the risk assessment	Latest refresh to be completed in September 2019	 Progressing Update report to be prepared for CLT

Other Options Considered

7. None – the Council has a single governance action plan and has determined to receive quarterly updates on progress against it.

Reason/s for Recommendation/s

8. To enable Members of the Committee to contribute to the development and review of the Council's governance framework.

Statutory and Policy Implications

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

Whilst there are no specific implications arising from the content of this report, the Council's governance framework spans all of these areas and the action plan is targeted at strengthening governance in specific areas where the opportunity for improvement has been identified.

RECOMMENDATION/S

1) That members determine whether they wish to see additional actions taken, or to receive further reports relating to the governance issues raised in this report.

Nigel Stevenson
Service Director – Finance, Infrastructure & Improvement

For any enquiries about this report please contact:
Rob Disney, Group Manager – Assurance

Constitutional Comments (SLB 15/08/2019)

10. 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 (SES 27/08/2019)

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

Background Papers and Published Documents

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

- None

Electoral Division(s) and Member(s) Affected

- All

11 September 2019

Agenda Item: 9

REPORT OF SERVICE DIRECTOR FOR FINANCE, INFRASTRUCTURE & IMPROVEMENT

INTERNAL AUDIT CHARTER REFRESH

Purpose of the Report

1. To review and approve an updated version of the Internal Audit Charter.

Information

2. The charter is a formal document defining the Internal Audit Section's purpose, authority and responsibility. It establishes the Section's position within the Council, including the nature of the Group Manager – Assurance's functional reporting relationship with the Governance & Ethics Committee. It authorises access to records, personnel and physical properties relevant to the performance of audit engagements, and it defines the scope of Internal Audit's activities. Final approval of the charter rests with the Governance & Ethics Committee.
3. The charter should be reviewed periodically, to ensure it remains relevant and up-to-date. A refreshed version is presented at this time to implement recommended changes identified by the Group Manager – Assurance's annual review of conformance with the Public Sector Internal Audit Standards (PSIAS).
4. The proposed changes were brought to the Committee's attention as part of the Group manager - Assurance's Annual Report, presented at the July 2019 meeting. The Annual Report incorporates an improvement programme for the forthcoming year, and this included the following actions in relation to the charter. Also indicated below are follow-up actions to be taken by the Group Manager - Assurance to ensure that these changes are followed through by the Internal Audit team:
 - a) Charter to explicitly reflect the wide remit of Internal Audit's scope of activity. Paragraph 4.2(a) has been updated to make clear that the remit of Internal Audit extends beyond the Council's arrangements for financial control.

No additional actions are necessary, as the team's Audit Need Assessments already span the whole control environment of the Council, and are not restricted to financial controls.

- b) Updating the arrangements for avoiding potential conflicts of interest relating to the performance of non-audit activities. The Group Manager – Assurance is now responsible for the delivery of services by the Risk & Insurance Team and the Performance, Intelligence & Policy Team. To ensure the independence of Internal Audit is maintained, the Group Manager – Assurance has put in place arrangements for the periodic review of these services by external providers of internal audit services. A new paragraph 4.7 has been included to set out these arrangements.

The Group Manager – Assurance takes no part in assessing the priority of audit coverage in these areas of service. An internal audit of Performance Management is due to be carried out in Term 2 of 2019/20 by the team's collaboration partners, Assurance Lincolnshire.

- c) Other, minor amendments have been made to reflect changes in job titles and the change from annual to termly audit plans.
5. Appendix 1 presents a refreshed version of the charter, incorporating the above changes.

Other Options Considered

6. The establishment and maintenance of a formal internal audit charter is a requirement of the PSIAS.

Reason/s for Recommendation/s

7. To ensure that this Council's Internal Audit Charter remains up-to-date and relevant to the developing needs of the authority from its internal audit service.

Statutory and Policy Implications

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

Financial Implications

9. The activities of the Internal Audit service are a key element in the governance framework within the Council. The formal Internal Audit Charter is a key document in ensuring the Council receives an effective service from the resources it deploys on this area of activity.

RECOMMENDATION/S

- 1) That the revised Internal Audit Charter be approved.

Nigel Stevenson

Service Director for Finance, Infrastructure & Improvement

For any enquiries about this report please contact: Rob Disney, Group Manager - Assurance

Constitutional Comments (KK 19/8/2019)

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

Financial Comments (SES 27/08/2019)

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

Background Papers and Published Documents

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

- None

Electoral Division(s) and Member(s) Affected

- All



Nottinghamshire County Council

Internal Audit Charter

1. **INTRODUCTION**

- 1.1 This Charter defines Internal Audit's role within the County Council. The Charter complies with the Public Sector Internal Audit Standards, the Accounts and Audit Regulations 2015, and the County Council's Financial Regulations. This Charter has been approved by Nottinghamshire County Council's Governance & Ethics Committee, acting as the 'Board' in respect of Internal Audit.

2 **MISSION OF INTERNAL AUDIT**

- 2.1 To enhance and protect organisational value by providing risk-based and objective assurance, advice and insight.

3 **CORE PRINCIPLES**

- 3.1 The Internal Audit Section strives for compliance with the following 10 core principles for the professional practice of internal auditing, as set out in the Public Sector Internal Audit Standards:
- Demonstrates integrity
 - Demonstrates competence and due professional care
 - Is objective and free from undue influence (independent)
 - Aligns with the strategies, objectives and risks of the organisation
 - Is appropriately positioned and adequately resourced
 - Demonstrates quality and continuous improvement
 - Communicates effectively
 - Provides risk-based assurance
 - Is insightful, proactive and future-focused
 - Promotes organisational improvement.

4 **PURPOSE, AUTHORITY AND RESPONSIBILITY**

- 4.1 The purpose of Internal Audit is to provide an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.

- 4.2 It objectively examines, evaluates and reports on the adequacy of the control environment as a contribution to the proper, economic, efficient and effective use of resources.

In particular it:

- (a) carries out a risk-based review and evaluation of the entire control environment of the Council
- (b) provides management and Members with advice and assurance to assist them in the effective discharge of their responsibilities
- (c) plans audit work having regard to the Authority's corporate plans.

- 4.3 Internal Audit derives its authority from the Accounts and Audit Regulations 2015, from this Charter and from Nottinghamshire County Council's Constitution. The Financial Regulations, which are part of the Constitution, set out that:

'The Section 151 Officer is responsible for arranging the continuous independent internal audit of the Council. The Internal Audit Service will be provided in accordance with the Internal Audit Charter and the Public Sector Internal Audit Standards.

Internal Audit focuses on the Authority's control environment and independently appraises the internal controls present in financial and other systems. The arrangements made by Corporate Directors for securing economic, efficient and effective use of resources are also reviewed. Internal Audit reports are produced containing recommendations which should be responded to formally in writing. The results of Internal Audit work contribute to the Authority's Annual Governance Statement.

Internal Audit staff have the right of access to such records, assets, premises and personnel, and are entitled to receive such information and explanation, as they think necessary for the proper fulfilment of their duties.

If an irregularity occurs or is suspected, which may involve financial loss, it must be reported immediately to the Section 151 Officer who may investigate and report to the Monitoring Officer and the relevant Corporate Director. The Section 151 Officer and the Monitoring Officer will jointly determine what further action to take, in consultation with the Corporate Director.

The Internal Audit Service reports on relevant audit issues on a regular basis to the Authority's Audit Committee. Frequent liaison also occurs between Internal Audit and the Authority's External Auditors who rely upon the work of Internal Audit when forming their opinion on the Authority's key financial and other systems.'

- 4.4 The role of the 'board' is fulfilled by the Governance & Ethics Committee.
- 4.5 The role of senior management is fulfilled by the Corporate Leadership Team, comprising the Chief Executive and Corporate Directors of the Authority.

- 4.6 The role of the chief audit executive is fulfilled by the Group Manager - Assurance, and s/he is responsible for meeting the requirements of the Internal Audit Charter and complying with the Public Sector Internal Audit Standards. The Group Manager - Assurance reports directly to the Section 151 officer, but also has unrestricted access to senior management and members, particularly the Leader of the Council, the Chair of the Governance and Ethics Committee, the Chief Executive, Corporate Directors and Service Directors. The Group Manager – Assurance reports in his/her own name.
- 4.7 In addition to Internal Audit, the Group Manager - Assurance is responsible for the delivery of services by two further teams: the Risk & Insurance Team and the Performance, Intelligence & Policy Team. To maintain segregation from operations, the Group Manager – Assurance has put in place arrangements for avoiding conflicts of interest. These are focused on obtaining independent, external assurance that internal controls are effective in respect of the Council's arrangements for risk & insurance and performance management. Periodic reviews of these areas are carried out by external providers of internal audit, the findings of which are reported independently of the Group Manager – Assurance to the Section 151 Officer and members of the Governance & Ethics Committee.
- 4.8 The resourcing of Internal Audit is under continuous review by the Section 151 Officer and the Group Manager - Assurance. The resource requirements are brought into sharp focus during discussions and agreement on the Internal Audit Strategy and Termly Plans. Further details are set out in Section 8.
- 4.9 In addition, the Section undertakes internal consultancy work, carries out suspected irregularity investigations and provides an audit service, on a contract basis, to specific external clients. The nature and extent of work for external clients is kept under review to ensure: a) it does not impinge on the audit work carried out for the Council, and; b) there is no conflict of interest or impairment of independence arising from this work.
- 4.10 In carrying out consultancy work, the Internal Audit role is to assist management in the achievement of the Authority's objectives. The work involved may cover facilitation, process design, training, advisory services and investigatory work. For most assignments, specific terms of reference will be drawn up to define the scope and limits of the work involved.

5 INDEPENDENCE AND OBJECTIVITY

- 5.1 The Internal Audit Section is organised so that it is independent of the activities that it audits. Because of this, the Section can provide impartial and unbiased professional opinions and recommendations. Internal Audit is free to plan, undertake and report on its work, as the Group Manager - Assurance deems appropriate.
- 5.2 The status of the Group Manager - Assurance is sufficient to allow the effective discussion of audit strategies, plans, results and improvement plans with senior management in the organisation.

- 5.3 Internal Audit is accountable to the Section 151 Officer and the Authority's Governance & Ethics Committee, both being involved in determining its priorities. It reviews the resources available to it on a regular basis to ensure that it has sufficient resources to fulfil its responsibilities, reporting the results of the review to the Governance & Ethics Committee, as part of its annual planning process.
- 5.4 The Group Manager - Assurance meets quarterly with the Authority's Extended Corporate Leadership Team, membership of which includes the three statutory officers: the Chief Executive, the Section 151 Officer and the Monitoring Officer. Key issues concerning the governance of the Authority are discussed and the Annual Governance Statement is kept under ongoing review.
- 5.5 The Group Manager - Assurance is required to confirm annually the organisational independence of the internal audit activity. The Group Manager - Assurance has the right to direct and unrestricted access to senior management and the Board.
- 5.6 Individual internal auditors are also required to have an impartial, unbiased attitude and avoid any conflict of interest. To meet this requirement, each auditor is required to declare any interests they have that could have an impact on their audit work, and to confirm they have read the Authority's Code of Conduct for employees. The Group Manager - Assurance will not assign work to an auditor where a conflict of interest may arise. If independence or objectivity is impaired, either in fact or appearance, the details of the impairment must be disclosed to the relevant parties.
- 5.7 Internal Auditors also have due regard to the Seven Principles of Public Life (the Nolan Principles) – Selflessness; Integrity, Objectivity; Accountability; Openness; Honesty; and Leadership.

6 PROFICIENCY AND DUE PROFESSIONAL CARE

- 6.1 Internal Audit operates in accordance with the Public Sector Internal Audit Standards. Compliance with the Standards is reviewed annually by the Group Manager - Assurance.
- 6.2 A thorough recruitment process, in accordance with the Authority's procedures, applies to the appointment of Internal Audit staff to ensure the Section has the appropriate, professional skills and experience to fulfil its objectives. The Group Manager - Assurance is appointed by the Section 151 Officer and must be a qualified accountant with at least 5 years' audit and managerial experience. Similarly, the Audit Managers should be qualified accountants with at least 3 years' audit and managerial experience. The qualifications and skills required for all posts are detailed in job descriptions and person specifications maintained by the Group Manager - Assurance.
- 6.3 Internal Auditors have an annual review of their performance and development needs. They are provided with the appropriate training to fulfil their responsibilities and to maintain their professional development and competence.

7 QUALITY ASSURANCE AND IMPROVEMENT PROGRAMME

- 7.1 The Group Manager - Assurance reviews the work of the Section on an annual basis to provide assurance that it conforms to the relevant standards and requirements of the Internal Audit Charter.
- 7.2 The Internal Audit Section takes the following actions to provide a professional service:
- Adopts a flexible, risk driven approach
 - Works in partnership with managers and staff to develop and maintain adequate and reliable systems of internal control
 - Continually seeks to improve the effectiveness and efficiency of its services in consultation with managers from across the Authority
 - Maintains an effective Audit Manual and regularly reviews its procedures to ensure they remain appropriate
 - Monitors and reports on specific performance indicators and targets.
- 7.3 The Public Sector Internal Audit Standards require that an external assessment of Internal Audit be conducted at least once every five years by a qualified, independent assessor from outside the organisation. The Group Manager - Assurance will raise this periodically with the Governance & Ethics Committee to determine the form of external assessment, the required qualifications and independence of the assessor and the frequency of the assessment.
- 7.4 Arising from the internal review, external assessments and the annual review of Internal Auditors' performance and development, the Group Manager - Assurance will, in discussion with senior management and the Governance & Ethics Committee, develop an Improvement Programme.
- 7.5 Where non-conformance to the Public Sector Internal Audit Standards impacts on the overall scope or operation of the internal audit activity, the Group Manager - Assurance must disclose the non-conformance to senior management and the Governance & Ethics Committee.

8 MANAGEMENT OF INTERNAL AUDIT ACTIVITY

- 8.1 Internal audit work is planned at all levels of operation in order to establish priorities, achieve objectives and ensure the efficient and effective use of audit resources in meeting the Internal Audit Charter.
- 8.2 The Group Manager - Assurance produces an Internal Audit Strategy and this provides the framework within which three termly plans are delivered in each financial year. Each termly plan covers a period of four months and is developed in consultation with the Corporate Directors, Section 151 Officer and Senior Managers. The Strategy details how the assurance for the opinion on the overall adequacy and effectiveness of the organisation's control environment will be demonstrated.
- 8.3 The Internal Audit plans are subject to revision and approval by the Section 151 Officer for reporting to the Governance & Ethics Committee. These plans

include an element of contingency to allow Internal Audit to be responsive to changes in conditions and to requests for assistance from managers. They also take account of the Authority's risk management process with the aim of identifying and evaluating any residual risks, not covered by appropriate control mechanisms, which need to be included in the Internal Audit Plan. The Plan process also involves assessing, through ongoing liaison with management and External Audit, any new developments or significant changes in the Authority's responsibilities.

- 8.4 Objectives are prepared for each routine Internal Audit assignment and are normally discussed with relevant line managers before the work is started. Internal Audit will usually give reasonable notice to the relevant manager of the start of an audit and will minimise any disruption to the smooth running of the area under review. However, Internal Audit reserves the right to make unannounced visits where the Group Manager - Assurance considers it necessary.
- 8.5 The Section adopts a structured approach to all its work including the use of a risk-based, systematic approach, where appropriate, for opinion audits.

9 GOVERNANCE & ETHICS COMMITTEE RESPONSIBILITIES

- 9.1 Internal Audit has a responsibility to report to the Authority's Governance & Ethics Committee. The Committee is chaired by a member of the majority party and consists of 11 members. The Committee meets on a six-weekly basis and has clear terms of reference. It reviews both Internal and External Audit work throughout the Authority and contributes to the organisation's overall process for ensuring that the Authority has good governance.
- 9.2 The Committee reviews and comments upon:
- Internal Audit Charter
 - Internal Audit's Annual Report (including the opinion of the Authority's control environment)
 - Internal Audit's Strategy, Termly Plans and Progress against the Plans (including key findings and recommendations)
 - External Audit's Annual Audit Letter and Annual Plan
 - Reports on the implementation of Internal Audit recommendations
 - Reports on relevant public sector publications concerning general audit developments
 - Any significant audit issues that may arise within the Authority.
- 9.3 The Group Manager - Assurance attends every meeting and presents Internal Audit reports to the Committee.

10 ADVISORY AND CONSULTANCY SERVICES

- 10.1 Internal Audit offers an advisory and consultancy service to provide support and assistance to the Council in the development of its systems and procedures. Internal auditors are well positioned to offer this type of input, due to their detailed knowledge of the Council's activities, and due to their expertise in assessing value for money and options for process re-engineering.

10.2 The nature and scope of consultancy engagements are agreed with the client and are intended to add value and improve the Council's governance, risk management and control processes. Consultancy input may take the form of counsel, advice, facilitation and training. This type of input is beneficial to both clients and internal auditors alike; clients receive timely advice whilst systems and processes are being designed, and internal auditors have the opportunity to influence the developing control framework in the Council.

11 **SUSPECTED IRREGULARITY INVESTIGATIONS**

11.1 In accordance with the Authority's Financial Regulations, Internal Auditors carry out investigations into suspected financial irregularities. All managers in the Authority have an obligation to maintain an effective internal control system within their areas of work, and this includes a responsibility for the prevention and detection of fraud, corruption and other irregularities, as well as managing the risks of fraud or corruption.

11.2 When conducting audit engagements, Internal Auditors are alert to circumstances, such as control weaknesses, that could allow fraud. If any evidence of fraud or other irregularity is discovered the relevant line manager is informed.

11.3 Managers are required to inform Internal Audit immediately if a fraud or other irregularity is suspected. In such cases, they should ensure that:

- Any supporting information or other evidence is secured
- Confidentiality is maintained so as not to prejudice any subsequent investigation.

11.4 Internal Audit will consider each suspected fraud or irregularity and determine whether to investigate it itself or to resolve it by another means, for example, referral to the Police, as appropriate. Internal Audit's role in tackling suspected cases of fraud or irregularity is set out in the Council's Fraud Response Plan

11.5 The Group Manager - Assurance may carry out other special investigations at the request of the Section 151 Officer or other senior managers.

12 **INTERNAL AUDIT REPORTING**

12.1 Internal Audit reports its findings to appropriate managers, who have a responsibility to respond promptly to the reports' recommendations. Recommendations are priority ranked, as follows:

Priority Level	Description	Recommended action timescales
Priority 1	Essential for effective internal control, must implement recommendations to improve existing control arrangements	Immediate
Priority 2	Highly desirable for effective internal control, should implement recommendations to improve existing control arrangements	Within two months

‘Low priority’ recommendations are not made in Internal Audit reports. Instead, advisory recommendations are raised in feedback meetings with managers at the close of the fieldwork.

12.2 Reports on assurance work contain an audit opinion on the area reviewed. One of the following three audit opinions of the level of assurance is provided:

	LIMITED ASSURANCE	Risk levels are high
	REASONABLE ASSURANCE	Risk levels are acceptable
	SUBSTANTIAL ASSURANCE	Risk levels are low

The spread of Internal Audit opinions each year is one factor used to inform the Authority’s Annual Governance Statement.

12.3 Management responses to Internal Audit’s draft reports are sought in accordance with the protocol set out in Appendix 1.

12.4 All Internal Audit recommendations are followed up to confirm the agreed management actions are taken. Two levels of assurance are applied to confirm implementation, as detailed below:

Priority rating of recommendation	Management assurance	Internal Audit assurance
Priority 1	Assurance is sought from management that all agreed actions have been taken	Compliance testing scheduled to confirm all agreed actions relating to Priority 1 recommendations are carried out consistently.
Priority 2		Compliance testing is scheduled for selected Priority 2 actions

12.5 Six-monthly progress on the implementation of agreed management actions is reported to senior management and to the Governance & Ethics Committee. The Governance & Ethics Committee determines whether it wishes to receive an update from senior managers at its next meeting to provide further assurance regarding actions to improve the internal controls in a specific area of activity.

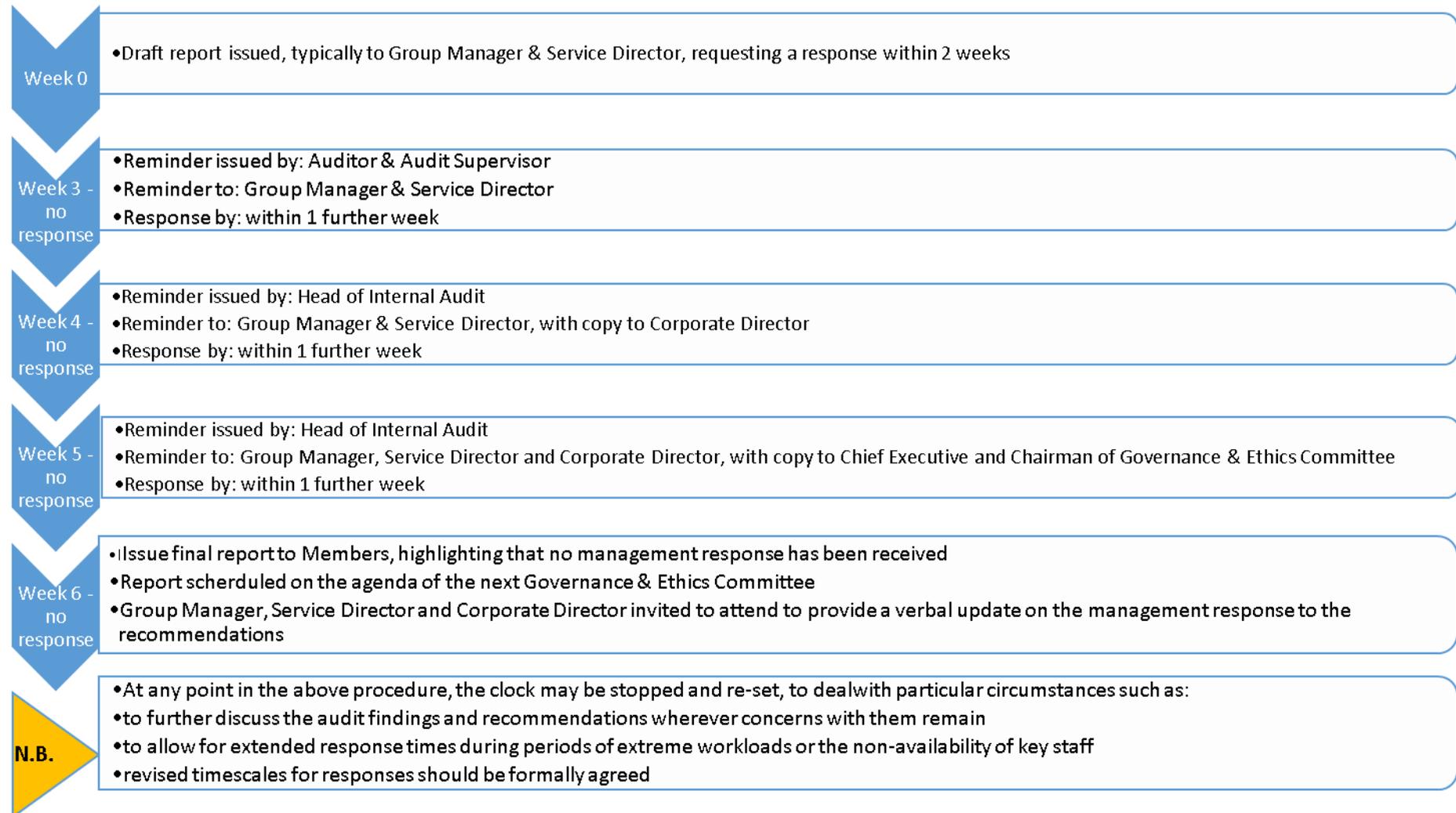
12.6 Internal Audit reports are circulated to the relevant Committee Chairmen/Chairwomen and Opposition Members so that they are aware of audit findings in their areas of portfolio responsibility. Members can raise queries on reports as appropriate by contacting the Group Manager - Assurance or Audit Managers direct on issues which concern them. This direct access by Members to Internal Audit applies in any situation where Members wish to raise issues of concern with Internal Audit.

13 **COORDINATION OF AUDIT ASSURANCE**

- 13.1 The Group Manager - Assurance co-ordinates Internal Audit Plans and activities with other internal and external providers of assurance, including the External Auditors, to ensure the most efficient use of the total resources devoted to audit work. Regular liaison meetings take place during the course of the year as appropriate.
- 13.2 Internal Auditors foster constructive relationships with Members, the managers and others involved in the areas being audited, and also with other review and specialist agencies that it may encounter as part of its work.
- 13.3 Liaison with managers takes place at key stages of the audit process, namely: planning; undertaking; reporting; and responding to audits. The guiding principle adopted throughout is one of assistance in the achievement of the Authority's objectives.
-

Protocol for chasing responses to Internal Audit's Draft Reports

APPENDIX 1



11 September 2019

Agenda Item: 10

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

**EXTERNAL AUDIT – ANNUAL AUDIT LETTER 2018/19 AND UPDATED AUDIT
FINDINGS REPORT**

Purpose of the Report

1. To inform Members of the External Auditors' Annual Audit Letter 2018/19 and an updated Audit Findings Report 2018/19.

Information and Advice

2. The attached Annual Audit Letter from Grant Thornton (Appendix A) summarises findings from work carried out by the external auditors over the last financial year (2018/19).
3. At the July 2019 Governance and Ethics Committee the Audit Findings Report 2018/19 was presented to Members. At that time there were a number of outstanding queries and further audit work to be undertaken. A summary of the audit final position can be seen in Appendix B. The updated version of the Audit Findings Report 2018/19 report can be seen in Appendix C.
4. All Councils are subject to independent external review with the final conclusions and recommendations being presented to the Council in the Annual Audit Letter (AAL). The AAL provides a clear, readily understandable commentary on the results of the auditor's work and highlights any issues that the auditor wishes to draw to the attention of the public.
5. The report is presented to Members for their information. The Audit Manager (Grant Thornton), Lorraine Noak will be in attendance at the meeting to introduce the report and respond to Members' queries.

Reason/s for Recommendation/s

6. To provide information to Members on the External Auditors' Annual Audit Letter 2018/19 and an updated Audit Findings Report 2018/19.

Statutory and Policy Implications

7. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty,

safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

RECOMMENDATION/S

- 1) That Members comment upon the External Auditors' Annual Audit Letter 2018/19 and the updated Audit Findings Report 2018/19 and decide if any further actions or information are required.

Nigel Stevenson
Service Director – Finance, Infrastructure & Improvement

For any enquiries about this report please contact:
Nigel Stevenson tel. 0115-9773033

Constitutional Comments (SLB 30/08/2019)

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

Financial Comments (GB 12/08/2019)

9. The total audit fees were £83,124 for Nottinghamshire County Council and £23,043 for the Nottinghamshire Pension Fund.

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 Annual Audit Letter for Nottinghamshire County Council and Nottinghamshire County Council Pension Fund

Year ended 31 March 2019

11 September 2019



Contents



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Section

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2. Audit of the Financial Statements
3. Value for Money conclusion

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Appendices

- A Reports issued and fees

Executive Summary

Purpose

Our Annual Audit Letter (Letter) summarises the key findings arising from the work that we have carried out at Nottinghamshire County Council and Nottinghamshire Pension Fund for the year ended 31 March 2019.

This Letter is intended to provide a commentary on the results of our work to the Council and external stakeholders, and to highlight issues that we wish to draw to the attention of the public. In preparing this Letter, we have followed the National Audit Office (NAO)'s Code of Audit Practice and Auditor Guidance Note (AGN) 07 – 'Auditor Reporting'. We reported the detailed findings from our audit work to the Council's Governance and Ethics Committee as those charged with governance in our Audit Findings Report on 24 July 2019

Our work

Respective responsibilities

We have carried out our audit in accordance with the NAO's Code of Audit Practice, which reflects the requirements of the Local Audit and Accountability Act 2014 (the Act). Our key responsibilities are to:

- give an opinion on the Council and Pension Funds financial statements (section two)
- assess the Council's arrangements for securing economy, efficiency and effectiveness in its use of resources (the value for money conclusion) (section three).

In our audit of the Council and Pension Fund's financial statements, we comply with International Standards on Auditing (UK) (ISAs) and other guidance issued by the NAO.

Materiality - Council	We determined materiality for the audit of the Councils financial statements to be £20m, which is 1.9% of the Council's gross revenue expenditure.
Materiality – Pension Fund	We determined financial statement materiality based on a proportion of the Pension Fund's net assets. Our materiality for the audit was £54m which equates to 1% of your actual net assets for the year ended 31 March 2019
Financial Statements opinion	We gave an unqualified opinion on the Council's and Pension Fund's financial statements on 31 July 2019.
Whole of Government Accounts (WGA)	We completed work on the Council's consolidation return following guidance issued by the NAO.
Use of statutory powers	We did not identify any matters which required us to exercise our additional statutory powers.

Executive Summary

Value for Money arrangements We were satisfied that the Council put in place proper arrangements to ensure economy, efficiency and effectiveness in its use of resources. We reflected this in our audit report to the Council on 31 July 2019.

Certificate We are unable to certify that we have completed the audit of the financial statements of Nottinghamshire County Council and Nottinghamshire Pension Fund until:

- the Council has prepared the Pension Fund Annual Report and we have issued the required report to say that it is consistent with the audited pension fund financial statements
- your previous auditors, KPMG, have completed their consideration of an objection to the 2015/16 accounts made by a local elector.

Working with the Council

This has been our first year as your external auditors. We aimed to achieve a smooth transition from your previous auditors, KPMG, and have worked closely with your officers throughout the year to ensure we were able to deliver our opinions and VFM conclusion to enable you to publish your Statement of Accounts by the 31 July deadline.

We would like to record our appreciation for the assistance and co-operation provided to us during our audit by the Council's staff.

Grant Thornton UK LLP
September 2019

Audit of the Financial Statements

Our audit approach

Materiality

In our audit of the Council and Pension Funds financial statements, we use the concept of materiality to determine the nature, timing and extent of our work, and in evaluating the results of our work. We define materiality as the size of the misstatement in the financial statements that would lead a reasonably knowledgeable person to change or influence their economic decisions.

We determined materiality for the audit of the Pension Funds financial statements to be £54m, which is 1% of the funds net assets. We determined materiality for the audit of the Council's financial statements to be £20m, which is 1.9% of the Council's gross revenue expenditure. .

We also set a lower level of specific materiality for the council in relation to senior officer remuneration - using a materiality of £100,000.

We set a lower threshold of £3m for the Pension Fund and £1m for the Council, above which we reported errors to the Governance and Ethics Committee in our Audit Findings Report.

The scope of our audit

Our audit involves obtaining sufficient evidence about the amounts and disclosures in the financial statements to give reasonable assurance that they are free from material misstatement, whether caused by fraud or error. This includes assessing whether:

- the accounting policies are appropriate, have been consistently applied and adequately disclosed;
- the significant accounting estimates made by management are reasonable; and
- the overall presentation of the financial statements gives a true and fair view.

We also read the remainder of the financial statements and the Narrative Report and the Annual Governance Statement published alongside the financial statements to check they are consistent with our understanding of the Council and with the financial statements on which we gave our opinion.

We carry out our audit in accordance with ISAs (UK) and the NAO Code of Audit Practice. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

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

We identified key risks and set out overleaf the work we performed in response to these risks and the results of this work.

Audit of the Financial Statements

Significant Audit Risks - Council

These are the significant risks which had the greatest impact on our overall strategy and where we focused more of our work.

Risks identified in our audit plan	How we responded to the risk	Findings and conclusions
<p>Valuation of land and buildings 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>We therefore identified valuation of land and buildings as a significant risk.</p>	<p>As part of our audit work we have:</p> <ul style="list-style-type: none">• evaluated management's processes and assumptions for the calculation of the estimate, the instructions issued to valuation experts and the scope of their work• evaluated the competence, capabilities and objectivity of the valuation expert• written to the valuer to confirm the basis on which the valuation was carried out to ensure that the requirements of the Code have been met• challenged the information and assumptions used by the valuer to assess completeness and consistency with our understanding	<p>Our audit work has not identified any issues in respect of valuation of land and buildings</p>

Audit of the Financial Statements

Significant Audit Risks - Council

These are the significant risks which had the greatest impact on our overall strategy and where we focused more of our work.

Risks identified in our audit plan	How we responded to the risk	Findings and conclusions
<p>Valuation of net pension liability 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>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</p>	<p>As part of our audit work we have:</p> <ul style="list-style-type: none"> • updated 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 evaluated the design of the associated controls; • evaluated the instructions issued by management to their management expert (an actuary) for this estimate and the scope of the actuary's work; • assessed the competence, capabilities and objectivity of the actuary who carried out the Authority's pension fund valuation; • assessed the accuracy and completeness of the information provided by the Authority to the actuary to estimate the liability; • tested the consistency of the pension fund asset and liability and disclosures in the notes to the core financial statements with the actuarial report; • undertaken 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 • agreed the advance payment made to the pension fund for future years to the expected accounting treatment and relevant financial disclosures. • considered the specific methodology and assumptions used by the actuary in relation to the McCloud case. <p style="text-align: center;">Page 135 of 200</p>	<p>During the course of our audit, there were significant developments in relation to a legal case, the McCloud case, on alleged age discrimination in transitional arrangements in public sector pension schemes. The Government was refused leave to appeal the Court's decision, increasing the likelihood of increase future pension payments.</p> <p>As a result, you obtained an updated actuarial report which estimated the impact of the McCloud case and resulted in an amendment to the accounts of an increase in pension liabilities of £44.8m and an increase in past service costs for the 2018/19 year of £21.1m.</p> <p>Pension Fund</p> <p>The Pension Fund has amended its disclosure in relation to the impact of the McCloud ruling resulting in a £65,9m increase in the disclosure of the net liability</p>

Audit of the Financial Statements

Significant Audit Risks – Council and Pension Fund

These are the significant risks which had the greatest impact on our overall strategy and where we focused more of our work.

Risks identified in our audit plan	How we responded to the risk	Findings and conclusions
<p>Management override of internal controls</p> <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>As part of our audit work we;</p> <ul style="list-style-type: none"> evaluated the design effectiveness of management controls over journals analysed the journals listing and determined the criteria for selecting high risk unusual journals gained an understanding of the accounting estimates and critical judgements applied made by management and considered their reasonableness with regard to corroborative evidence evaluated the rationale for any changes in accounting policies, estimates or significant unusual transactions. 	<p>Our audit work has not identified any issues in respect of management override of controls</p>

Audit of the Financial Statements

Pension Fund Significant Audit Risks

This are the risks which had the greatest impact on our overall strategy and where we focused more of our work on the pension fund

Risks identified in our audit plan	How we responded to the risk	Findings and conclusions
<p>Valuation of Level 3 (hard to value) Investment Assets</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>As part of our audit work we have:</p> <ul style="list-style-type: none">gained an understanding of the Fund's process for valuing level 3 investments and evaluated the design of the associated controls;reviewed the nature and basis of estimated values and considered what assurance management have had over the year end valuations provided for these types of investmentsfor a sample of investments, tested 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 datethere were a number of funds which are not overseen by the custodian, we have reviewed fund manager returns to gain assurance in these areas	<p>Our audit work has not identified any significant issues in relation to hard to value investments.</p> <p>We did, however, make some recommendations to improve some of the disclosures around investments and other areas within the Pension Fund accounts, and also in relation how the Fund obtains assurances from fund managers in relation to the controls which they have in place.</p>

Audit of the Financial Statements

Audit opinion

We gave an unqualified opinion on the Council's financial statements on 31 July 2019.

Preparation of the financial statements

The Council presented us with draft financial statements in accordance with the national deadline, and provided a good set of working papers to support them. The finance team responded promptly and efficiently to our queries during the course of the audit.

Issues arising from the audit of the financial statements

We reported the key issues from our audit to the Council's Governance and Ethics Committee on 24 July 2019.

Other than as noted above in relation to the impact of the McCloud case on the estimated pension fund liability, we did not identify any significant changes required to either the Council or Pension Fund financial statements, but we did request some further improvements to some of the disclosure notes within both sets of accounts.

Annual Governance Statement and Narrative Report

We are required to review the Council's Annual Governance Statement and Narrative Report. It published them on its website in and alongside the Statement of Accounts in line with the national deadlines.

Both documents were prepared in line with the CIPFA Code and relevant supporting guidance. We confirmed that both documents were consistent with the financial statements prepared by the Council and with our knowledge of the Council.

Whole of Government Accounts (WGA)

We carried out work on the Council's Data Collection Tool in line with instructions provided by the NAO . We issued an assurance statement which did not identify any issues for the group auditor to consider on 16 August 2019.

Other statutory powers

We also have additional powers and duties under the Act, including powers to issue a public interest report, make written recommendations, apply to the Court for a declaration that an item of account is contrary to law, and to give electors the opportunity to raise questions about the Council's accounts and to raise objections received in relation to the accounts.

Certificate of closure of the audit

We are unable to certify that we have completed the audit of the financial statements of Nottinghamshire County Council and Nottinghamshire Pension Fund until:

- the Council has prepared the Pension Fund Annual Report and we have issued the required report to say that it is consistent with the audited pension fund financial statements
- your previous auditors, KPMG, have completed their consideration of an objection to the 2015/16 accounts made by a local elector.

Value for Money conclusion

Background

We carried out our review in accordance with the NAO Code of Audit Practice, following the guidance issued by the NAO in November 2017 which specified the 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.

Key findings

Our first step in carrying out our work was to perform a risk assessment and identify the risks where we concentrated our work.

The risks we identified and the work we performed are set out overleaf.

Overall Value for Money conclusion

We are satisfied that in all significant respects the Council put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources for the year ending 31 March 2019.

Value for Money conclusion

Risks identified in our audit plan	Findings	Conclusions
<p>Financial Sustainability</p> <p>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.(2018/19) Furthermore the council faces significant financial challenges over the medium term to achieve its statutory break even budget duty.</p> <p>The latest report shows a £34.1m gap for the medium term.</p>	<p>The Council has been successful in delivering £26.8m of savings over the previous two financial years. Rising demand for services coupled with continued reductions in funding will mean that savings will become increasingly more difficult to find.</p> <p>The financial position of the Council has been closely monitored throughout the year, with monthly reports being produced and reported to the Leadership Team and the Finance and Major Contracts Committee.</p> <p>The impact of pressures on social care services has resulted in a year end contribution from reserves of £6.8m compared to the £1.5m budgeted estimate.</p> <p>The MTFS proposes to utilise a further £19.2m of reserves over the medium term.</p> <p>The level of reserves and balances have been reviewed by the Council and are considered to be adequate. However the continued use of reserves to balance budgets which continues into 2019/20 should be approached cautiously and the Council should ensure that the level of reserves remain prudent. Reserves are one off funds so it is recommended that they are limited to supporting one-off expenditure rather than funding on-going costs</p> <p>The budget set for 2019/20 shows a savings requirement of £15.2m. The Council continues to monitor and gain understanding of both overspends and underspends against budgets and continually applies mitigation strategies, not only for the immediate budget but for the Medium Term to ensure the £34.2 shortfall forecast required by 2023 is addressed.</p> <p>Strict budgetary control is in place and departments are expected to utilise any underspends to offset unexpected cost pressures.</p>	<p>The Council applies a stringent monitoring regime to ensure issues can be identified and addressed in a timely manner. The MTFS is monitored and aligned to the vision of the Council and adjustments made when necessary.</p> <p>On the basis of this evidence we have concluded that the Council had appropriate arrangements in place to secure Value for Money through Sustainable Resource Deployment during 2018/19.</p>

Value for Money conclusion

Value for Money Risks

Risks identified in our audit plan	Findings	Conclusions
<p>Partnership Working 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.</p> <p>As wider partnership working evolves it is important to consider governance arrangements within the collaborations and ensure the required outcomes are being achieved.</p>	<p>The Council is committed to working with partners to provide the best possible services for local people whilst delivering value for money.</p> <p>Partnership working is diverse and covers health, the environment including transport and education.</p> <p>The health partnership as part of the Integrated Care System has notably seen an increase in the amount of service users enabled to return to independent living via the enablement service. Users of this service rose to 1,335 in 2018/19.</p> <p>The Council appoint representatives to a wide range of bodies to ensure that partnership working is monitored and governance is in place.</p> <p>The Policy Committee receive regular updates on the strategies and monitoring of partnerships and also a register of outside bodies with representatives is produced for their scrutiny. These bodies include local community groups charities and partners, and detail who is the council representative on each group.</p> <p>For example, a major partnership is the Integrated Care System. The board of the ICS includes a Nottinghamshire County Council representative, but also individual members such as Sherwood Forest Hospital FT also has a Council representative on its board.</p> <p>The council have had some major achievements during 2018/19 in relation to working with partners. These include leadership of the Partnership Strategy for looked after children and care leavers – becoming the first 2 tier council area to secure council tax exemption for its care leavers up to 25 – and the successful leadership and establishment of the Regional Adoption Agency.</p>	<p>Partnership working continues to achieve positive results for the Nottinghamshire area.</p> <p>This has improved services and in relation to health where the most pressure is felt financially and has provided closer integration. As a result the Council has been noted as the best performing council nationally for performance of delayed transfer of care.</p> <p>Governance is reported regularly to the Policy Committee and monitored by individual representatives.</p> <p>On the basis of this evidence we have concluded that the Council had appropriate arrangements in place to secure Value for Money through Partnership Working during 2018/19</p>

A. Reports issued and fees

We confirm below our final reports issued and fees charged for the audit and provision of non-audit services.

Reports issued

Report	Date issued
Audit Plan	March 2019
Audit Findings Report	July 2019
Annual Audit Letter	August 2019

Fees

	Planned £	Actual fees £
Statutory audit	75,624	83,124
Audit of Pension Fund	23,043	23,043
Total fees	98,667	106,167

Audit fee variation

As outlined in our audit plan, the 2018-19 scale fee published by PSAA of £98,667 assumes that the scope of the audit does not significantly change. There are a number of areas where the scope of the audit has changed, which has led to additional work. These are set out in the following table.

Area	Reason	Fee proposed
Assessing the impact of the McCloud ruling	The Government's transitional arrangements for pensions were ruled discriminatory by the Court of Appeal last December. The Supreme Court refused the Government's application for permission to appeal this ruling. As part of our audit we have reviewed the revised actuarial assessment of the impact on the financial statements along with any audit reporting requirements.	3000
Pensions – IAS 19	The Financial Reporting Council has highlighted that the quality of work by audit firms in respect of IAS 19 needs to improve across local government audits. Accordingly, we have increased the level of scope and coverage in respect of IAS 19 this year to reflect this.	1500
PPE Valuation – work of experts	As above, the Financial Reporting Council has highlighted that auditors need to improve the quality of work on PPE valuations across the sector. We have increased the volume and scope of our audit work to reflect this.	3000
Total		7500

A. Reports issued and fees continued

We confirm below our final reports issued and fees charged for the audit and provision of non-audit services.

Fees for non-audit services

Service	Fees £
Non-audit services CFO insights	10,000
Audit-related services IAS19 assurances to other auditors	6,000
	16,000

Non-audit services

- For the purposes of our audit we have made enquiries of all Grant Thornton UK LLP teams providing services to the Council. The table above summarises all non-audit services which were identified.
- We have considered whether non-audit services might be perceived as a threat to our independence as the Councils auditor and have ensured that appropriate safeguards are put in place.

Grant Thornton's Government and Infrastructure Advisory Team has undertaken work for the Midlands Engine (a partnership of local authorities and other bodies (across the East and West Midlands) in relation to Support for the Business Case for a Development Corporation in relation to the HS2 hub at Toton. This specific piece of work was procured through Nottinghamshire County Council, but in doing so it was acting as agent for the entities that make up the 'Midlands Engine'. We are satisfied that this work does not present any threat to our independence as auditors of the County Council. The fee for this work, which was all paid in 2019/20, was £465,669.

Our commitment to our local government clients

- Senior level investment
- Local presence enhancing our responsiveness, agility and flexibility.
- High quality audit delivery
- Collaborative working across the public sector
- Wider connections across the public sector economy, including with health and other local government bodies
- Investment in Health and Wellbeing, Social Value and the Vibrant Economy
- Sharing of best practice and our thought leadership.
- Invitations to training events locally and regionally – bespoke training for emerging issues
- Further investment in data analytics and informatics to keep our knowledge of the areas up to date and to assist in designing a fully tailored audit approach

Our relationship with our clients – why are we best placed?

- We work closely with our clients to ensure that we understand their financial challenges, performance and future strategy.
- We deliver robust, pragmatic and timely financial statements and Value for Money audits
- We have an open, two way dialogue with clients that support improvements in arrangements and the audit process
- Feedback meetings tell us that our clients are pleased with the service we deliver. We are not complacent and will continue to improve further
- Our locally based, experienced teams have a commitment to both our clients and the wider public sector
- We are a Firm that specialises in Local Government, Health and Social Care, and Cross Sector working, with over 25 Key Audit Partners, the most public sector specialist Engagement Leads of any firm
- We have strong relationships with CIPFA, SOLCAE, the Society of Treasurers, the Association of Directors of Adult Social Care and others.

New opportunities and challenges for your community

The Local Government economy

Local authorities face unprecedented challenges including:

- Financial Sustainability – addressing funding gaps and balancing needs against resources
- Service Sustainability – Adult Social Care funding gaps and pressure on Education, Housing, Transport
- Transformation – new models of delivery, greater emphasis on partnerships, more focus on economic development
- Technology – cyber security and risk management

At a wider level, the political environment remains complex:

- The government continues its negotiation with the EU over Brexit, and future arrangements remain uncertain.
- 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 keep you informed of changes to the financial reporting requirements for 2018/19 through on-going discussions and invitations to our technical update workshops.

Delivering real value through:

- Early advice on technical accounting issues, providing certainty of accounting treatments, future financial planning implications and resulting in draft statements that are 'right first time'
- Knowledge and expertise in all matters local government, including local objections and challenge, where we have an unrivalled depth of expertise.
- Early engagement on issues, especially on ADMs, housing delivery changes, Children services and Adult Social Care restructuring, partnership working with the NHS, inter authority agreements, governance and financial reporting
- Implementation of our recommendations have resulted in demonstrable improvements in your underlying arrangements, for example accounting for unique assets, financial management, reporting and governance, and tax implications for the Cornwall Council companies
- Robust but pragmatic challenge – seeking early liaison on issues, and having the difficult conversations early to ensure a 'no surprises' approach – always doing the right thing
- Providing regional training and networking opportunities for your teams on technical accounting issues and developments and changes to Annual Reporting requirements
- An efficient audit approach, providing tangible benefits, such as releasing finance staff earlier and prompt resolution of issues.

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Grant Thornton in Local Government

Our client base and delivery



- We are the largest supplier of external audit services to local government
- We audit over 150 local government clients
- We signed 95% of our local government opinions in 2017/18 by 31 July
- In our latest independent client service review, we consistently score 9/10 or above. Clients value our strong interaction, our local knowledge and wealth of expertise.

Our connections



- We are well connected to MHCLG, the NAO and key local government networks
- We work with CIPFA, Think Tanks and legal firms to develop workshops and good practice
- We have a strong presence across all parts of local government including blue light services
- We provide thought leadership, seminars and training to support our clients and to provide solutions

Our people



- We have over 25 engagement leads accredited by ICAEW, and over 250 public sector specialists
- We provide technical and personal development training
- We employ over 80 Public Sector trainee accountants

Our quality



- Our audit approach complies with the NAO's Code of Audit Practice, and International Standards on Auditing
- We are fully compliant with ethical standards
- Your audit team has passed all quality inspections including QAD and AQRT

Our technical support



- We have specialist leads for Public Sector Audit quality and technical
- We provide national technical guidance on emerging auditing, financial reporting and ethical areas
- Specialist audit software is used to deliver maximum efficiencies



Audit findings update - Nottinghamshire County Council and Nottinghamshire County Council Pension Fund

Year ended 31 March 2019

11 September 2019



Update to Audit Findings Report



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Introduction

We presented our Audit Findings Report to the Governance and Ethics Committee at its meeting on 24 July 2019 before giving our audit opinions on the County Council and Pension Fund's accounts on 31 July 2019. This enabled the Council to meet the 31 July deadline for publishing both sets of accounts on its website.

Due to the submission timeline for reports to the Governance and Ethics Committee, the written report we provided to members for the 24 July 2019 was produced before the audit had been completed. At the meeting, we provided members with a verbal update, which confirmed our conclusions on the outstanding work. We agreed, however, to provide an updated written report to the next meeting of the Committee. This updated report is attached in full as an Annex to this summary document. In the remainder of this summary, however, we have provided an overview of our conclusions, cross referenced to the full document should members wish to review the full detail.

Overall summary

We issued unqualified opinions on the County Council and Pension Fund's statement of accounts on 31 July 2019. The only significant changes made to the accounts during the audit were as a result of the McCloud judgement, which increased the net pension fund liability recorded in the County Council accounts by £44.8m and the related disclosure note in the Pension Fund accounts by £64.9m. We also requested various minor improvements to the disclosure notes in both sets of accounts to increase compliance with the Code.

The contents of this report relate only to those matters which came to our attention during the conduct of our normal audit procedures which are designed for the purpose of expressing our opinion on the financial statements. Our audit is not designed to test all internal controls or identify all areas of control weakness. However, where, as part of our testing, we identify control weaknesses, we will report these to you. In consequence, our work cannot be relied upon to disclose all defalcations or other irregularities, or to include all possible improvements in internal control that a more extensive special examination might identify. 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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Summary of final position

This table summarises the final position in relation to the key findings from our audits of the external audits of Nottinghamshire County Council ('the Council') and the Nottinghamshire Pension Fund ('Pension Fund') and the preparation of the Council's and Pension Fund financial statements for the year ended 31 March 2019 for those charged with governance.

Area	Council	Pension Fund	AFR pages
Materiality	No change to planned materiality of £20m	Materiality revised upwards to £54m based on draft accounts.	6-7
Significant risks	No matters arising other than the impact of the McCloud judgement on the net pension liability and corresponding change to the Comprehensive Income and Expenditure Statement.	No significant matters arising in relation to valuation of 'hard to value' investments, but some improvements to investment disclosures recommended.	8-10 CC 11 PF
Key judgements and estimates	No significant findings	No significant findings, but improvements recommended in relation the Fund's processes for gaining its own assurances over investment valuations.	13-14 CC 15-16 PF
Going concern	Assumption of the Council as going concern is reasonable and we do not need to modify our audit reporting in this respect.	Assumption of the Fund as going concern is reasonable and we do not need to modify our audit reporting in this respect.	17 CC 18 PF
VFM	Having identified significant risks in relation to financial sustainability and partnership work, our work allowed us to conclude that the Council has adequate arrangements in place.	n/a	21-24
Certificate	We cannot yet certify completion of the audit because we still need to report on the consistency of the Pension Fund Annual Report, once drafted, with the audited accounts. We also need your previous auditors to finish their work on a 2015/16 objection before we can issue a certificate.	n/a	20
Fees	In addition to the scale fee of £75,624, we are proposing an additional fee of £7,500 to enable us to meet increased regulatory expectations and for the additional work arising from the McCloud case.	In addition to the scale fee of £23,043, we are proposing an additional fee of £6,000 for providing IAS19 assurances to other auditors.	35
Recommendations	We have now received satisfactory management responses to our recommendation in relation to school bank accounts.	We have now received satisfactory management responses to our recommendations in relation to pensions control issues.	26-31



The Audit Findings for Nottinghamshire County Council and Nottinghamshire County Council Pension Fund

Year ended 31 March 2019

24 July 2019



Contents



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Section

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Appendices

- A. Action plan
- B. Audit adjustments
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- D. Audit Opinion

The contents of this report relate only to those matters which came to our attention during the conduct of our normal audit procedures which are designed for the purpose of expressing our opinion on the financial statements. Our audit is not designed to test all internal controls or identify all areas of control weakness. However, where, as part of our testing, we identify control weaknesses, we will report these to you. In consequence, our work cannot be relied upon to disclose all defalcations or other irregularities, or to include all possible improvements in internal control that a more extensive special examination might identify. 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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Headlines – Nottinghamshire County Council

This table summarises the key findings and other matters arising from the statutory audit of Nottinghamshire County Council ('the Council') and the Nottinghamshire Pension Fund ('Pension Fund') and the preparation of the Council's and Pension Fund financial statements for the year ended 31 March 2019 for those charged with governance.

Financial Statements	<p>Under International Standards of Audit (UK) (ISAs) and the National Audit Office (NAO) Code of Audit Practice ('the Code'), we are required to report whether, in our opinion, the Council's and Pension Fund's financial statements:</p> <ul style="list-style-type: none">• give a true and fair view of the financial position of the Council and Pension Fund and income and expenditure for the year; and• have been properly prepared in accordance with the CIPFA/LASAAC code of practice on local authority accounting and prepared in accordance with the Local Audit and Accountability Act 2014. <p>We are also required to report whether other information published together with the audited financial statements (including the Annual Governance Statement (AGS), Narrative Report and Pension Fund Financial Statements), is materially inconsistent with the financial statements or our knowledge obtained in the audit or otherwise appears to be materially misstated.</p>	<p>Our audit work was completed on site during June and July. Our findings are summarised on pages 8 to 17.</p> <p>We have identified one adjustment to the financial statements that has resulted in a £44.8m adjustment to the Council's Comprehensive Income and Expenditure Statement. Audit adjustments are detailed in Appendix B. We have also raised recommendations for management as a result of our audit work in Appendix A.</p> <p>Our work is complete and there are no matters of which we are aware that would require modification of our audit opinion at the time of writing this report Appendix D.</p> <p>We have concluded that the other information to be published with the financial statements is consistent with our knowledge of your organisation and the financial statements we have audited.</p> <p>Our audit report opinions will be unmodified</p>
Value for Money arrangements	<p>Under the National Audit Office (NAO) Code of Audit Practice ('the Code'), we are required to report if, in our opinion, the Council has made proper arrangements to secure economy, efficiency and effectiveness in its use of resources ('the value for money (VFM) conclusion').</p>	<p>We have completed our risk based review of the Council's value for money arrangements. We have concluded that Nottinghamshire County Council has proper arrangements to secure economy, efficiency and effectiveness in its use of resources</p> <p>We are therefore issuing an unqualified value for money conclusion, as detailed in Appendix D. Our findings are summarised on pages 20 to 23.</p>
Statutory duties	<p>The Local Audit and Accountability Act 2014 ('the Act') also requires us to:</p> <ul style="list-style-type: none">• report to you if we have applied any of the additional powers and duties ascribed to us under the Act; and• To certify the closure of the audit.	<p>We have not exercised any of our additional statutory powers or duties</p> <p>We have completed the work under the Code but are unable to issue our completion certificate as:-</p> <p>We are required to give an opinion on the consistency of the pension fund financial statements of the Authority included in the Pension Fund Annual Report As the Authority has not prepared the Pension Fund Annual Report at the time of this report we have yet to issue the consistency report of the pension fund financial statements</p> <p>We cannot formally conclude the audit and issue an audit certificate for the Authority for the year ended 31 March 2019 until your previous auditors KPMG have completed their consideration of an objection to the 2015/16 accounts brought to their attention by a local authority elector.</p>

Headlines – Nottinghamshire Pension Fund

This table summarises the key findings and other matters arising from the statutory audit of Nottinghamshire County Council Pension Fund ('the Pension Fund') and the preparation of the Pension Fund's financial statements for the year ended 31 March 2019 for those charged with governance.

Financial Statements	<p>Under International Standards of Audit (UK) (ISAs) and the National Audit Office (NAO) Code of Audit Practice ('the Code'), we are required to report whether, in our opinion, the Pension Fund's financial statements:</p> <ul style="list-style-type: none">• give a true and fair view of the financial position of the Pension Fund and its income and expenditure for the year ended 31 March 2019; and• have been properly prepared in accordance with the CIPFA/LASAAC code of practice on local authority accounting and prepared in accordance with the Local Audit and Accountability Act 2014.	<p>Our audit work was completed on site during June and July. Our findings are summarised on pages 8 to 17. Our audit of the Fund did not identify any material adjustments to the financial statements.</p> <p>Audit adjustments are detailed in Appendix B. We have also raised recommendations for management as a result of our audit work in Appendix A.</p> <p>Our work is complete and there are no matters of which we are aware that would require modification of our audit opinion Appendix E or material changes to the financial statements,</p> <p>Our audit report opinion will be unmodified.</p>
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Acknowledgements

We would like to take this opportunity to record our appreciation for the assistance provided by the finance team and other staff during our audit.

Summary

Overview of the scope of our audit

This Audit Findings Report presents the observations arising from the audit that are significant to the responsibility of those charged with governance to oversee the financial reporting process, as required by International Standard on Auditing (UK) 260 and the Code of Audit Practice ('the Code'). Its contents will be discussed with management and the Governance and Ethics Committee.

As auditor we are responsible for performing the audit, in accordance with International Standards on Auditing (UK) and the Code, which is directed towards forming and expressing an opinion on the financial statements that have been prepared by management with the oversight of those charged with governance. The audit of the financial statements does not relieve management or those charged with governance of their responsibilities for the preparation of the financial statements.

Audit approach

Our audit approach was based on a thorough understanding of the Council's and Pension Fund's business and is risk based, and in particular included:

- An evaluation of the Council's and Pension Fund's internal controls environment, including its IT systems and controls;
- Substantive testing on significant transactions and material account balances, including the procedures outlined in this report in relation to the key audit risks.

We have not had to alter or change our audit plan, as communicated to you on 13 March 2019, other than increasing the level of materiality on the Pension Fund audit (see p 6).

Conclusion

We have completed our audit of your financial statements, we are issuing an unqualified audit opinion following the Governance and Ethics Committee meeting on 24 July 2019, as detailed in Appendix D .

Certification

Receipt and review of the Annual Report due August 2019

Completion by KPMG, previous auditors, of consideration of an objection to the 2015/16 accounts brought to their attention by a local authority elector.

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 to the Council	Planned audit response to the Pension Fund
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 Council, we have determined financial statement materiality based on a proportion of the gross expenditure of the Authority for the financial year. Materiality at the planning stage of our audit was £20m for the Authority, which equates to 1.9% of your prior year gross expenditure for the year (cost of services). 	<ul style="list-style-type: none"> • For the Pension Fund, we have determined financial statement materiality based on a proportion of the Pension Fund's net assets. Our materiality at the planning stage was £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 Council, we have determined a lower specific materiality level of £100K for the table of the remuneration of specific senior officers. 	<ul style="list-style-type: none"> • No lower level materiality
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"> • Materiality calculations remain the same as reported in our audit plan 	<ul style="list-style-type: none"> • Upon receipt of the draft financial statement, we updated our materiality for the Pension Fund. to reflect updated figures. Revised materiality at the final audit is £54m, which equates to 1% of your net assets per the draft accounts for the year ended 31 March 2019.

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 Council	Planned audit response for Pension Fund
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">• Our view is that an individual difference could normally be considered to be clearly trivial if it is less than £1m.• 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.	<ul style="list-style-type: none">• In the context of the Pension Fund, we proposed at the planning stage that an individual difference could normally be considered to be clearly trivial if it is less than £2.5m.• Upon receipt of the draft financial statement, we updated our materiality for the Pension Fund. to reflect updated figures. Revised triviality at the final audit is £3m.

Significant findings – audit risks

Matter	Risks identified in our Audit Plan	Risk relates to	Commentary – Council
1	<p>Fraudulent revenue recognition</p> <p>Under ISA (UK) 240 there is a rebuttable presumed risk that revenue may be misstated due to the improper recognition of revenue.</p> <p>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>	Authority and Pension Fund	<p>Auditor commentary</p> <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 County Council Pension Fund</p>
2	<p>Management override of controls</p> <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>	Authority and Pension Fund	<p>Auditor commentary</p> <p>We have:</p> <ul style="list-style-type: none"> • evaluated the design effectiveness of management controls over journals • analysed the journals listing and determined the criteria for selecting high risk unusual journals • gained an understanding of the accounting estimates and critical judgements applied made by management and considered their reasonableness with regard to corroborative evidence • evaluated the rationale for any changes in accounting policies, estimates or significant unusual transactions. <p>Conclusion</p> <p>Our audit work has not identified any issues in respect of management override of controls.</p>

Significant findings – audit risks

Risks identified in our Audit Plan	Risk relates to	Commentary – Council
<p>3 Valuation of Land and Buildings</p> <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>	Authority	<p>Auditor commentary</p> <p>We have:</p> <ul style="list-style-type: none"> evaluated management's processes and assumptions for the calculation of the estimate, the instructions issued to valuation experts and the scope of their work evaluated the competence, capabilities and objectivity of the valuation expert written to the valuer to confirm the basis on which the valuation was carried out to ensure that the requirements of the Code have been met challenged the information and assumptions used by the valuer to assess completeness and consistency with our understanding the Brexit delay removed the risk around material valuation changes at year end so no further work was undertaken <p>Conclusion</p> <p>Our audit work has not identified any issues in respect of valuation of land and buildings</p>

Significant findings – audit risks

	Risks identified in our Audit Plan	Risk relates to	Commentary – Council
4	<p>Valuation of the pension fund net liability</p> <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>	Authority	<p>Auditor commentary</p> <p>We have:</p> <ul style="list-style-type: none"> updated 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 evaluated the design of the associated controls; evaluated the instructions issued by management to their management expert (an actuary) for this estimate and the scope of the actuary's work; assessed the competence, capabilities and objectivity of the actuary who carried out the Authority's pension fund valuation; assessed the accuracy and completeness of the information provided by the Authority to the actuary to estimate the liability; tested 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; undertaken 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 agreeing the advance payment made to the pension fund for future years to the expected accounting treatment and relevant financial disclosures. The Brexit delay removed the risk around material valuation changes at year end <p>Conclusion</p> <p>Our audit identified one issue in relation to accounting for the impact of the McCloud Court of Appeal judgement. This is considered under section "Significant findings – other issues" at page 12.</p>

Significant findings – audit risks

Risks identified in our Audit Plan	Risk relates to	Commentary – Council
<p>4 Valuation of Level 3 (hard to value) Investment Assets</p> <p>Level 3 investments by their very nature require a significant degree of judgement to reach an appropriate valuation at year end.</p>	Pension Fund	<p>Auditor commentary</p> <p>We have:</p> <ul style="list-style-type: none"> gained an understanding of the Fund’s process for valuing level 3 investments and evaluated the design of the associated controls; reviewed the nature and basis of estimated values and considered what assurance management have had over the year end valuations provided for these types of investments for a sample of investments, tested 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 there were a number of funds which are not overseen by the custodian, we have reviewed fund manager returns to gain assurance in these areas <p>Conclusion</p> <p>Our audit work has not identified any significant issues in relation to hard to value investments</p>

Significant findings - other issues

This section provides commentary on new issues and risks which were identified during the course of the audit that were not previously communicated in the Audit Plan and a summary of any significant control deficiencies identified during the year.

Issue	Commentary	Auditor view
<p>1 Impact of the McCloud judgement</p> <p>The Court of Appeal has ruled that there was age discrimination in the judges and firefighters pension schemes where transitional protections were given to scheme members.</p> <p>The Government applied to the Supreme Court for permission to appeal this ruling, but this permission to appeal was unsuccessful. The case will now be remitted back to employment tribunal for remedy.</p> <p>The legal ruling around age discrimination (McCloud - Court of Appeal) has implications not just for pension funds, but also for other pension schemes where they have implemented transitional arrangements on changing benefits.</p>	<p>Council</p> <p>The Council has requested an estimate from its actuary of the potential impact of the McCloud ruling. The actuary's estimate was of an increase in pension liabilities of £44,754k, the increase in past service costs for the 2018/19 year was £21,106k.</p> <p>Management have amended the financial statements to reflect the actuarial review of the impact of the McCloud judgement.</p> <p>Pension Fund</p> <p>The Pension Fund has amended its disclosure in relation to the impact of the McCloud ruling resulting in a £65,860k increase in the disclosure of the net liability.</p>	<p>We have reviewed the analysis performed by the actuary, and consider that the approach that has been taken to arrive at this estimate is reasonable.</p>

Significant findings – key judgements and estimates (Council)

	Summary of management's policy	Audit Comments	Assessment
Land and Buildings – Other - £683m	<p>Other land and buildings comprises £601m of specialised assets such as schools and libraries, which are required to be valued at depreciated replacement cost (DRC) at year end, reflecting the cost of a modern equivalent asset necessary to deliver the same service provision.</p> <p>The remainder of other land and buildings (£82m) are not specialised in nature and are required to be valued at existing use value (EUV) at year end.</p> <p>The Council has engaged its Internal Valuer to complete the valuation of properties as at 31 03 19 on a five yearly cyclical basis. 25% of total assets held at Current Value were revalued during 2018/19.</p> <p>The valuation of properties valued by the valuer has resulted in a net increase of £5m. Management have considered the year end value of non-valued properties in consultation with the valuer.</p> <p>Management's assessment of assets not revalued has identified no material change to the properties' value. The total year end valuation of Other land and buildings was £683m, a net decrease of £33.5m from 2017/18 (£716.6m).</p>	<p>We have</p> <ul style="list-style-type: none"> • Undertaken an assessment of management's expert • Reviewed the impact of any changes to valuation method • Reviewed the completeness and accuracy of the underlying information used to determine the estimate <p>Conclusion</p> <p>Our audit work has not identified any issues in respect of valuation of land and buildings</p>	

Assessment

- We disagree with the estimation process or judgements that underpin the estimate and consider the estimate to be potentially materially misstated
- We consider the estimate is unlikely to be materially misstated however management's estimation process contains assumptions we consider optimistic
- We consider the estimate is unlikely to be materially misstated however management's estimation process contains assumptions we consider cautious
- We consider management's process is appropriate and key assumptions are neither optimistic or cautious

Significant findings – key judgements and estimates (Council)

	Summary of management's policy	Audit Comments	Assessment																								
Net pension liability – £1,058m	<p>Following the adjustment for the McCloud issue. The Council's net pension liability at 31 March 2019 is £1,058m (PY £1,112m) comprising the Nottinghamshire County Council Pension Fund Local Government Pension Scheme and unfunded defined benefit pension scheme obligations in relation to the Teacher's Pension Scheme.</p> <p>The Council uses Barnett Waddingham to provide actuarial valuations of the Council's assets and liabilities derived from these schemes. A full actuarial valuation is required every three years. The latest full actuarial valuation was completed in 2016. A roll forward approach is used in intervening periods, which utilises key assumptions such as life expectancy, discount rates, salary growth and investment returns.</p> <p>Given the significant value of the net pension fund liability, small changes in assumptions can result in significant valuation movements. There has been a £54m net actuarial gain during 2018/19.</p>	<p>We have</p> <ul style="list-style-type: none"> Undertaken an assessment of management's expert Reviewed and assessed the actuary's roll forward approach taken, Used an auditors expert (PWC) to assess the actuary and assumptions made by the actuary <table border="1" data-bbox="795 415 1798 982"> <thead> <tr> <th>Assumption</th> <th>Actuary Value</th> <th>PwC range</th> <th>Assessment</th> </tr> </thead> <tbody> <tr> <td>Discount rate</td> <td>2.4%</td> <td>2.35%-2.45%</td> <td>●</td> </tr> <tr> <td>Pension increase rate</td> <td>2.4%</td> <td>2.4%-2.45%</td> <td>●</td> </tr> <tr> <td>Salary growth</td> <td>3.9%</td> <td>3.10%-4.35%</td> <td>●</td> </tr> <tr> <td>Life expectancy – Males Current Pensioners Future Pensioners</td> <td>21.6 23.3 years</td> <td>20.6- 23.4 22.2-25.0 years</td> <td>●</td> </tr> <tr> <td>Life expectancy – Females Current Pensioners Future Pensioners</td> <td>24.4 26.2 years</td> <td>23.2- 24.8 25.0-26.6 years</td> <td>●</td> </tr> </tbody> </table> <p>Reviewed</p> <ul style="list-style-type: none"> The completeness and accuracy of the underlying information used to determine the estimate Impact of any changes to valuation method Reasonableness of the Council's share of LGPS pension assets. Reasonableness of increase/decrease in estimate Adequacy of disclosure of estimate in the financial statements 	Assumption	Actuary Value	PwC range	Assessment	Discount rate	2.4%	2.35%-2.45%	●	Pension increase rate	2.4%	2.4%-2.45%	●	Salary growth	3.9%	3.10%-4.35%	●	Life expectancy – Males Current Pensioners Future Pensioners	21.6 23.3 years	20.6- 23.4 22.2-25.0 years	●	Life expectancy – Females Current Pensioners Future Pensioners	24.4 26.2 years	23.2- 24.8 25.0-26.6 years	●	●
Assumption	Actuary Value	PwC range	Assessment																								
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- We consider management's process is appropriate and key assumptions are neither optimistic or cautious

Significant findings – key judgements and estimates (Pension Fund)

	Summary of management’s policy	Audit Comments	Assessment
Level 3 investments	<p>The Pension Fund has investments in unlisted shares, private equity funds and property which in total are valued on the balance sheet as at 31 March 2019 at £839m.</p> <p>These investments are not traded on an open market and the valuation of the investment is highly subjective due to a lack of observable inputs.</p> <p>In order to determine the value, management use fund managers who value within industry accepted guidelines. The value of the investment has increased by £299m in 2018/19,</p>	<p>We have:</p> <ul style="list-style-type: none"> gained an understanding of the Fund’s process for valuing level 3 investments and evaluated the design of the associated controls; reviewed the nature and basis of estimated values and considered what assurance management have had over the year end valuations provided for these types of investments for a sample of investments, tested 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 there were a number of funds which are not overseen by the custodian, we have reviewed fund manager returns to gain assurance in these areas <p>Conclusion</p> <p>Our audit work has identified some areas where improvements could be made in relation to the Funds internal control processes for gaining assurance of these values. See appendix A</p>	●

Assessment

- We disagree with the estimation process or judgements that underpin the estimate and consider the estimate to be potentially materially misstated
- We consider the estimate is unlikely to be materially misstated however management’s estimation process contains assumptions we consider optimistic
- We consider the estimate is unlikely to be materially misstated however management’s estimation process contains assumptions we consider cautious
- We consider management’s process and key assumptions to be reasonable

Significant findings – key judgements and estimates (Pension Fund)

	Summary of management's policy	Audit Comments	Assessment
<p>Level 2 investment</p>	<p>The Pension Fund have investments in pooled property investments that in total are valued on the balance sheet as at 31 March 2019 at £248m.</p> <p>The investments are not traded on an open exchange and the valuation of the investment is subjective. In order to determine the value, management use valuation techniques based on observable inputs. The value of the investment has decreased by £4m in 2018/19</p>	<p>We have:</p> <ul style="list-style-type: none"> gained an understanding of the Fund's process for valuing level 2 investments and evaluated the design of the associated controls; reviewed the valuation report provided for these types of investments for a sample of investments, tested the valuation by obtaining and reviewing the audited accounts (where available) at the latest date for individual investments there were a number of funds which are not overseen by the custodian, we have reviewed fund manager returns to gain assurance in these areas <p>Conclusion</p> <p>Our audit work has identified some areas where improvements could be made in relation to the Funds internal control processes for gaining assurance of these values. See appendix A</p>	<p style="text-align: center;">●</p>

Assessment

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- We consider the estimate is unlikely to be materially misstated however management's estimation process contains assumptions we consider optimistic
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- We consider management's process and key assumptions to be reasonable

Significant findings - Going concern - Council

Our responsibility

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 entity's ability to continue as a going concern” (ISA (UK) 570).

Going concern commentary - Council

Management's assessment process

Management have responded to the questions we set out on going concern in our “Informing the Audit Risk Assessment” document which confirms:

- There are no events, of which they are aware, that could cause sufficient material uncertainty to cast significant doubt on the Councils 's ability to continue as a going concern. This extends but is not limited to at least twelve months from the Balance Sheet date.
- The Council monitor cash flow on a quarterly basis, including maintaining an up to date forecast position for at least the next 12 months. These cash flow forecasts do not indicate any material uncertainty relating to the Council's continuing ability to meet financial obligations.
- Excluding the impact of the pension liability, the Authority, has a strong balance sheet, with cash and cash equivalents of £56.3 million.

Auditor commentary

Management's assessment has considered the applicable guidance relating to public sector bodies which presumes in local government is that the going concern assumption does apply unless there is specific evidence to the contrary. Management assessment has concluded that no material uncertainty in respect of going concern exists. In addition based on our own review of the Council, we are aware that the Council has set an "approved budget" for 2019/20 and has a longer term financial plan. The going concern assessment includes a cash flow forecast. The cashflow forecast does not indicate any signs of significant financial difficulty that would cause concern.

Nigel Stevenson Service Director – Finance, Infrastructure and Improvement takes overall responsibility for monitoring and reporting financial projections and reserve management.

As such we consider that the assessment undertaken by the Authority on going concern is a reasonable and valid one and there are no indications of material uncertainty.

Work performed

- Detailed audit work performed on management's assessment

Auditor commentary

- Our audit did not identify any events or conditions which may cast significant doubt on going concern assumption.
- Excluding the impact of the pension liability, the Authority has a strong balance sheet, with cash and cash equivalents of £56.3 million.
- The Council has mainly PWLB debt £387 million plus £95 million non-PWLB debt and there is no requirement to borrow further to meet any immediate liabilities falling due.
- The Council set a budget in line with local government requirements for 2019-20.
- Management have reported that at the end of Month 2 there is a forecast net overspend of £5.7m largely related to the Children and Young people budget. Reinforcement of budget management and a review of the cost pressures is being undertaken. There are a number of spend pressures emerging particularly in relation to the increasing demand of looked after children mitigating action is being taken where possible.

Concluding comments

Auditor commentary

- We propose to issue an unmodified opinion for 2018/19.

Significant findings - Going concern Pension Fund

Our responsibility

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 entity's ability to continue as a going concern” (ISA (UK) 570).

Going concern commentary - Council

Management's assessment process

Management have responded to the questions we set out on going concern in our “Informing the Audit Risk Assessment” document which confirms:

- There are no events, of which they are aware, that could cause sufficient material uncertainty to cast significant doubt on the Councils 's ability to continue as a going concern. This extends but is not limited to at least twelve months from the Balance Sheet date.
- The Fund account has a strong asset balance of £5.4 billion and net return on investments of £310.9 million is in excess of benefits paid by £109 million.

Auditor commentary

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 entity's ability to continue as a going concern” (ISA (UK) 570).

Management's assessment has considered the applicable guidance relating to public sector bodies which presumes in local government is that the going concern assumption does apply unless there is specific evidence to the contrary. Management assessment has concluded that no material uncertainty in respect of going concern exists. The purpose of the review is to ensure that cash is available to meet liabilities as and when they fall due. The fund continues to have a positive net cash flow due to investment income and any downward cashflow trend is reversed by large employers contributions.

We communicated on Going Concern with the Audit, Risk and Assurance Committee through our *Informing the Risk Assessment*.

The Director of Finance, Infrastructure and Improvement has a reasonable expectation that the Fund will continue for the foreseeable future. Members concur with this view. For this reason, the Fund continue to adopt the going concern basis in preparing the financial statements.

As such we consider that the assessment undertaken by the Council on going concern is a reasonable and valid one and there are no indications of material uncertainty.

Work performed

- Detailed audit work performed on management's assessment

Auditor commentary

- Our audit did not identify any events or conditions which may cast significant doubt on going concern assumption.
- The Fund has a strong asset balance of £5.4 billion and net return on investments of £310.9 million is in excess of benefits paid by £109 million.
- The last actuarial valuation was carried out as at March 2016 and the actuary estimated that the value of the fund was sufficient to meet 87% of its future liabilities. Amendment to contribution rates are expected to improve this to 100% within a period of 20 years.

Concluding comments

Auditor commentary

- We propose to issue an unmodified opinion for 2018/19.

Other communication requirements

We set out below details of other matters which we, as auditors, are required by auditing standards and the Code to communicate to those charged with governance of both the Council and Pension Fund.

	Issue	Commentary
1	Matters in relation to fraud	<ul style="list-style-type: none"> We have previously discussed the risk of fraud with the Governance and Ethics Committee. We have not been made aware of any other incidents in the period and no other issues have been identified during the course of our audit procedures.
2	Matters in relation to related parties	<ul style="list-style-type: none"> We are not aware of any related parties or related party transactions which have not been disclosed.
3	Matters in relation to laws and regulations	<ul style="list-style-type: none"> You have not made us aware of any significant incidences of non-compliance with relevant laws and regulations and we have not identified any incidences from our audit work.
4	Written representations	<ul style="list-style-type: none"> A letter of representation has been requested from the Council, and the Pension Fund which are included in the Governance and Ethics Committee papers.
5	Confirmation requests from third parties	<ul style="list-style-type: none"> We requested from management permission to send confirmation requests to banks, lenders, the pension fund's custodian and investment bodies. This permission was granted and the requests were sent. All but one of the Council and the majority of the Pension Fund requests were returned with positive confirmation. In relation to the Pension fund's cash holdings, 5 requests were not received so we undertook alternative procedures, including direct verification to bank statements and confirmations to the external counterparty's online investment portals..
6	Disclosures	<ul style="list-style-type: none"> Our review found no material omissions in the Councils financial statements. A number of disclosure amendments were made to the Council and the Pension Fund accounts details can be see at appendix B.
7	Audit evidence and explanations/significant difficulties	<ul style="list-style-type: none"> The vast majority of information and explanations requested from management for the Council and the Pension Fund were provided. Although not unusual for a first year audit, there were some complications in obtaining supporting evidence and transactional and membership data, particularly in respect of the Pension fund, which delayed aspects of wider audit testing.

Other responsibilities of the Council under the Code

Issue	Commentary
<p>1 Other information</p>	<ul style="list-style-type: none"> We are required to give an opinion on whether the other information published together with the Councils audited financial statements (including the Annual Governance Statement, Narrative Report and Pension Fund Financial Statements), is materially inconsistent with the financial statements or our knowledge obtained in the audit or otherwise appears to be materially misstated. <p>No inconsistencies have been identified. We plan to issue an unmodified opinion in this respect – refer to appendix D</p>
<p>2 Matters on which we report by exception</p>	<p>We are required to report on a number of matters by exception in a numbers of areas:</p> <ul style="list-style-type: none"> If the Annual Governance Statement does not meet the disclosure requirements set out in the CIPFA/SOLACE guidance or is misleading or inconsistent with the other information of which we are aware from our audit If we have applied any of our statutory powers or duties <p>We have nothing to report on these matters</p> <p>We are required to give a separate opinion for the Pension Fund Annual Report on whether the financial statements included therein are consistent with the audited financial statements.</p> <p>Due to statutory deadlines the Pension Fund Annual Report is not required to be published until the 1st December 2019 and therefore this report has not yet been produced. We have therefore not given this separate opinion at this time and are unable to certify completion of the audit of the administering authority until this work has been completed.</p>
<p>3 Specified procedures for Whole of Government Accounts</p>	<p>We are required to carry out specified procedures (on behalf of the NAO) on the Whole of Government Accounts (WGA) consolidation pack under WGA group audit instructions.</p> <p>As the Council exceeds the specified group reporting threshold of £500m we examine and report on the consistency of the WGA consolidation pack with the Council's audited financial statements.</p> <ul style="list-style-type: none"> This work has now been completed and submitted to the NAO. No issues noted.
<p>4 Certification of the closure of the audit</p>	<p>We are unable to certify the closure of the 2018/19 audit of Nottinghamshire County Council in the audit opinion, as detailed in Appendix D.</p>

Value for Money

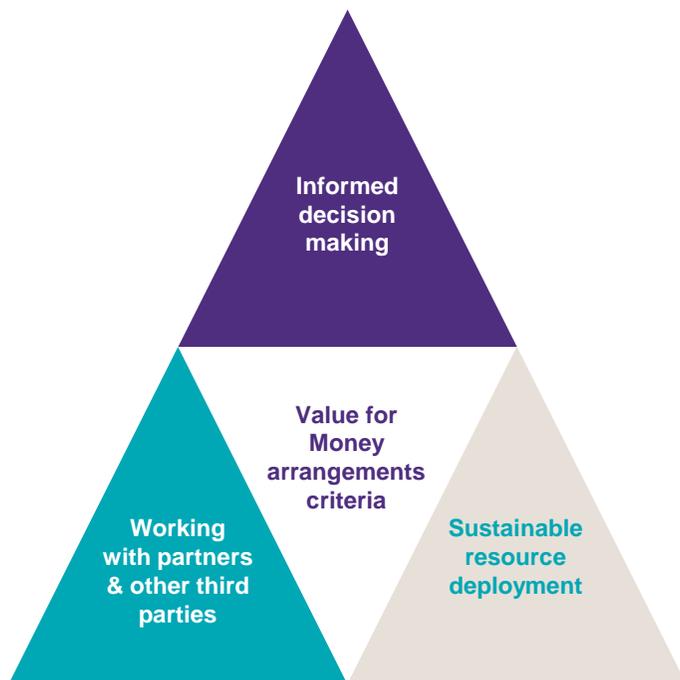
Background to our VFM approach

We are required to satisfy ourselves that the Council has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources. This is known as the Value for Money (VFM) conclusion.

We are required to carry out sufficient work to satisfy ourselves that proper arrangements are in place at the Council. In carrying out this work, we are required to follow the NAO's Auditor Guidance Note 3 (AGN 03) issued in November 2017. AGN 03 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:



Risk assessment

We carried out an initial risk assessment in January/February 2019 and identified a number of significant risks in respect of specific areas of proper arrangements using the guidance contained in AGN03. We communicated these risks to you in our Audit Plan dated March 2019.

We have continued our review of relevant documents up to the date of giving our report, and have not identified any further significant risks where we need to perform further work.

We carried out further work only in respect of the significant risks we identified from our initial and ongoing risk assessment. Where our consideration of the significant risks determined that arrangements were not operating effectively, we have used the examples of proper arrangements from AGN 03 to explain the gaps in proper arrangements that we have reported in our VFM conclusion.

Value for Money

Our work

AGN 03 requires us to disclose our views on significant qualitative aspects of the Council's arrangements for delivering economy, efficiency and effectiveness.

We have focused our work on the significant risks that we identified in the Council's arrangements. In arriving at our conclusion, our main considerations were:

- Financial Sustainability - and the significant challenges faced over the medium term
- Partnership Working – and the challenges faced by governance in a wider working relationship

We have set out more detail on the risks we identified, the results of the work we performed, and the conclusions we drew from this work on pages 22 to 23.

Overall conclusion

Based on the work we performed to address the significant risks, we are satisfied that the Council had proper arrangements for securing economy, efficiency and effectiveness in its use of resources.

The text of our report, which confirms this can be found at Appendix D.

Recommendations for improvement

We discussed findings arising from our work with management and have agreed recommendations for improvement.

Significant difficulties in undertaking our work

We did not identify any significant difficulties in undertaking our work on your arrangements which we wish to draw to your attention.

Significant matters discussed with management

There were no matters where no other evidence was available or matters of such significance to our conclusion or that we required written representation from management or those charged with governance.

Key findings

We set out below our key findings against the significant risks we identified through our initial risk assessment and further risks identified through our ongoing review of documents.

Significant risk	Findings	Conclusion
<p>1 Financial Sustainability This risk relates to the sub-criteria of Sustainable Resource Deployment.</p> <p>Audit Plan wording: 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.</p> <p>The latest report shows a £34.1m gap for the medium term.</p>	<p>The Council has been successful in delivering £26.8m of savings over the previous two financial years. Rising demand for services coupled with continued reductions in funding will mean that savings will become increasingly more difficult to find.</p> <p>The financial position of the Council has been closely monitored throughout the year, with monthly reports being produced and reported to the Leadership Team and the Finance and Major Contracts Committee.</p> <p>The impact of pressures on social care services has resulted in a year end contribution from reserves of £6.8m compared to the £1.5m budgeted estimate.</p> <p>The MTFS proposes to utilise a further £19.2m of reserves over the medium term.</p> <p>The level of reserves and balances have been reviewed by the Council and are considered to be adequate. However the continued use of reserves to balance budgets which continues into 2019/20 should be approached cautiously and the Council should ensure that the level of reserves remain prudent. Reserves are one off funds so it is recommended that they are limited to supporting one-off expenditure rather than funding on-going costs</p> <p>The budget set for 2019/20 shows a savings requirement of £15.2m. The Council continues to monitor and gain understanding of both overspends and underspends against budgets and continually applies mitigation strategies, not only for the immediate budget but for the Medium Term to ensure the £34.2 shortfall forecast required by 2023 is addressed.</p> <p>Strict budgetary control is in place and departments are expected to utilise any underspends to offset unexpected cost pressures.</p>	<p>Auditor view</p> <p>The Council applies a stringent monitoring regime to ensure issues can be identified and addressed in a timely manner. The MTFS is monitored and aligned to the vision of the Council and adjustments made when necessary..</p> <p>On the basis of this evidence we have concluded that the Council had appropriate arrangements in place to secure Value for Money through Sustainable Resource Deployment during 2018/19.</p>

Key findings

We set out below our key findings against the significant risks we identified through our initial risk assessment and further risks identified through our ongoing review of documents.

Significant risk	Findings	Conclusion
<p>2 Partnership Working This risk relates to the sub-criteria of Working with partners and other 3rd parties.</p> <p>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.</p> <p>As wider partnership working evolves it is important to consider governance arrangements within the collaborations and ensure the required outcomes are being achieved.</p>	<p>The Council is committed to working with partners to provide the best possible services for local people whilst delivering value for money.</p> <p>Partnership working is diverse and covers health, the environment including transport and education.</p> <p>The health partnership as part of the Integrated Care System has notably seen an increase in the amount of service users enabled to return to independent living via the enablement service. Users of this service rose to 1,335 in 2018/19.</p> <p>The Council appoint representatives to a wide range of bodies to ensure that partnership working is monitored and governance is in place.</p> <p>The Policy Committee receive regular updates on the strategies and monitoring of partnerships and also a register of outside bodies with representatives is produced for their scrutiny. This bodies include local community groups charities and partners, and detail who is the council representative on each group.</p> <p>For example, a major partnership is the Integrated Care System. The board of the ICS includes a Nottinghamshire County Council representative, but also individual members such as Sherwood Forest Hospital FT also has a Council representative on its board.</p> <p>The council have had some major achievements during 2018/19 in relation to working with partners these include:</p> <p>Leadership of the Partnership Strategy for looked after children and care leavers – becoming the first 2 tier council area to secure council tax exemption for its care leavers up to 25.</p> <p>The successful leadership and establishment of the Regional Adoption Agency.</p>	<p>Auditor view</p> <p>Partnership working continues to achieve positive results for the Nottinghamshire area.</p> <p>This has improved services and in relation to health where the most pressure is felt financially and has provided closer integration. As a result the Council has been noted as the best performing council nationally for performance of delayed transfer of care.</p> <p>Governance is reported regularly to the Policy Committee and monitored by individual representatives.</p> <p>On the basis of this evidence we have concluded that the Council had appropriate arrangements in place to secure Value for Money through Partnership Working during 2018/19</p>

Independence and ethics

We confirm that there are no significant facts or matters that impact on our independence as auditors of the Council and the Pension Fund that we are required or wish to draw to your attention. We have complied with the Financial Reporting Council's Ethical Standard and confirm that we, as a firm, and each covered person, 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 which sets out supplementary guidance on ethical requirements for auditors of local public bodies.

Details of fees charged are detailed in Appendix C

Audit, Non-audit and other services

For the purposes of our audit of the Council and the Pension Fund we have made enquiries of all Grant Thornton UK LLP teams providing services to the Council and Pension Fund.

Pension Fund

No non-audit services were identified which were charged from the beginning of the financial year to July 2019.

Council

The following non – audit services were provided to the Council

Fees for other services	Fees £
Non-audit services	10,000
CFO insights	
	10,000

Grant Thornton's Government and Infrastructure Advisory Team has undertaken work for the Midlands Engine (a partnership of local authorities and other bodies (across the East and West Midlands) in relation to Support for the Business Case for a Development Corporation in relation to the HS2 hub at Toton. This specific piece of work was procured through Nottinghamshire County Council, but in doing so it was acting as agent for the entities that make up the 'Midlands Engine'. We are satisfied that this work does not present any threat to our independence as auditors of the County Council. The fee for this work, which was all paid in 2019/20, was £465,669.

Action plan

We have identified a number of recommendations for the Council and Pension Fund as a result of issues identified during the course of our audit. We have agreed our recommendations with management and we will report on progress on these recommendations during the course of the 2019/20 audit.

The matters reported here are limited to those deficiencies that we have identified during the course of our audit and that we have concluded are of sufficient importance to merit being reported to you in accordance with auditing standards.

	Assessment	Council / Pension Fund	Issue and risk	Recommendations
1	●	Pension Fund	<ul style="list-style-type: none"> We identified that the membership data used for Note 3 disclosure purposes was not as at the 31st of March, but rather as at mid April 2019. We made further inquiries and obtained a reconciliation of the two data sets, and noted differences between the two data sets. In addition, we identified that a number of manual adjustments had been made to the data, totalling 6,000 members split across various member categories. We understand the adjustments were made to reflect processes that are currently ongoing such as adding starters and removing leavers. We undertook further inquiries of management and obtained corroborating evidence for these manual amendments, which we understand were intended to improve the accuracy of the membership data disclosed However, the volume of manual adjustments are in our opinion indicative of weaknesses in controls pertaining to the processing of membership data, and particularly that membership data is not being updated in a timely manner. 	<ul style="list-style-type: none"> We recommend the Pension Fund Systems and Admin team undertake a process to understand and verify the causes of these discrepancies in the data which necessitate the manual adjustments: specifically, the underlying reasons as to why change forms and notifications are not being processed in a timely manner Amendments to data should be processed in a timely manner to reduce the risk of inaccurate membership data being reported in the financial statements. Processes should be strengthened to ensure changes in membership data is processed and uploaded to the Pensions Admin System in a timely manner Management and particularly Pensions Finance should consider the impact of these discrepancies on data to be provided to the external actuary as part of the 2019 Triennial Valuation, to gain assurance that membership data is materially correct

Management response

The Pension Administration Office adjust the Membership figures to ensure that processes in progress are correctly reflected in the figures provided. This is undertaken by manually adjusting the figures. Scheme Employers do not always inform the Fund of new starters, changes or leavers in a timely manner and these are often picked up in the year end process which result in the Administration Office chasing the Employers for new starter forms etc. The Fund is currently scoping a digital transformation programme as part of this it is planning to rollout a Scheme Employer Portal providing employers with a secure portal for the submission of data and process requests and proposes to move to electronic monthly data returns as required by the Pension Regulator.

Controls

- High – Significant effect on control system
- Medium – Effect on control system
- Low – Best practice

Action plan

We have identified a number of recommendations for the Council and Pension Fund as a result of issues identified during the course of our audit. We have agreed our recommendations with management and we will report on progress on these recommendations during the course of the 2019/20 audit. The matters reported here are limited to those deficiencies that we have identified during the course of our audit and that we have concluded are of sufficient importance to merit being reported to you in accordance with auditing standards.

2	Assessment	Council / Pension Fund	Issue and risk	Recommendations
		Pension Fund	<p>Our audit work has identified a number of control issues in relation to the accuracy of data recorded on the pensions Admin and Payroll systems. Notable issues were identified in relation to membership data, starters and leavers, and inclusion of non pensioners within the data list. Although these were corrected at the time of audit, the lack of timely updates and controls to identify errors to these data sets, could result in inaccuracies in the pension system reporting.</p> <ul style="list-style-type: none"> A number of our samples selected for starters and leavers were found to have been either included on the Pensions Payroll system but did not relate to pensioners of the fund, or were actively making contributions, but not set up on the Pension Admin system. These payments relate to gratuity payments which are recharged and these payments did not relate to pensions. We identified 1 deceased person in the pensioner 'leavers' sample, whose death certificate was dated circa 30 years ago. Though we confirmed no payments had been made in the current financial year and this matter was previously investigated by Internal Audit, timely removal from the Pensions Payroll system would ensure no additional payments are processed inadvertently. The pension fund are fully aware of this case and prosecution has taken place 	<ul style="list-style-type: none"> Amendments to data should be processed in a timely manner to reduce the risk of inaccurate membership data being reported in the financial statements. Controls to check the accuracy of the data on a regular basis should be implemented to allow early identification of errors, including between the Pensions Admin and Pensions Payroll systems. <p>Management response</p> <p>Currently 851 gratuity payments are paid via the pensioner payroll to individuals who did not meet the eligibility criteria to join the scheme at a particular point in time. These individuals' do not have a pension record on the pension administration system as this payment is not technically a pension payment but from an operational perspective this is the most appropriate payroll for these payments to be paid through. The Pension Administration Office are fully aware of the deceased pension case and fully supported the prosecution. There is also a confiscation order in place against the individual prosecuted.</p> <p>The Pension Administration Fund is reliant on Scheme Employers providing accurate and timely data regarding new starters, changes and leavers. Currently member data held by the Fund is checked on an annual basis as part of the year end process. The Fund is currently scoping a digital transformation programme as part of this it is planning to rollout a Scheme Employer Portal providing employers with a secure portal for the submission of data and process requests and proposes to move to electronic monthly data returns as required by the Pension Regulator. Work is in progress to reconcile the pension administration and payroll systems.</p>

Controls

- High – Significant effect on control system
- Medium – Effect on control system
- Low – Best practice

Action plan

We have identified a number of recommendations for the Council and Pension Fund as a result of issues identified during the course of our audit. We have agreed our recommendations with management and we will report on progress on these recommendations during the course of the 2019/20 audit. The matters reported here are limited to those deficiencies that we have identified during the course of our audit and that we have concluded are of sufficient importance to merit being reported to you in accordance with auditing standards.

	Assessment	Council / Pension Fund	Issue and risk	Recommendations
3	●	Pension Fund	<ul style="list-style-type: none"> Review of controls assurance provided by the investment managers revealed that numerous smaller investment managers do not produce controls reports or bridging letters, or did provide controls reports but could not provide bridging letters to confirm that controls had not substantially changed between the report dates and the pension fund's year end date of 31st March 2019 Historically no additional information has been requested by the pension fund to bridge this gap in assurance and gain comfort that effective controls are in place at investment managers used by the Pension Fund We were able to positively confirm investment and cash balances with these investment managers, so there was no impact on the reported financial disclosures 	<ul style="list-style-type: none"> In accordance with best practice we recommend and would expect that where controls reports and 'bridging letters' are not available; the Pension Fund makes annual enquiries with its investment managers to ascertain how controls operate and if there are significant controls weaknesses of which it should be aware. Or alternatively request controls reports from investment managers, particularly those not covered by the Pension Fund's Custodian where triangulation of investment balances is not possible <p>Management response Controls reports and bridging letters are obtained for all our major investment managers. Over time as more investments are made through LGPS Central this control will be provided by them.</p>
4	●	Pension Fund	<ul style="list-style-type: none"> In the course of obtaining confirmations of year end cash and investment balances, we noted that account names across investment managers were not consistent. Some of the Pension Fund's accounts were under the name "Nottinghamshire County Council", whereas others were under the name "Nottinghamshire County Council Pension Fund". <p>We also noted through review of Land Registry title deeds, that the pension fund's investment property should be held in the name of Nottinghamshire County Council.</p>	<ul style="list-style-type: none"> Although we understand these are legacy issues - and there may be legal reasons and historical arrangements for variances in account names - we recommend that a consistent approach is used across investment managers and investment properties. <p>Management response In most cases the pension fund uses the name Nottinghamshire County Council Pension Fund when making investments. This distinguishes the Pension Fund investments. However, for legal reasons, e.g. for property, the investment must be held by a named legal entity, in which case the name Nottinghamshire County Council must be used.</p>

Controls

- High – Significant effect on control system
- Medium – Effect on control system
- Low – Best practice

Action plan

We have identified a number of recommendations for the Council and Pension Fund as a result of issues identified during the course of our audit. We have agreed our recommendations with management and we will report on progress on these recommendations during the course of the 2019/20 audit. The matters reported here are limited to those deficiencies that we have identified during the course of our audit and that we have concluded are of sufficient importance to merit being reported to you in accordance with auditing standards.

	Assessment	Council / Pension Fund	Issue and risk	Recommendations
5	●	Pension Fund	We identified that fees and charges within pooled investment funds is netted off against charges in the fair value of the investments,	<ul style="list-style-type: none"> Although this amount is immaterial and there is no overall impact on the bottom-line, we would expect Income and Expenditure to be separately recognised on a gross basis, as stated in the accounting policies. <p>This is in accordance with the applicable financial reporting framework.</p> <p>Management response We do not have sufficient information from all of our investments to perform this adjustment. An estimate of the figure is included in note 10. Over time as transparency increases this 'estimate' should become more accurate and in due course we may be able to consider making this adjustment</p>
6	●	Pension Fund	As part of Leavers testing we identified one 'leaver' where the pension fund was notified by the persons next of kin that the pensioner had deceased. However, no evidence was received to independently confirm this.	<ul style="list-style-type: none"> We would recommend the Pension Fund independently verifies deaths of pensioners e.g. through death certificates, confirmation from solicitors or other processes such as the government's 'Tell Us Once' notification system. <p>Management response On occasions the Pension Office or Payroll are notified that a member has passed away prior to the issuing of a death certificate. The process is to record this information and to initiate the death process. Death certificates are requested as part of the processing of the death process within the Pension Administration system. The Pensions Office participates in the Tell Us Once Service and NFI mortality checking service.</p>

Controls

- High – Significant effect on control system
- Medium – Effect on control system
- Low – Best practice

Action plan

We have identified a number of recommendations for the Council and Pension Fund as a result of issues identified during the course of our audit. We have agreed our recommendations with management and we will report on progress on these recommendations during the course of the 2019/20 audit. The matters reported here are limited to those deficiencies that we have identified during the course of our audit and that we have concluded are of sufficient importance to merit being reported to you in accordance with auditing standards.

	Assessment	Council / Pension Fund	Issue and risk	Recommendations
7	●	Pension Fund	As part of our contributions testing, we identified 3 individuals (out of a sample of 17) where contributions had been received during the 2018/19 financial year, but who did not have pension records set up on the UPM Pensions Admin system during the year. Further discussions with the Pensions Systems Team confirmed that no manual adjustment had been made for these individuals.	<ul style="list-style-type: none"> We recommend that for completeness purposes new member records should be set up in a timely manner on the UPM Pensions Admin system <p>Management response</p> <ul style="list-style-type: none"> It is the responsibility of Scheme Employers to notify the Fund of new starters in a timely manner. However, this is not always the case and as part of the year end processing new starters details are identified. In these cases, the Pension Administration Office will request a new starter form from the Scheme Employer, on receipt a pension record is created. It is proposed as part of the digital transformation program to move to monthly returns from Scheme Employers
8	●	Pension Fund	<p>Disclosures in the accounts could be expanded and enhanced to properly comply with the Code.</p> <p>These include the disclosure of management personnel, inclusion of required totals within the statements and increased descriptions around how level three investments have been valued.</p> <p>We did not feel that these represented material omissions.</p>	<ul style="list-style-type: none"> We have discussed with management and will work together going forward to ensure all Code requirements are included.

Controls

- High – Significant effect on control system
- Medium – Effect on control system
- Low – Best practice

Action plan

We have identified a number of recommendations for the Council and Pension Fund as a result of issues identified during the course of our audit. We have agreed our recommendations with management and we will report on progress on these recommendations during the course of the 2019/20 audit. The matters reported here are limited to those deficiencies that we have identified during the course of our audit and that we have concluded are of sufficient importance to merit being reported to you in accordance with auditing standards.

	Assessment	Council / Pension Fund	Issue and risk	Recommendations
1	●	Council	<ul style="list-style-type: none"> As part of our sample testing of 6 schools bank reconciliations, we identified that the April 2019 funding (tranche) payment for each school had not been reflected in the bank reconciliation. Consequently, we were not able to agree schools cash balances per the ledger to bank confirmations received directly by the audit team. We were however able to verify these amounts using alternative methods and as such there was no impact on the cash balance reported in the financial statements. 	<ul style="list-style-type: none"> For completeness purposes, schools bank reconciliations should include the April 2019 tranche payments, to ensure bank balances per the ledger are reconciled to bank statements.

Controls

- High – Significant effect on control system
- Medium – Effect on control system
- Low – Best practice

Audit Adjustments - Council

We are required to report all non trivial misstatements to those charged with governance, whether or not the accounts have been adjusted by management.

Impact of adjusted misstatements

All adjusted misstatements are set out in detail below along with the impact on the key statements and the reported net expenditure for the year ending 31 March 2019.

Detail	Comprehensive Income and Expenditure Statement £'000	Statement of Financial Position £' 000	Impact on total net expenditure £'000
1 McCloud – revision of Pension Liability and past service costs	44,754	44,754	44,754
Overall impact	£44,754	£44,754	£44,754

Misclassification and disclosure changes

The table below provides details of misclassification and disclosure changes identified during the audit which have been made in the final set of financial statements.

Disclosure / Misstatement	Detail	Auditor recommendations	Adjusted?
Disclosure	Various minor Disclosure amendments	The Council have amended and expanded a number of disclosure notes to enhance readability and internal consistency of the accounts.	✓

Audit Adjustments – Pension Fund

We are required to report all non trivial misstatements to those charged with governance, whether or not the accounts have been adjusted by management.

Impact of adjusted misstatements

There were no audit adjustments to the primary statements for the year ending 31 March 2019.

Audit Adjustments – Pension Fund (continued)

Misclassification and disclosure changes

The table below provides details of misclassification and disclosure changes identified during the audit which have been made in the final set of financial statements.

Disclosure / Misclassification	Detail	Auditor recommendations	Adjusted?
Disclosure	Note 17 – Related Parties	<ul style="list-style-type: none"> For completeness of the related parties' transactions disclosure, £21m of funds invested with LGPS central should be disclosed in note 17. In accordance with the CIPFA code, costs incurred in respect of Key Management Personnel should be disclosed in the accounts; management has opted to include this disclosure in the related parties note Additional disclosures have been included to gain assurance over completeness of related parties' disclosure 	✓
Disclosure	Various	<ul style="list-style-type: none"> Various other minor disclosure corrections including to the Accounting Policies and descriptions of valuation methods and assumptions in respect of directly held investment property. 	✓
Disclosure	Note 2 C - Actuarial Present Value of Promised Retirement Benefits	<ul style="list-style-type: none"> Material assumptions made by the Pension fund's actuary, including mortality and estimated return on fund assets should be included. A disclosure on the McCloud findings should be included 	✓
Disclosure	Note 11 b – Reconciliation of Opening and Closing Values of Investments	<ul style="list-style-type: none"> The pension fund had reclassified investments worth £50m to "Property Pooled Vehicles", from "Pooled Investment Vehicles" and this adjustment was presented as a negative purchase in the draft accounts. The finance team opted to amend this adjustment to simplify the presentation, so that the adjustment is shown in the opening values, rather than a 'negative purchase' which may have been confusing to readers of the accounts. 	✓

Fees

We confirm below our final fees charged for the audit and confirm there were no fees for the provision of non audit services

Audit Fees

	Proposed fee	Final fee
Council Audit	£75,624	£75,624
Pension Fund	£23,043	£23,043
Total audit fees (excluding VAT)	£98,667	£98,667

Other services can be seen at page 24

Where we are required to respond to requests received from other auditors of other bodies for assurance in respect of information held by the Pension 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.

Work undertaken following the McCloud ruling and increased expectations from regulators may result in a fee variation being applied this will be confirmed with management at the finalisation of the audit and reported to the Governance and Ethics Committee

Audit opinion – Nottinghamshire County Council

We anticipate we will provide the Council with an unmodified audit report

Independent auditor's report to the members of Nottinghamshire County Council

Report on the Audit of the Financial Statements

Opinion

We have audited the financial statements of Nottinghamshire County Council (the 'Authority') for the year ended 31 March 2019 which comprise the Movement in Reserves Statement, the Comprehensive Income and Expenditure Statement, the Balance Sheet, the Cash Flow Statement, and notes to the financial statements, including a summary of significant accounting policies. The financial reporting framework that has been applied in their preparation is applicable law and the CIPFA/LASAAC code of practice on local authority accounting in the United Kingdom 2018/19.

In our opinion, the financial statements:

- give a true and fair view of the financial position of the Authority as at 31 March 2019 and of its expenditure and income for the year then ended;
- have been prepared properly in accordance with the CIPFA/LASAAC code of practice on local authority accounting in the United Kingdom 2018/19; and
- have been prepared in accordance with the requirements of the Local Audit and Accountability Act 2014.

Basis for opinion

We conducted our audit in accordance with International Standards on Auditing (UK) (ISAs (UK)) and applicable law. Our responsibilities under those standards are further described in the 'Auditor's responsibilities for the audit of the financial statements' section of our report. We are independent of the Authority in accordance with the ethical requirements that are relevant to our audit of the financial statements in the UK, including the FRC's Ethical Standard, and we have fulfilled our other ethical responsibilities in accordance with these requirements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Conclusions relating to going concern

We have nothing to report in respect of the following matters in relation to which the ISAs (UK) require us to report to you where:

- the Service Director of Finance Infrastructure and improvement use of the going concern basis of accounting in the preparation of the financial statements is not appropriate; or
- the Service Director of Finance Infrastructure and improvement has not disclosed in the financial statements any identified material uncertainties that may cast significant doubt about the Authority's ability to continue to adopt the going concern basis of accounting for a period of at least twelve months from the date when the financial statements are authorised for issue.

Other information

The Service Director of Finance Infrastructure and improvement is responsible for the other information. The other information comprises the information included in the Statement of Accounts, the Narrative Report, the Annual Governance Statement, other than the financial statements our auditor's report thereon and our auditor's report on the pension fund financial statements. Our opinion on the financial statements does not cover the other information and, except to the extent otherwise explicitly stated in our report, we do not express any form of assurance conclusion thereon.

In connection with our audit of the financial statements, our responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or our knowledge of the Authority obtained in the audit or otherwise appears to be materially misstated. If we identify such material inconsistencies or apparent material misstatements, we are required to determine whether there is a material misstatement in the financial statements or a material misstatement of the other information. If, based on the work we have performed, we conclude that there is a material misstatement of this other information, we are required to report that fact.

We have nothing to report in this regard.

Other information we are required to report on by exception under the Code of Audit Practice

Under the Code of Audit Practice published by the National Audit Office on behalf of the Comptroller and Auditor General (the Code of Audit Practice) we are required to consider whether the Annual Governance Statement does not comply with the 'Delivering Good Governance in Local Government: Framework (2016)' published by CIPFA and SOLACE or is misleading or inconsistent with the information of which we are aware from our audit. We are not required to consider whether the Annual Governance Statement addresses all risks and

Audit opinion

controls or that risks are satisfactorily addressed by internal controls. We have nothing to report in this regard.

Opinion on other matter required by the Code of Audit Practice

In our opinion, based on the work undertaken in the course of the audit of the financial statements and our knowledge of the Authority gained through our work in relation to the Authority's arrangements for securing economy, efficiency and effectiveness in its use of resources, the other information published together with the financial statements in the Statement of Accounts, the Narrative Report, the Annual Governance Statement for the financial year for which the financial statements are prepared is consistent with the financial statements.

Matters on which we are required to report by exception

Under the Code of Audit Practice, we are required to report to you if:

- we issue a report in the public interest under section 24 of the Local Audit and Accountability Act 2014 in the course of, or at the conclusion of the audit; or
- we make a written recommendation to the Authority under section 24 of the Local Audit and Accountability Act 2014 in the course of, or at the conclusion of the audit; or
- we make an application to the court for a declaration that an item of account is contrary to law under Section 28 of the Local Audit and Accountability Act 2014 in the course of, or at the conclusion of the audit; or;
- we issue an advisory notice under Section 29 of the Local Audit and Accountability Act 2014 in the course of, or at the conclusion of the audit; or
- we make an application for judicial review under Section 31 of the Local Audit and Accountability Act 2014, in the course of, or at the conclusion of the audit.

We have nothing to report in respect of the above matters.

Responsibilities of the Authority, the Service Director of Finance Infrastructure and Improvement and Those Charged with Governance for the financial statements

As explained more fully in the Statement of Responsibilities [set out on page(s) **x to x**], the Authority is required to make arrangements for the proper administration of its financial affairs and to secure that one of its officers has the responsibility for the administration of those affairs.

In this authority, that officer is the Service Director of Finance Infrastructure and improvement. The Service Director of Finance Infrastructure and improvement is responsible for the preparation of the Statement of Accounts, which includes the financial statements, in accordance with proper practices as set out in the CIPFA/LASAAC code of practice on local authority accounting in the United Kingdom 2018/19, for being satisfied that they give a true and fair view, and for such internal control as the Service Director of Finance Infrastructure and improvement determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Service Director of Finance Infrastructure and improvement is responsible for assessing the Authority's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless there is an intention by government that the services provided by the Authority will no longer be provided.

The Governance and Ethics Committee is Those Charged with Governance. Those charged with governance are responsible for overseeing the Authority's financial reporting process.

Auditor's responsibilities for the audit of the financial statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISAs (UK) will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements. A further description of our responsibilities for the audit of the financial statements is located on the Financial Reporting Council's website at: www.frc.org.uk/auditorsresponsibilities. This description forms part of our auditor's report.

Report on other legal and regulatory requirements - Conclusion on the Authority's arrangements for securing economy, efficiency and effectiveness in its use of resources

Conclusion

On the basis of our work, having regard to the guidance on the specified criterion issued by the Comptroller and Auditor General in November 2017, we are satisfied that the Authority put in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources for the year ended 31 March 2019.

Responsibilities of the Authority

The Authority is responsible for putting in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources, to ensure proper stewardship and governance, and to review regularly the adequacy and effectiveness of these arrangements.

Audit opinion

Auditor's responsibilities for the review of the Authority's arrangements for securing economy, efficiency and effectiveness in its use of resources

We are required under Section 20(1)(c) of the Local Audit and Accountability Act 2014 to be satisfied that the Authority has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources. We are not required to consider, nor have we considered, whether all aspects of the Authority's arrangements for securing economy, efficiency and effectiveness in its use of resources are operating effectively.

We have undertaken our review in accordance with the Code of Audit Practice, having regard to the guidance on the specified criterion issued by the Comptroller and Auditor General in November 2017, as to whether in all significant respects the Authority had proper arrangements to ensure it took properly informed decisions and deployed resources to achieve planned and sustainable outcomes for taxpayers and local people. The Comptroller and Auditor General determined this criterion as that necessary for us to consider under the Code of Audit Practice in satisfying ourselves whether the Authority put in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources for the year ended 31 March 2019.

We planned our work in accordance with the Code of Audit Practice. Based on our risk assessment, we undertook such work as we considered necessary to be satisfied that the Authority has put in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources.

Report on other legal and regulatory requirements - Delay in certification of completion of the audit

We are required to give an opinion on the consistency of the pension fund financial statements of the Authority included in the Pension Fund Annual Report with the pension fund financial statements included in the Statement of Accounts. The Local Government Pension Scheme Regulations 2013 require authorities to publish the Pension Fund Annual Report by 1 December 2019. As the Authority has not prepared the Pension Fund Annual Report at the time of this report we have yet to issue our report on the consistency of the pension fund financial statements. Until we have done so, we are unable to certify that we have completed the audit of the financial statements in accordance with the requirements of the Local Audit and Accountability Act 2014 and the Code of Audit Practice.

We cannot formally conclude the audit and issue an audit certificate in accordance with the requirements of the Local Audit and Accountability Act 2014 and the Code of Audit Practice until we have completed the work necessary to issue our Whole of Government Accounts (WGA) Component Assurance statement for the Authority for the year ended 31 March 2019.

We are satisfied that this work does not have a material effect on the financial statements or on our conclusion on the Authority's arrangements for securing economy, efficiency and effectiveness in its use of resources for the year ended 31 March 2019.

We cannot formally conclude the audit and issue an audit certificate for the Authority for the year ended 31 March 2019 in accordance with the requirements of the Local Audit and Accountability Act 2014 and the Code of Audit Practice until your previous auditors KPMG have determined an objection to the 2015/16 accounts brought by a local authority elector under Section 27 of the Local Audit and Accountability Act 2014. We are satisfied that his matter does not have a material effect on the financial statements or on our conclusion on the Authority's arrangements for securing economy, efficiency and effectiveness in its use of resources for the year ended 31 March 2019.

Use of our report

This report is made solely to the members of the Authority, as a body, in accordance with Part 5 of the Local Audit and Accountability Act 2014 [and as set out in paragraph 43 of the Statement of Responsibilities of Auditors and Audited Bodies published by Public Sector Audit Appointments Limited]. Our audit work has been undertaken so that we might state to the Authority's members those matters we are required to state to them in an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Authority and the Authority's members as a body, for our audit work, for this report, or for the opinions we have formed.

[Signature]

John Gregory, Key Audit Partner
for and on behalf of Grant Thornton UK LLP, Local Auditor

Birmingham

[Date]

Audit opinion – Nottinghamshire County Council Pension Fund

We anticipate we will provide the Pension Fund with an unmodified audit report

Independent auditor's report to the members of Nottinghamshire County Council on the pension fund financial statements of Nottinghamshire County Council Pension Fund

Opinion

We have audited the financial statements of Nottinghamshire Pension fund name (the 'pension fund') administered by Nottinghamshire County Council (the 'Authority') for the year ended 31 March 2019 which comprise the Fund Account, the Net Assets Statement and notes to the pension fund financial statements, including a summary of significant accounting policies. The financial reporting framework that has been applied in their preparation is applicable law and the CIPFA/LASAAC code of practice on local authority accounting in the United Kingdom 2018/19.

In our opinion, the financial statements:

- give a true and fair view of the financial transactions of the pension fund during the year ended 31 March 2019 and of the amount and disposition at that date of the fund's assets and liabilities, [other than liabilities to pay promised retirement benefits after the end of the fund year];
- have been prepared properly in accordance with the CIPFA/LASAAC code of practice on local authority accounting in the United Kingdom 2018/19; and
- have been prepared in accordance with the requirements of the Local Audit and Accountability Act 2014.

Basis for opinion

We conducted our audit in accordance with International Standards on Auditing (UK) (ISAs (UK)) and applicable law. Our responsibilities under those standards are further described in the 'Auditor's responsibilities for the audit of the financial statements' section of our report. We are independent of the Authority in accordance with the ethical requirements that are relevant to our audit of the pension fund's financial statements in the UK, including the FRC's Ethical Standard, and we have fulfilled our other ethical responsibilities in accordance with these requirements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Conclusions relating to going concern

We have nothing to report in respect of the following matters in relation to which the ISAs (UK) require us to report to you where:

- the Service Director Finance, Infrastructure and improvement use of the going concern basis of accounting in the preparation of the pension fund's financial statements is not appropriate;
- or
- the Service Directors Finance, Infrastructure and improvement has not disclosed in the pension fund's financial statements any identified material uncertainties that may cast significant doubt about the Authority's ability to continue to adopt the going concern basis of accounting for the pension fund for a period of at least twelve months from the date when the pension fund's financial statements are authorised for issue.

Other information

The Service Directors Finance, Infrastructure and improvement is responsible for the other information. The other information comprises the information included in the Statement of Accounts, the Narrative Report, the Annual Governance Statement other than the pension fund's financial statements, our auditor's report thereon and our auditor's report on the Authority's financial statements. Our opinion on the pension fund's financial statements does not cover the other information and, except to the extent otherwise explicitly stated in our report, we do not express any form of assurance conclusion thereon.

In connection with our audit of the pension fund's financial statements, our responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the pension fund's financial statements or our knowledge of the pension fund obtained in the audit or otherwise appears to be materially misstated. If we identify such material inconsistencies or apparent material misstatements, we are required to determine whether there is a material misstatement in the pension fund's financial statements or a material misstatement of the other information. If, based on the work we have performed, we conclude that there is a material misstatement of this other information, we are required to report that fact.

We have nothing to report in this regard.

Audit opinion Nottinghamshire Pension Fund cont

Opinion on other matter required by the Code of Audit Practice published by the National Audit Office on behalf of the Comptroller and Auditor General (the Code of Audit Practice)

In our opinion, based on the work undertaken in the course of the audit of the pension fund's financial statements and our knowledge of the pension fund the other information published together with the pension fund's financial statements in the Statement of Accounts, [the Narrative Report, the Annual Governance Statement and the Annual Report] for the financial year for which the financial statements are prepared is consistent with the pension fund's financial statements.

Matters on which we are required to report by exception

Under the Code of Audit Practice, we are required to report to you if:

- we issue a report in the public interest under section 24 of the Local Audit and Accountability Act 2014 in the course of, or at the conclusion of the audit; or
- we make a written recommendation to the Authority under section 24 of the Local Audit and Accountability Act 2014 in the course of, or at the conclusion of the audit; or
- we make an application to the court for a declaration that an item of account is contrary to law under Section 28 of the Local Audit and Accountability Act 2014 in the course of, or at the conclusion of the audit; or
- we issue an advisory notice under Section 29 of the Local Audit and Accountability Act 2014 in the course of, or at the conclusion of the audit; or
- we make an application for judicial review under Section 31 of the Local Audit and Accountability Act 2014, in the course of, or at the conclusion of the audit.

We have nothing to report in respect of the above matters.

Responsibilities of the Authority, the Service Directors Finance, Infrastructure and Improvement and Those Charged with Governance for the financial statements

As explained more fully in the Statement of Responsibilities [set out on [page\(s\) x to x](#)], the Authority is required to make arrangements for the proper administration of its financial affairs and to secure that one of its officers has the responsibility for the administration of those affairs.

In this authority, that officer is the Service Director Finance, Infrastructure and improvement. The Service Director Finance, Infrastructure and improvement is responsible for the preparation of the Statement of Accounts, which includes the pension fund's financial statements, in accordance with proper practices as set out in the CIPFA/LASAAC code of practice on local authority accounting in the United Kingdom 2018/19, for being satisfied that they give a true and fair view, and for such internal control as the Service Director Finance, Infrastructure and improvement determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error. In preparing the pension fund's financial statements, the Service Director Finance, Infrastructure and improvement is responsible for assessing the pension fund's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless there is an intention by government that the services provided by the pension fund will no longer be provided.

The Governance and Ethics Committee is Those Charged with Governance. Those charged with governance are responsible for overseeing the Authority's financial reporting process.

Auditor's responsibilities for the audit of the financial statements

Our objectives are to obtain reasonable assurance about whether the pension fund's financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISAs (UK) will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

A further description of our responsibilities for the audit of the financial statements is located on the Financial Reporting Council's website at: www.frc.org.uk/auditorsresponsibilities. This description forms part of our auditor's report.

Audit opinion Nottinghamshire Pension Fund cont..

Use of our report

This report is made solely to the members of the Authority, as a body, in accordance with Part 5 of the Local Audit and Accountability Act 2014 [and as set out in paragraph 43 of the Statement of Responsibilities of Auditors and Audited Bodies published by Public Sector Audit Appointments Limited]. Our audit work has been undertaken so that we might state to the Authority's members those matters we are required to state to them in an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Authority and the Authority's members as a body, for our audit work, for this report, or for the opinions we have formed.

[Signature]

John Gregory, Key Audit Partner
for and on behalf of Grant Thornton UK LLP, Local Auditor
Birmingham office

[Date]

11 September 2019

Agenda Item: 11

REPORT OF THE MONITORING OFFICER

THE CODE OF CONDUCT FOR COUNCILLORS AND CO-OPTED MEMBERS – APPOINTMENT OF INDEPENDENT PERSON

Purpose of the Report

1. For the Committee to consider endorsing a further appointment for the role of Independent Person to Full Council.

Information

2. Under the Localism Act 2011 it is a legal requirement for the County Council to adopt a Code of Conduct for Councillors and Co-opted Members. The Council's latest Code was adopted in May 2018. It is also a legal requirement for the County Council to appoint at least two Independent Persons, whose views are sought and taken into account in connection with the standards regime. Councillors and Co-opted Members who are the subject of an allegation may also seek the view of the Independent Person if they wish to do so. Following changes in legislation, the Independent Person also has an advisory role in connection with any proposed dismissal of the Head of Paid Service, Chief Finance Officer (Section 151 officer) or Monitoring Officer.
3. In May 2018 the County Council decided that, due to the length of time that the existing Independent Persons had been appointed, a full recruitment process be undertaken for 2019-20. The County Council agreed for Governance and Ethics Committee to oversee the process. A cross-party steering group was established, comprising three Members of Governance and Ethics Committee (together with the Monitoring Officer as advisor) to undertake the selection process.
4. Following initial interviews, Craig Cole and Ian Bayne were formally appointed to the role for an initial period up to the next Annual Council meeting of 21 May 2020. These appointments were endorsed by Governance and Ethics Committee on 1 May 2019 and approved by Full Council on 16 May 2019.
5. The steering group undertook a further interview on 24 July 2019 and agreed that the candidate interviewed that day, Rob White, should also be recommended for appointment for the same time period.

6. The steering group recognised that having a third independent person appointed would widen the range of skills and experience available for the Council to call upon when required, and also offers a greater degree of flexibility to ensure that advice from an independent person can be available at short notice if necessary.
7. Mr White is retired, having had a long career in local government. He worked for five different local authorities in the roles of teacher and education officer and he therefore has experience of the Councillor /Officer interface and committee procedures. He is also the Vice-Chair of the governing body of a local school which has enabled him to develop skills which would also be highly relevant to the role of Independent Person. Two references have been received, both of which were positive and recommended Mr White for this role.

Financial Implications

8. The role of Independent Person is unpaid, although travel expenses will be reimbursed as appropriate. Induction training will be provided for the three Independent Persons (which the Members of Governance & Ethics Committee and relevant officers have also been invited to attend) at a maximum cost of £750.

Other Options Considered

9. To continue with only two Independent Persons appointed but it is felt that a wider pool of people increases the range of experience and skills available for the Council to draw upon.

Reason/s for Recommendation/s

10. To enable appropriate approval for this further appointment, in line with the appointments made in May 2019.

Statutory and Policy Implications

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

RECOMMENDATION/S

That the appointment of Rob White to the role of Independent Person, for an initial period up to 21 May 2020, be endorsed and recommended to Full Council for approval.

Marjorie Toward

Monitoring Officer and Service Director – Customers, Governance and Employees

For any enquiries about this report please contact:

Keith Ford, Team Manager, Democratic Services

E-mail: keith.ford@nottsc.gov.uk Tel: 0115 9772590

Constitutional Comments (SLB)

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

Financial Comments (RWK 25/07/2019)

The costs of induction training at a cost of £750 will be met from the budget for Members Training for which there is a budget allocation of £5,000 in 2019/20.

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.

- Reports to Governance and Ethics Committee dated 30th January 2019 and 1 May 2019 and Report to Full Council – 16th May 2019 and minutes of those meetings (all published).

Electoral Division(s) and Member(s) Affected

- All



11 September 2019

Agenda Item: 12

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

WORK PROGRAMME

Purpose of the Report

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

Information and Advice

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

Other Options Considered

4. None.

Reason/s for Recommendation/s

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

Statutory and Policy Implications

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

RECOMMENDATION

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

Marjorie Toward
Service Director, Customers, Governance and Employees

For any enquiries about this report please contact:

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

E-mail: keith.ford@nottscc.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 3 SEPTEMBER 2019)

Report Title	Brief summary of agenda item	Lead Officer	Report Author
6 November 2019			
Review of Constitution and related issues	To seek Committee endorsement for the initial proposals to amend the Council's Constitution and to seek Members' views on related issues.	Marjorie Toward	Heather Dickinson
Update on internal audit of vacant property		Adrian Smith	David Hughes
Member Communication and Engagement Programme	To consider an update report on progress with this Programme.	Marjorie Toward	Marjorie Toward
Member Development and Training	To consider the current offer to Members.	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
17 December 2019			
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
Update on Use of the Councillors' Divisional Fund	To consider the six monthly update.	Marjorie Toward	Keith Ford
22 January 2020			
Information Governance Improvement Programme Update	To consider the latest update as agreed by the Committee on 24 July 2019.	Marjorie Toward	Caroline Agnew

National Audit Office Cyber Security and Information Risk Guidance for Audit Committees	To consider a six monthly update and any subsequent actions required.	Nigel Stevenson	Adam Crevald
Update on Use of Resources by Councillors	To consider the six monthly update.	Marjorie Toward	Keith Ford
Update on Local Government and Social Care Ombudsman Decisions	To consider any recent findings of the Local Government Ombudsman in complaints made against the County Council (item to be confirmed).	Marjorie Toward	Laura Mulvany-Law
4 March 2020			
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
29 April 2020			
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