

## **Governance and Ethics Committee**

**Wednesday, 29 November 2023 at 10:30**

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

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### **AGENDA**

1	Minutes of last meeting held on 16 October 2023	3 - 6
2	Apologies for Absence	
3	Declarations of Interests by Members and Officers:- (see note below)	
4	Update on Local Government and Social Care Ombudsman Decisions September to October 2023	7 - 22
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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 Monday 16 October 2023 (commencing at 2pm)

membership

### **COUNCILLORS**

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

Richard Butler  
Samantha Deakin  
Errol Henry JP - **Apologies**  
Andy Meakin  
Michael Payne

Sue Saddington  
Helen-Ann Smith - **Apologies**  
Nigel Turner  
Roger Upton

### **SUBSTITUTE MEMBERS**

Councillor Jim Creamer substituting for Councillor Errol Henry JP  
Councillor Tom Hollis substituting for Councillor Helen-Ann Smith

### **OFFICERS IN ATTENDANCE**

Louise Benson - Children and Families  
Lynda Poole  
Richard Elston - Chief Executives  
Keith Ford  
Kaj Ghattaora  
Simon Lacey  
Kate Morris  
Marjorie Toward  
Nigel Stevenson

### **1. MINUTES**

The Minutes of the last meeting held on 19 July 2023, having been previously circulated, were confirmed and signed by the Chairman.

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

Apologies for absence were received from:

- Councillor Errol Henry (Other Reasons)
- Councillor Helen-Ann Smith (Other Reasons)

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

None.

#### **4. UPDATE ON LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN DECISIONS (AUGUST TO SEPTEMBER 2023)**

The report set out three cases where fault was found by the Ombudsman and Members were given the opportunity to ask questions and seek assurance from officers around action put in place by the relevant departments regarding those complaints.

Members raised concerns about the occurrence of complaints being upheld around Education Health and Care Plans. Members were also concerned about communication with parents in these cases.

Members encouraged officers to continue to challenge decision outcomes where appropriate as was advised earlier in the year at a meeting with the Local Ombudsman representative.

#### **RESOLVED: 2023/35**

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

#### **5. RESPONSE TO LOCAL GOVERNMENT OMBUDSMAN DECISION 2023**

The report detailed the work undertaken to improve the Authorities performance around Education Health & Care Plan annual reviews as requested by the committee in response to an increasing number of complaints to the Ombudsman.

Members were please to hear that additional EHC Plan writers were being recruited and acknowledged the difficult national picture of rising demand and shortage of Educational Psychologists.

Members also welcomed the improved processes around communication with parents but highlighted that there was still much work to be done to ensure improvement continued.

#### **RESOLVED: 2023/36**

- 1) That Members note the improvements made to increase the Local Authority's Education, Health and Care Plan Annual Review performance.
- 2) That the Committee receives a further report in 12 months' time to review the impact of the measures introduced.

#### **6. UPDATE ON USE OF RESOURCES BY COUNCILLORS**

The report set out the use of resources by Councillors between April 2022 and March 2023.

When queried by a member of the committee the Chairman confirmed that no breach of the rules had occurred when a Member held an interview in their office at County Hall, and photos taken outside County Hall.

Members asked for assurance that the issue with phone contracts was being addressed and suggested that in future reports a little more context was added to prevent any potential misunderstanding around out of contract charges.

**RESOLVED: 2023/37**

- 1) That members note the relevant resources expenditure for the period April 2022 to March 2023 as detailed in Appendix B and Appendix C to the report.
- 2) That members agree that following the change to a new mobile provider in November 2023, further guidance to prevent the incurring of Out of Contract Charges be circulated to Members.

**7. FINANCIAL REGULATION WAIVERS 2022-23**

The annual report set out all requests through 2022/23 to waive financial regulations and the outcomes of those requests. Members were given the opportunity to ask questions on the details in the report.

**RESOLVED: 2023/38**

- 1) That Members noted the detail contained in the report Financial Regulations Waivers 2022/23 and the continued progress in keeping waivers to a minimum.

**8. BEST VALUE AUTHORITIES GUIDANCE CONSULTATION**

The report set out the Council's response to the Government's consultation entitled 'Best value standards and intervention - a statutory guide for best value authorities.'

Members asked whether arms length companies were taken into consideration and officers confirmed that they had been considered within the response to the consultation

**RESOLVED: 2023/39**

- 1) That Members note the response to the consultation provided by the Council

**9. LOCAL GOVERNMENT ASSOCIATION CONFERENCE JULY 2023**

The report summarised the key messages from the Local Government Association Conference & Exhibition, which took place in Bournemouth in July 2023.

**RESOLVED: 2023/40**

- 1) Members note the contents of this report.

- 2) Going forward summaries of key messages from attended conferences be circulated to Committee members as briefing notes.

## **10. WORK PROGRAMME**

**RESOLVED: 2023/41**

That the work programme be accepted

The meeting closed at 14:44

CHAIRMAN

**29 November 2023**

**Agenda Item: 4**

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

### **LOCAL GOVERNMENT & SOCIAL CARE OMBUDSMAN DECISIONS SEPTEMBER 2023 TO OCTOBER 2023**

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

1. To inform the Committee about Local Government & Social Care Ombudsman's (LGSCO) decisions relating to the Council since the last report to Committee was completed and therefore any decisions after 14<sup>th</sup> September 2023.

#### **Information**

2. Members have asked to see the outcome of Ombudsman investigations regularly and promptly after the decision notice has been received. This report therefore gives details of all the decisions received since the last report to this Committee which was held on 16<sup>th</sup> October 2023.
3. The LGSCO provides a free, independent and impartial service to members of the public. It looks at complaints about Councils and other organisations. It only looks at complaints when they have first been considered by the Council and the complainant remains dissatisfied. The LGSCO cannot question a Council's decision or action solely on the basis that someone does not agree with it. However, if the Ombudsman finds that something has gone wrong, such as poor service, a service failure, delay or bad advice and that a person has suffered as a result, the LGSCO aims to get the Council to put it right by recommending a suitable remedy.
4. The LGSCO publishes its decisions on its website ([www.lgo.org.uk/](http://www.lgo.org.uk/)). The decisions are anonymous, but the website can be searched by Council name or subject area.
5. A total of nine decisions relating to the actions of this Council have been made by the Ombudsman in this period. Appendix A to this report summarises the decisions made in each case for ease of reference and Appendix B provides the full details of each decision.
6. Full investigations were undertaken into two complaints. Appendix A provides a summary of the outcomes of the investigation. Where fault was found, the table shows the reasons for the failures and the recommendations made. If a financial remedy was made the total amount paid or reimbursed is listed separately.

7. There was fault found in one of the two cases. This case was in Childrens. The complaint was about the way the Council delayed in assessing Ms X's son's needs and issuing his Education, Health and Care plan. It also failed to secure all of the provision in her son's Education, Health and Care plan due to the way it considered her request for a personal budget and was unhappy with the level of communication she received from the Education Other than at School Service. The Council was at fault which caused injustice to Ms X and her child as her child missed out on some provision and Ms X had to wait longer to challenge her child's final Education, Health and Care plan. The shortage of Educational Psychologists was a main factor in the delays. The Council was found at fault overall and as a result has apologised to Ms X, offered a distress payment and is agreeing a payment to recognise the lost provision after starting a package of EOTAS. £900 will be the total financial remedy. The EHC assessment team now have clear guidance on responding to requests for personal budgets. When a request for a personal budget is made, to ensure that responses and decisions are made promptly, Service Managers within the EHC assessment team now have the authority to approve requests that fall under a set threshold.
8. The local authority has also made a significant financial investment to support the timely issuing of EHCPs and holistic oversight of these plans through Annual Reviews. 12 additional members of staff have been secured in this area to improve service delivery and communication with parents and carers. In addition to this, 5 SEND education Pathway officers will be in place in January 2024. When a request for an EHC Needs Assessment is made, these officers will engage with young people, parents, carers and education settings to ensure that children and young people receive the right support at the right time. For children and young people who do experience a delay in their EHC Needs Assessment, parents and carers are contacted at regular intervals to explain the delay and the actions that the local authority is taking to reduce them.

### **Other Options Considered**

9. The other option considered was not bringing regular reports to the Committee detailing the decisions made by the Local Government and Social Care Ombudsman. This option was rejected as by not having oversight of this report the Committee would not receive assurances that the learnings from Ombudsman cases were leading to improvements in services.

### **Reasons for Recommendation/s**

10. To enable members to scrutinise complaints dealt with by the Council that went to the Ombudsman and to inform them of the service improvements being made for the benefit of residents as well as colleagues.

### **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.



## **Data Protection and Information Governance**

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

## **Financial Implications**

13. The details of any financial payments are set out in Appendix A. £900 will come from Childrens services.

## **Implications for Service Users**

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

## **RECOMMENDATION/S**

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

**Marjorie Toward**

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

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

Richard Elston Team Manager – Complaints and Information Team

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

15. 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 07/11/2023)**

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

17. The details of the financial payments are set out in Appendix A.

## **Background Papers and Published Documents**

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

- None

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

- All



## APPENDIX A

### DECISIONS NOT TO INVESTIGATE FURTHER

DATE	LGO REF	PROCEDURE	COMPLAINT SUMMARY	REASON FOR DECISION
21.9.23	23002721	Corporate	Complaint by Mr X that the Council aren't supporting him as he chose to educate child at home and council not happy he hasn't provided evidence which it has a duty to fulfil	Ombudsman cannot investigate as Council are pursuing through the Courts
20.9.23	23007585	Corporate	Mr X, complains the Council refused to reinstate a dropped kerb he assumes it must have removed at some point between 1996 and 2008	Ombudsman cannot investigate a complaint which is out of timescales
25.9.23	23006147	Corporate	Mr X complains about how his application for an insulation grant under the warm homes scheme has been dealt with. He says the grant was approved but the Council's contractor took months to complete the work	Ombudsman will not investigate this complaint about how the Council handled the complainant's application under the warm homes scheme. This is because further investigation would not lead to a different outcome
17.10.23	23010411	Corporate	Miss X says the Council has failed to accept liability for damage to her car after she drove over a pothole	Ombudsman will not investigate as it is reasonable for case to be pursued through Courts
18.9.23	23007681	Corporate	Ms X complains her car was damaged by pothole and the Council won't accept liability	Ombudsman will not investigate this complaint that the complainant's car was damaged by a pothole in the road. This is because it is reasonable for the complainant to pursue her claim by taking the Council to court. We cannot achieve the outcome the complainant seeks in regards to changes to the Council's policy
16.10.23	23010505	Corporate	Complaint that their garage was damaged due to Council's failure to maintain highway drain	Ombudsman decided not to investigate as it is reasonable for Miss B to pursue claim through the Court

### FULL INVESTIGATIONS WHERE NO FAULT FOUND

<b>DATE</b>	<b>LGO REF</b>	<b>PROCEDURE</b>	<b>COMPLAINT SUMMARY</b>	<b>DECISION</b>	
24.10.23	22017217	Corporate	Ms X complained the Council placed a foster child, Child Y with her without providing relevant information about Child Y's needs and unreasonably removed Child Y from her care without notice	Council was not at fault	

### FULL INVESTIGATIONS WHERE FAULT FOUND

<b>DATE</b>	<b>LGO REF</b>	<b>PROCEDURE</b>	<b>COMPLAINT SUMMARY</b>	<b>DECISION</b>	<b>RECOMMENDATION</b>	<b>FINANCIAL REMEDY</b>	<b>STATUS OF AGREED ACTION</b>
20.10.23	22 012 554	Corporate	Ms X complained the Council delayed in assessing her son's needs and issuing his Education, Health and Care plan and failed to secure all of the provision in her son's plan. Ms X also complained about the level of communication she received from the Education Other than at School service	Fault found	Apologise Pay Ms X £400 for time and distress and pay Child Y £500 for loss of provision after starting EOTAS provision and remind the team involved of communication standards	£900	Will be completed by mid November 2023




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

Summary: Ms X complained the Council delayed in assessing her son's needs and issuing his Education, Health and Care plan and failed to secure all of the provision in her son's Education, Health and Care plan. Ms X also complained about the level of communication she received from the Education Other than at School service. We have found the Council at fault which caused injustice to Ms X and her child as her child missed out on some provision and Ms X had to wait longer to challenge her child's final Education, Health and Care plan. To remedy the injustice caused the Council agreed to apologise, make a payment to Ms X for the loss of provision to her child and the distress she experienced.

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## **The complaint**

1. Ms X complains the Council:
  - Delayed in assessing her son's needs and issuing his Education, Health and Care plan.
  - Failed to secure all of the provision in her son's Education, Health and Care plan due to the way it considered her request for a personal budget.
  - The level of communication she received from the Education Other than at School Service.

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

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

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## How I considered this complaint

4. As part of this investigation, I considered the information provided by Ms X and the Council. I made enquiries with the Council and considered the information received in response. I sent a draft of this decision to Ms X and the Council and considered comments received in response.
5. Under our information sharing agreement, we will share this decision with the Office for Standards in Education, Children's Services and Skills (Ofsted).

## What I found

### Education, Health and Care (EHC) plans

6. A child with special educational needs may have an Education, Health and Care (EHC) plan. This sets out the child's needs and what arrangements should be made to meet them. The EHC plan is set out in sections. We cannot direct changes to the sections about education, or name a different school. Only the tribunal can do this.

### Timescales and process for EHC assessment and review

7. Statutory guidance 'Special educational needs and disability Code of Practice: 0 to 25 years' ('the Code') sets out the process for carrying out EHC assessments and producing EHC plans. The guidance is based on the Children and Families Act 2014 and the SEN Regulations 2014. It says the whole process from the point when an assessment is requested until the final EHC plan is issued must take no more than 20 weeks (unless certain specific circumstances apply).
8. An EHC plan must be reviewed and amended in sufficient time prior to a child or young person moving between key phases of education, to allow for planning for and, where necessary, commissioning of support and provision at the new institution. The review and any amendments must be completed by 15 February in the calendar year of the transfer at the latest for transfers into or between schools. The key transfers are:
  - early years provider to school
  - infant school to junior school
  - primary school to middle school
  - primary school to secondary school, and
  - middle school to secondary school
9. The council has a duty to secure the specified special educational provision in an EHC plan for the child or young person (Section 42 Children and Families Act). The Courts have said this duty to arrange provision is owed personally to the child and is non-delegable. This means if a council asks another organisation to make the provision and that organisation fails to do so, the council remains responsible. (*R v London Borough of Harrow ex parte M [1997] ELR 62*, *R v North Tyneside Borough Council [2010] EWCA Civ 135*)

### Education Other than at School (EOTAS)

10. Councils have a duty to provide educational provision which meets the needs of children and young people who, for whatever reason, are unable to attend a mainstream or special school.



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11. For children and young people with an EHC plan, the EOTAS provision must be included in section F of an EHC plan which should detail the package of education being provided.

### **What happened**

12. There has been extensive correspondence between Ms X and the Council since September 2021. In this section of the statement I summarise key events only and do not refer to every single contact and communication.
13. Ms X's son Y has special educational needs. In August 2020 he received an EHC plan. This specified Y needed, "*An individualised timetable based on activities led by his interests. Learning within outdoor provision including animals and physical activity with climbing but not within a classroom-based provision or educational setting.*"
14. In July 2021, the Council held an annual review of Y's EHC plan. Y was due to transition into secondary school in September 2021. Following the annual review the Council decided to amend Y's EHC plan.
15. In September 2021, Y moved onto a package of EOTAS. This included tutoring with Provider A on a one to one basis and a visit to a farm each week. Prior to this, when Y was at primary school, he received equine therapy and climbing which were commissioned by his primary school as part of his EHC plan provision.
16. In October 2021, the Council sent Ms X a draft EHC plan following the annual review. Ms X said she was unhappy with the content of the EHC plan and did not think it was fit for purpose. In November 2021, the Council held a meeting with Ms X to review the draft EHC plan. Ms X asked the Council for a personal budget for Y's equine therapy and climbing (totalling three hours per week) as he was not currently receiving this and previously had been. The Council also agreed it would need to re-assess Y's needs.
17. On 12 November 2021, the Council started to re-assess Y's needs. In December 2021, the Council held a meeting with Ms X. The Council told her there were ongoing delays with obtaining an Educational Psychologist report for Y. The Council agreed to keep Y's current timetable with Provider A in place while it held discussions with Provider A and another provider about the possibility of Maths and English tutoring for Y.
18. In January 2022, the Council told Ms X it could not agree to her request for a personal budget. The Council had concerns that the climbing and equine therapy was not going to be delivered by a Council approved provider. However in February 2022, the Council agreed to delegate the personal budget to Provider A so it could source the climbing and equine therapy activities for Y.
19. In February 2022, the Council received an Occupational Therapy report for Y as part of its re-assessment of his needs. This recommended a programme of Occupational Therapy where he would see an Occupational Therapist weekly. Following the report the Council put the Occupational Therapy in place for Y.
20. In March 2022, the Council held an education review meeting for Y. The Council looked at the possibility of providing home tuition for Y, however accepted this needed to be a gradual approach for Y to adjust to the tutor.
21. The Council received the Educational Psychologist's report it commissioned as part of Y's re-assessment on 4 April 2022. The Council sent Ms X Y's draft EHC plan on 8 April 2022. [Page 17 of 68](#)

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22. In June 2022, the Council held an education review meeting for Y. At this time Y was not engaging well with Provider A and tutoring and was only engaging well with his visits to a farm and his Occupational Therapy sessions. The Council arranged for the alternative providers to attend the farm with Y to try to build rapport with him.
23. Ms X provided the Council with comments on the draft EHC plan on 13 July 2022. Ms X disagreed with sections of the plan. The Council issued Y's final EHC plan on 26 July 2022. The special educational provision listed in the plan included an Occupational Therapy programme, education off site at home by a tutor. The plan highlighted the need to building trust with Y in the first instance.
24. Ms X was unhappy with the content of the plan so asked the Council to participate in mediation. Ms X also made a formal complaint to the Council on 15 August 2022. Ms X complained:
- The Council delayed in assessing Y following his annual review and delayed issuing a final EHC plan. Ms X was concerned Y missed out on provision he would have been entitled to sooner.
  - The Council failed to secure the provision in Y's EHC plan as it said Ms X could not use a provider not on its registered list. Ms X said this meant Y missed out on climbing sessions.
  - The Council had not properly secured Y's EOTAS. Ms X said it refused her request for a personal budget and there had been little contact with the EOTAS officer since Y transferred onto this in September 2021.
25. In September 2022, the Council responded to Ms X's complaint. The Council said:
- It delayed in completing Y's EHC plan following his re-assessment and explained this was due to difficulties getting an Educational Psychologist's report. The Council said Ms X was also partly to blame for the delays from issuing a draft EHC plan to a final EHC plan as it took two months for her to send comments back to the Council.
  - The Council explained it had increased the proportion of time Educational Psychologist's have allocated for EHC plan assessments. The Council said it had increased Educational Psychologist capacity by investing in an agency to commission this and carry out over 140 assessments to relieve the pressure on its service. It had approved additional working hours for Council Educational Psychologists who are part-time and was seeking to recruit more Educational Psychologists to its service.
  - It acknowledged that it failed to secure provision for Y specified in his EHC plan. This related to activities led by Y's interests and learning within outdoor provision including animals. The Council said there was poor communication between Ms X and the Council from November 2021 to February 2022 relating to her request for a personal budget which caused this.
  - It refused Ms X's request for a personal budget as the providers she wanted to use were not on its list of approved providers. However, it did then agree to allow Provider A to manage the personal budget and commission these activities Y wanted to do on the Council's behalf.
26. In October 2022, Ms X asked the Council to consider her complaint at the next stage as she was unhappy with the Council's response. Ms X disputed the reasons why the Council denied her request for a personal budget. Ms X said

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from November 2021 to February 2022 there was not a funded EOTAS package and Y did not receive the provision in the EHC plan. Ms X also said there was a lack of support from the EOTAS service and she had received no contact from the new EOTAS case worker allocated in September 2022.

27. On 21 October 2022, Ms X asked the Council for a direct payment to fund Y's climbing sessions. Ms X said the tutor from Provider A had not been able to attend these as this caused Y severe distress. As a result, she had been funding these sessions herself.
28. The Council provided its final response to Ms X's complaint in November 2022. The Council said:
  - It declined Ms X's request for a personal budget as it would not approve funding for providers not on its approved list. To find a solution the Council proposed the use of an approved provider to manage the personal budget.
  - It would consider Ms X's request for personal budget payments specifically for climbing.
  - It did not have a personal budget policy but showed its rationale for its decision. The Council said OFSTED previously were concerned about it using unregulated providers.
  - Education review meetings took place on 17 December 2021, 16 March 2022 and 8 June 2022. These meetings were attended and recorded but it could find no evidence that the notes from these meetings were shared with attendees. The Council apologised to Ms X for this.
  - It could not find evidence of Ms X's EOTAS caseworker contacting her but they did receive Ms X's request for a personal budget which they passed on for a decision to be made.
  - Apologised that communications with Ms X had fallen short of the standards the Council aimed for.
  - Apologised that it took too long to provide Ms X with a response to her request for a personal budget and took too long to arrange for Y's provision to be funded in a different way.
29. Following its final response to Ms X's complaint the Council agreed to re-fund Ms X for the climbing sessions she paid for. This totalled £1,444.
30. Following mediation with Ms X on the content of Y's EHC plan. The Council issued an amended final EHC plan.

## **Analysis**

### **Delays in assessing Y and issuing an EHC plan**

31. The Council was at fault for the time taken to assess Y and produce an EHC plan. The Council initially held an annual review of Y's EHC plan in July 2021 but before issuing a final EHC plan, decided to re-assess Y's needs in November 2021. As Y was going through a key phase in his education the annual review should have been completed by 15 February 2021. This was fault. If it had been completed earlier it would have allowed more time to identify that Y needed a re-assessment and this could have been completed sooner.
32. After deciding to re-assess Y, the Council then took until April 2022 to issue Y with a draft EHC plan. This was fault. The Council should have issued a final EHC

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plan by late March 2022. The Council explained this was due to delays in getting an Educational Psychologist's report for Y.

33. While it took Ms X two months to respond to the draft EHC plan, and I am satisfied this contributed to the delay, the Council should have issued a draft EHC plan to Ms X sooner, especially as Y had not received a final EHC plan following his annual review in July 2021.
34. This caused Ms X injustice as she had to wait longer to receive a final plan and her appeal rights or ability to challenge the content of the plan through mediation were delayed.
35. I do not consider Y missed out on extra provision as a result of this delay. This is because the Council put in place Occupational Therapy once it received the Occupational Therapist's report for Y in February 2022. Y was also in receipt of a EOTAS package at this stage. These were the main differences between the EHC plan Y had in place from August 2020 and the EHC plan issued by the Council in July 2022.
36. The reason for the delay was that it took the Council a long time to get a report from an Educational Psychologist. The Council has outlined steps it has taken to try to increase its capacity to reduce this in the future. This is welcomed.

#### **Personal budget and missed provision as a result**

37. The Council decided Ms X could not have a personal budget for equine therapy, climbing sessions and music lessons as the providers who ran these services were not registered with the Council. Prior to receiving an EOTAS package, Y's primary school were providing these services. The EHC plan in place for Y at the time specified he needed learning within outdoor provision such as animals, physical activity with climbing.
38. It was not until February 2022, that the Council decided to arrange for Provider A to manage the personal budget, allowing it to source the provision for Y. As a result, Y did not receive all of the provision he should have. The Council acknowledged in its complaint response that it did not secure all of the provision in Y's EHC plan at this time due to the time taken to decide on how to fund this. While this is welcomed, Y has suffered injustice as he did not receive the outdoor and physical sessions he should have done from the start of the school year until February 2022.

#### **Communication with the EOTAS service**

39. Ms X raised concerns about the level of communication she received from the EOTAS service. The evidence shows that there was not contact between Ms X's EOTAS case worker at various times through this process. This is fault.
40. The Council has in its complaint response recognised that its communication fell short of the standards it aimed for and apologised to Ms X. While this is welcomed, Ms X has suffered distress as a result of the level of communication she received from the EOTAS service.

#### **Agreed action**

41. Within one month of my final decision, the Council agreed to carry out the following and provide evidence to the Ombudsman it has done so:
  - a) Provide Ms X with a written apology for the above faults.

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- b) Pay Ms X £400 for the distress, time and trouble she experienced from the delays in completing Y's EHC plan, level of communication she received and time taken to resolve her personal budget concerns.
  - c) Pay Ms X £500 for the benefit of Y for the lost provision he had after starting a package of EOTAS until February 2022, when the personal budget issues were resolved.
  - d) Remind the teams involved with this case of the Council's communication standards and take whatever steps necessary to ensure the teams are putting this in place.
42. The Council should provide us with evidence it has complied with the above actions.

### **Final decision**

43. I have completed my investigation and found the Council was at fault which caused Ms X and Y injustice. The Council has agreed to the above actions to remedy the injustice caused.

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



**29 November 2023**

**Agenda Item: 5**

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

### **INTERNAL AUDIT TERM 1 PROGRESS AND TERM 3 PLAN 2023-24**

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

1. To inform Members of the work carried out by Internal Audit in Term 1 of 2023/24.
2. To consult with Members on the Internal Audit Plan for Term 3 of 2023/24.

#### **Information**

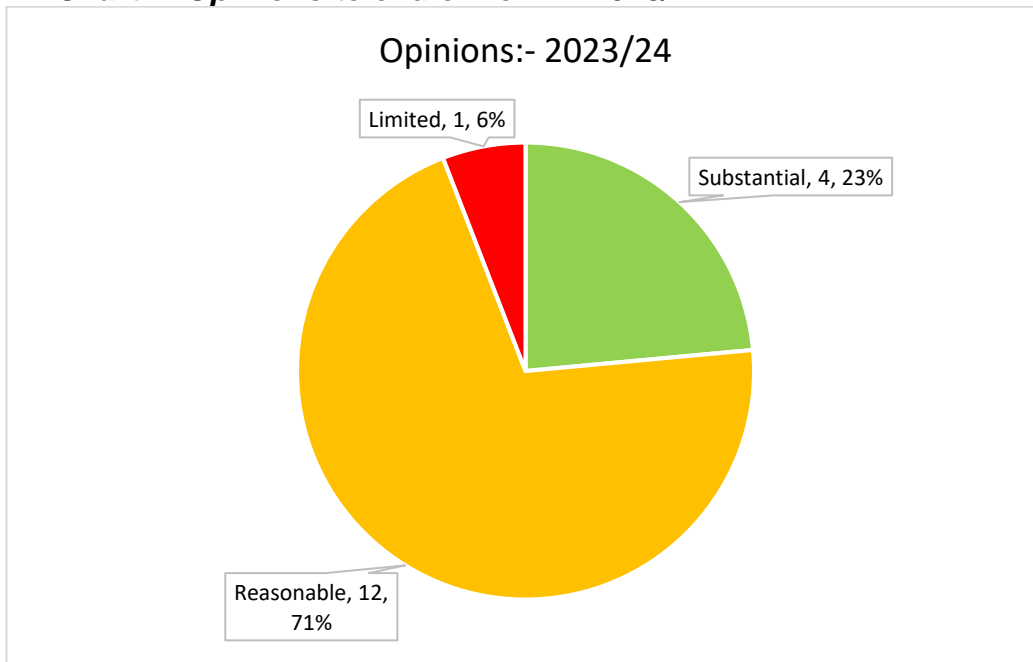
##### **Internal Audit's work in Term 1 - 2023/24 – April to July 2023**

3. Internal Audit continued to deliver its service through a flexible and agile approach, maintaining efforts to ensure the Team's coverage was complementary to the ongoing, cross-Council pandemic response. A range of work was completed across the Council, covering the following key types of Internal Audit input:
  - Assurance audits - for which an audit opinion is issued
  - Advice and consultancy – often relating to key developments, initiatives and changes to the internal control framework
  - Counter-fraud – primarily focussed on pro-active work to raise awareness of emerging fraud issues.

##### ***Audit assurance***

4. The opinion-based assurance work is a key contributor to the Head of Internal Audit's year-end opinion on the adequacy of the Council's arrangements for governance, risk management and control. **Chart 1** shows the cumulative distribution of opinions issued in 2023/24, to the end of Term 1.

**Chart 1- Opinions to end of Term 1 2023/24**



- Chart 1** includes schools audits undertaken by the Children’s & Families’ Finance Team.
- In terms of the work completed on the County Council’s services and systems, **Chart 2** analyses the opinions issued in Term 1 by service area and level of assurance.

**Chart 2 - Opinions for Term 1 2023/24**

	LIMITED ASSURANCE	REASONABLE ASSURANCE	SUBSTANTIAL ASSURANCE
COUNCIL-WIDE		Action Tracking Assurance Mapping	
CHILDRENS			Holiday Activities Fund Grant
PLACE		Homes for Ukraine Grant – Payments to Hosts	
ADULTS			
CHIEF EXEC’S		ICT Laptop Stocks	
School Audits	1 Visit*	8 Visits	3 Visits

\*The main reason for the Limited Assurance on school audits is the breakdown of the internal controls in relation to separation of duties and authorisation. This is due to the small number of staff involved, often only one office manager, who is able to generate and process transactions in relation to payroll, payments and expenses etc. Guidance and training is available to staff undertaking such functions from the Schools Finance Team.

- The significant pieces of assurance work during Term 1 were the following:



- Continuous Assurance – to provide a monthly report to the Council’s statutory officers on the application of internal control in key Council processes.
- Action Tracking – our 6-monthly report on the implementation of recommendations which went to the June 2023 committee
- Assurance Mapping – our annual report which went to the June 2023 committee
- The Annual Governance Statement and G&E Committee Annual Report which went to the May 2023 Committee.

**Advisory input**

8. Internal Audit continued to provide advisory input to developments across the Council. The following summarises the key areas of activity:
- Homes for Ukraine – a review of the systems for payments to hosts providing accommodation to guests from Ukraine.
  - Holiday Activities Fund – a review of payments of this grant to service providers.
9. Internal Audit’s advisory input ensures that timely advice is delivered and can influence subsequent actions. The engagements in advisory work help to maintain the influence the Section has to retain a proper focus on control issues and provides intelligence for subsequent planned assurance activity.

**Counter-Fraud**

10. Internal Audit pursued its pro-active programme, disseminating fraud awareness materials to alert departments and staff of fraud risks and scams that emerged during Term 3. The following summarises the key areas of activity:
- Annual Counter Fraud Report to the G&E Committee in July 2023.
  - National Fraud Initiative (NFI) – coordination and review of matches with departments.
  - National and Local Fraud Alerts – screening and distributing to relevant sections alerts publicised by national fraud agencies.
  - Advice relating to the prevention of fraud and theft was included in the reports on ICT Laptop Stocks (para 6 above), and Household Support Grant (para 8 above).
11. In addition, Internal Audit advised in fraud investigation activities involving live cases outlined in the Annual Fraud Report.

**Certification**

12. Internal Audit provides a certification function for a variety of grants received and distributed by the Council, and financial accounts in which the Council has an interest. During Term 1 the Trading Standards Grants were audited (for those over £100,000 an audit is a requirement of the grant conditions), and the Home Upgrade Grant (phase 2) mobilisation expenditure was certified.

**Internal Audit Performance**

13. **Appendix 1** provides an update on the Section’s performance in Term 1 against its key indicators. It includes the following charts to depict progress against the Term 1 Plan, expressed in terms of the following:
- Inputs – the number of audit days delivered against the Term 1 plan. Each segment in the chart represents one month - ¼ of the Termly Plan.
  - Outputs – the number of jobs completed against the plan. Each segment in the chart represents one month - ¼ of the Termly Plan.

- Productivity indicator – the target score is 1.

14. A good level of performance has been achieved and members' attention is drawn particularly to the following:

- Staffing resources – in Term 1 the team continued to be impacted by the Team Manager and a Senior Auditor providing interim cover for vacant positions. This was addressed during Term 1 with the Group Manager and Team Manager positions being filled. This reduced the number of audit days input (see Appendix 1) with the Audit Supervisor moving into the Audit Manager role. Two vacancies existed at Senior Auditor level, which have been recruited into in Term 2, with the staff starting in September and October 2023. Available staffing productive days therefore have risen for Term 3 and this is reflected in the next termly plan (below). Vacancies remain at the Internal Audit Apprentices level, impacted by one of the two Apprentices leaving in March 2023. Plans are now in progress for these to be recruited to. Time has been set aside from the planned audit work for the Team Manager's involvement in the recruitment and induction of new staff.
- Assurance and Advisory activities – the completion of internal audit activity reflects the impact of staffing changes and is reflected in the agile approach adopted. Term 1 again demonstrates that the Team have continued to flex plans and provide advisory activities to support the immediate risks facing the Council. This has an impact on delivery of the planned assurance reviews, but these are kept under review for ongoing priority in subsequent plans, as identified in the Term 3 plan for 2023-24.
- Action tracking Implementation rates, for actions arising from audits, have now met or exceeded the target of 75% on the last three 6-monthly reviews. Our latest report on this to the Committee in November 2023 showed an implementation rate of 77% for 2021/22 actions and 87% for 2022/23 actions. The next update on this is scheduled for June 2024.

### **Proposed Internal Audit Plan for Term 3 - 2023-2024**

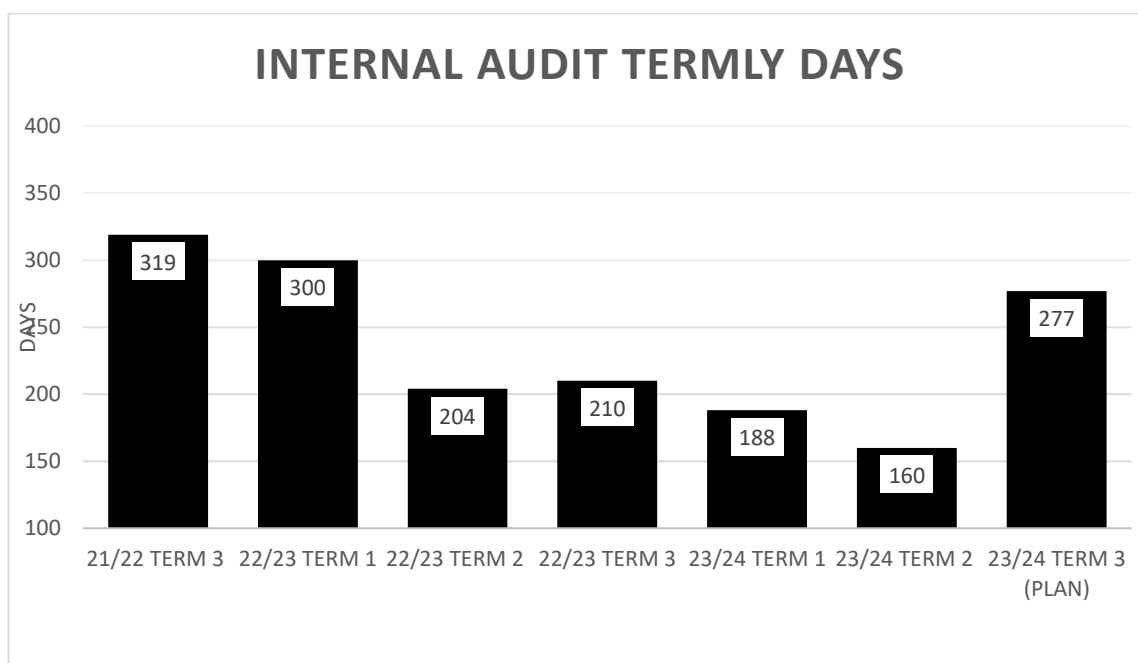
15. Internal Audit termly plans continue to be determined on a risk basis, as required by the Public Sector Internal Audit Standards, and using the methodology previously reported to Members.
16. In addition to undertaking an assessment of audit risks the termly plan also needs to consider the assurance it provides that the Council's Core Processes remain robust. The termly plan includes coverage of core processes on a cyclical basis to ensure that this assurance can be provided to support the Head of Internal Audit Annual Report. As a reminder the Core Processes established through the Internal Audit Strategy are:-

Core Processes	
• Commissioning	• Risk management
• Procurement & accounts payable	• Business continuity
• Workforce planning & employee recruitment	• Performance management
• Payroll	• Asset management
• Accounts receivable (including Payment Card Industry compliance)	• Corporate governance
• Accounting clearing house	• Health & safety
• Budgetary control	• Counter-fraud
• Corporate financial management	• ICT access management
• Pensions administration & investment	• ICT networks
• Information governance	• Cyber security

17. The Term 3 plan represents the Section's assessment of the key areas that need to be audited in order to satisfy the Authority's statutory responsibility to undertake an adequate and effective internal audit of its system of internal control. The Section's aim is to complete enough work to express an overall, annual opinion on the adequacy and effectiveness of the Authority's internal control arrangements.
18. Termly planning continues to be developed in an agile way allowing the precise scope and objectives for each audit assignment to be agreed at the time the audit is to commence. Detailed discussions prior to an audit commencing should identify other sources of assurance already available for the area in question, thereby clarifying the risks on which Internal Audit's focus should most impactfully be applied. At this planning stage, therefore, proposed topics for audit are expressed in terms of the broad rationale for their inclusion.
19. Similarly, the termly plan contains a forward plan of areas to be considered for inclusion in subsequent terms, which again will be subject to more precise scoping at the time the audit is to commence.
20. **Appendix 2** sets out details of the draft coverage by Internal Audit for Term 3, and it is summarised in the following table.

Assurance from Audit Coverage	Days	Outputs
Second Line Assurance work	65	4
Opinion Assurance	148	9
Advice / Consultancy Assurance	46	0
Counter Fraud Assurance	18	4
Certification Assurance	0	0
<b>Total</b>	<b>277</b>	<b>17</b>
External Client (Notts Fire & Rescue Service)	33	
<b>Grand Total</b>	<b>310</b>	

21. The chart below shows the trend in the number of actual days available in recent terms, excluding the external client. The increase in term 3 mainly reflects the recruitment of two Senior Auditors during Term 2.



22. The next Internal Audit update to Committee will cover details of the outcome of Internal Audit's work in Term 2 2023-24 (August to November 2023).

### Other Options Considered

23. The Internal Audit Team is working to the Public Sector Internal Audit Standards during 2023/24. This report meets the requirement of the Standards to produce a risk-based plan and to report the outcomes of Internal Audit's work. No other option was considered.

### Reason/s for Recommendation/s

24. To set out the report of the Interim Chief Internal Auditor to propose the planned coverage of Internal Audit's work in Term 3 of 2023/24, providing Members with the opportunity to make suggestions for its content.

## **Statutory and Policy Implications**

25. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required. Individual audits completed and in the proposed Termly Plan may potentially have a positive impact on many of the above considerations.

## **Financial Implications**

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

## **RECOMMENDATION**

- 1) That the Committee notes the outcome of the Internal Audit work carried out in Term 1 – 2023/24 and the planned coverage of Internal Audit's work in Term 3 of 2023/24 be progressed to help deliver assurance to the Committee in priority areas.

**Nigel Stevenson**

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

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

Simon Lacey

Group Manager - Internal Audit & Risk Management

## **Constitutional Comments (GR - 01/11/2023)**

27. Pursuant to the Nottinghamshire County Council constitution the Governance and Ethics Committee has the authority to receive this report.

## **Financial Comments (CSS - 01/11/2023)**

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

## **Background Papers and Published Documents**

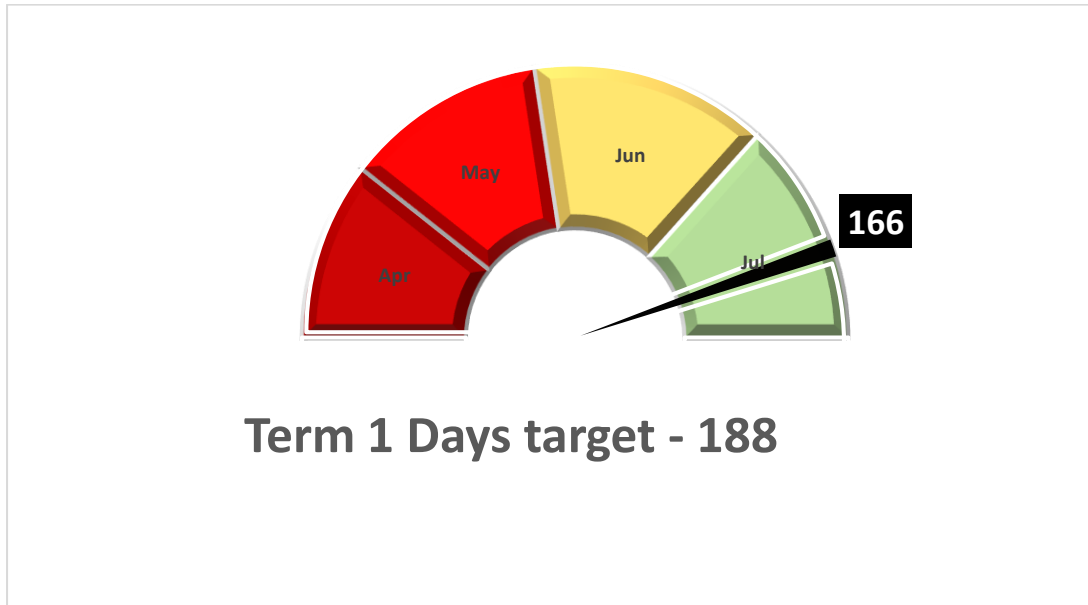
Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- None

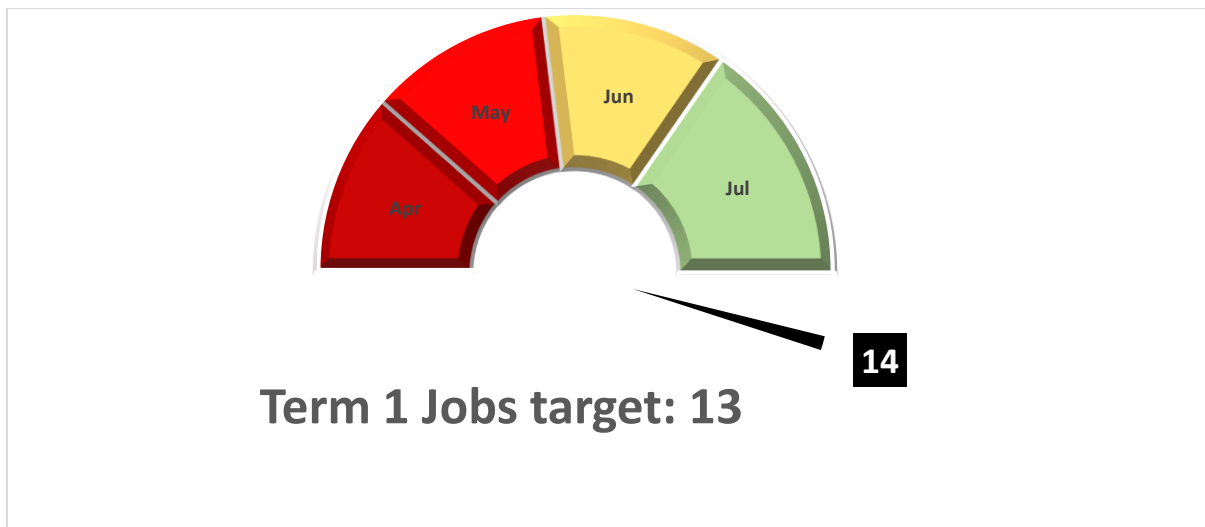
## **Electoral Division(s) and Member(s) Affected**

- All

Term 1 – Inputs – Days Delivered



Term 1 – Outputs – Jobs Completed



Term 1 – Productivity Indicator



## Key Performance Indicators

Performance Measure/Criteria	Target	Outcome in Term 1
<b>1. Risk-aware Council</b>		
Completion of Termly Plan – Days	90%	X 88%
- Jobs	90%	✓ 108%
Regular progress reports to: <ul style="list-style-type: none"> <li>- Departmental Leadership Teams</li> <li>- Corporate Leadership Team</li> <li>- Governance &amp; Ethics Committee</li> </ul>	1 per term 1 per term 1 per term	✓ Completed ✓ Completed ✓ Completed
Publication of periodic fraud/control awareness updates	2 per annum	✓ Progress Report - Jan 2023, and Annual Fraud Report - July 2023
<b>2. Influential Audit Section</b>		
Recommendations agreed	95%	X 93%  The shortfall was due to one recommendation only partially agreed.
<b>3. Improved internal control &amp; VFM</b>		
Percentage of Priority 1 & 2 recommendations implemented.  (Position as at last action tracking exercise in Nov 2023)	75%	✓ 77% of 2021/22 actions ✓ 87% of 2022/23 actions
<b>4. Quality measures</b>		
Compliance with the Public Sector Internal Audit Standards (PSIAS)	Compliance achieved	✓ External Quality Assurance review undertaken in March 2023 confirmed compliance for 2022/23
Positive customer feedback through Quality Control Questionnaire (QCQ) scores	Feedback good or excellent (where a score of 4 is excellent and a score of 3 is good)	✓ 3.6



Area of Assurance Coverage	Priority Level (if risk assessed)	Job count	Other 3rd Line Assurance	Assurance from audit coverage and planned days					Potential scope or area of assurance coverage
				2nd Line Assurance Role	Opinion Assurance	Advice/ Consultancy Assurance	Counter-Fraud Assurance	Certification Assurance	
<b>Audit Risk Assessment - Assurance Requirements for Term 3</b>				<b>Rationale for Assurance Requirement</b>					
<b>Governance Framework</b>									
Continuous Audit Assurance	H	1		20					<b>Core process based</b> : continued reporting to Statutory Officers of routine assurance that core processes are operating as intended, or to identify areas for management/audit attention.
Continuous Audit Assurance - development	H	0		5					<b>Core process based</b> : expansion of our Continuous Assurance indicators, in particular to include indicators of fraud and error
Assurance Mapping	H	1		30					<b>Core process based</b> : Completion of the annual assurance mapping exercise to capture assurance form across the Council to inform the Annual Governance Statement
Governance Update	H	1		5					<b>Core process based</b> : To provide an update on progress against the Annual Governance Statement action plan for 2022/23
Annual Governance Statement	H	1		5					<b>Core process based</b> : Co-ordinate evidence gathering and draft the Annual Governance Statement for 2023/24
<b>Counter-Fraud</b>									
Pro-active Counter Fraud - Continuation of pro-active counter fraud activity and 6-monthly counter fraud progress report	H	1					10		<b>Counter fraud</b> : Continuation of pro-active counter fraud activity in accordance with the fraud action plan, including drafting of 6-monthly counter fraud progress report.
Pro-active Counter Fraud – Review of Matches 2022-24	H	1					4		<b>Counter fraud</b> : Review and report on the completion of recommended matches by the key contacts within departments for Cabinet Office.
Counter Fraud Alerts - network dissemination & review of training materials	H	1					3		<b>Counter fraud</b> : Review and dissemination of fraud alerts from national counter-fraud agencies.
Counter Fraud case reviews	H	1					1		<b>Counter fraud</b> : Regular liaison to address concerns of misuse and financial abuse involving service users
<b>Assurance</b>									
Governance - Cabinet and Scrutiny Model	H	1			15				<b>Core process based</b> : Completion of a review of compliance with the new governance arrangement under the Cabinet and Scrutiny model to provide assurance and inform the AGS.
Procurement to Pay	H	1			6				<b>Core process based</b> : Completion of a review of the controls in relation to the processing of payments from initiation to payment using data analytical techniques.
Performance Management	H	0			15				<b>Core process based</b> : Commence a review of arrangements in place for the routine reporting of performance information across the council. The need to review arrangements, generation of KPI's, data quality and reporting was highlighted in the external auditor's annual report.
Accounts Receivable (Invoicing and Debtors)	H	0			15				<b>Core process based</b> : Commence a review of arrangements for the effective management and recovery of accounts receivable to support the MTFS. Review arrangements for income recognition and invoicing at a departmental level to ensure completeness.
Health & Safety	H	0			15				<b>Core process based</b> : Following a discussion at CLT, commence a review to identify and assess the coverage of assurances and indicators from other sources that are available on Health & Safety, for subsequent inclusion in our Continuous Assurance monitoring and reporting.
Consultants Engagements - retrospective waivers	H	1			6				<b>Intelligence based</b> : Completion of a review in line with s151 for the use of consultants and the volume of retrospective waivers
Procurement - Contract Management Framework	H	1			6				<b>Intelligence based</b> : Completion of a review of compliance with the operation of the contract management system used across council to effectively manage contracts.
Members Travel Claims	H	1			15				<b>Intelligence based</b> : Following a request from the Governance and Ethics Committee in relation to a report received regarding Members Travel Claims in September 2023
Residential Services - Financial Procedures	H	0			15				<b>Intelligence based</b> : Following a recent focused review of payroll errors in the Short Breaks service, this is to commence a wider review of financial procedures in Residential Services.

Area of Assurance Coverage	Priority Level (if risk assessed)	Job count	Other 3rd Line Assurance	Assurance from audit coverage and planned days					Potential scope or area of assurance coverage
				2nd Line Assurance Role	Opinion Assurance	Advice/ Consultancy Assurance	Counter-Fraud Assurance	Certification Assurance	
Asset Management - Recording of Property assets	H	0			15				<i>Intelligence based:</i> Following a recently identified omission, commencement of a review of the completeness and accuracy of properties recorded (on the P2 system etc) for asset management, insurance and financial accounting purposes
ICT Risk Plan - Key System Security	H	1			10				<i>ICT Risk Based:</i> Audit to be identified from the current IT Audit Needs Assessment. This currently includes security and administration controls over a key system e.g. BMS. The scope will take into account where BMS is in its procurement lifecycle.
ICT Audit Needs Assessment	H	1			5				<i>ICT Risk Based:</i> Renew the ICT Audit Needs Assessment, to identify future ICT audit needs, following the expiry of the current Needs Assessment
Blue Badge and Concessionary Travel Fraud	H	1			5				<i>Fraud Risk Assessment based -</i> Complete a pro-active piece of work with the Travel & Transport team to respond to the threat of Blue Badge and Concessionary Travel Fraud as part of the Fraud Action Plan.
Duplicate Payments	H	1			5				<i>Fraud Risk Assessment based -</i> Complete a pro-active piece of work with BSC to develop additional in-house options to identify duplicate payments using Audit Software as identified in the Fraud Action Plan.
Sub-totals				65	148	0	18	0	
<b>Planning, reporting, client management</b>									
Governance & Ethics Committee		0				16			<i>Core Activity:</i> Preparation of reports in accordance with the Governance and Ethics Committee annual work plan and attendance at meetings.
Client management		0				20			<i>Core Activity:</i> Planning and termly progress reports to Corporate Leadership Team.
Advice		0				10			<i>Core Activity:</i> Advice to client on financial and other controls, on request.
Sub-totals				0	0	46	0	0	
<b>Grand Totals</b>		<b>17</b>		<b>65</b>	<b>148</b>	<b>46</b>	<b>18</b>	<b>0</b>	
				<b>277</b>					
<b>Forward Plan for assurance in subsequent Terms</b>									
Corporate Budgeting & MTFS	H								<i>Core Process based:</i> Undertake a review focussed on the Medium Term Financial Strategy (MTFS), budget pressures, and the contribution made to savings from the Transformation Programme.
Asset Management - Building & Office Rationalisation	H								<i>Core Process based:</i> Undertake a review of the Building and Office Rationalisation Programme, in response to hybrid and smarter working - including the management of assets and the realisation of capital receipts.
Payroll	H								<i>Core process based:</i> A review of corporate Payroll controls including for starters, leavers, payments, allowances, using data analytical techniques where appropriate.
Information Governance	H								<i>Core process based:</i> Review of the arrangements for managing information governance risks, including Data Protection
Workforce planning & employee recruitment	H								<i>Core process based:</i> a review of progress on the Authorised Staffing and Establishment Workforce Review (ASEWR) which began in August 2022
Ethical Culture	H								<i>Risk based:</i> it is a requirement of the Public Sector Internal Audit Standards that we evaluate the organisation's ethical framework. Our previous review reported in 2019 (report 2018-55). This next review will examine how the ethical framework is understood and applied, including with reference to the Nottinghamshire Way approach adopted by the Council.
s106 agreements - sufficiency of contributions	H								<i>Intelligence based:</i> Commence a review of the sufficiency of developer contributions obtained under s106 agreements, to enable the proposed infrastructure to be provided
Use of Agency Staffing	H								<i>Intelligence based:</i> Undertake a review of the use of agency staffing contracts across the Council and especially in high use areas.
PFI - arrangements for the exit	H								<i>Intelligence based:</i> Arrangements in place for the completion, exit and hand back of arrangements under PFI schemes
Thematic Review of Schools Finances - NAO Sustainability	H								<i>Intelligence based:</i> Undertake a review of processes within schools based on risks emerging from the NAO guidance and sustainability.

Area of Assurance Coverage	Priority Level (if risk assessed)	Job count	Other 3rd Line Assurance	Assurance from audit coverage and planned days					Potential scope or area of assurance coverage
				2nd Line Assurance Role	Opinion Assurance	Advice/ Consultancy Assurance	Counter-Fraud Assurance	Certification Assurance	
Social Care - Future Needs & Impact	H								<i>Intelligence based:</i> Undertake a review of intelligence and data analytics used to form a view of future needs with comparison of practices nationally within Adults and Children's.



29 November 2023

Agenda Item: 6

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

**FOLLOW-UP OF INTERNAL AUDIT RECOMMENDATIONS**

**Purpose of the Report**

1. To report progress with the implementation of agreed management actions to address Internal Audit recommendations.

**Information**

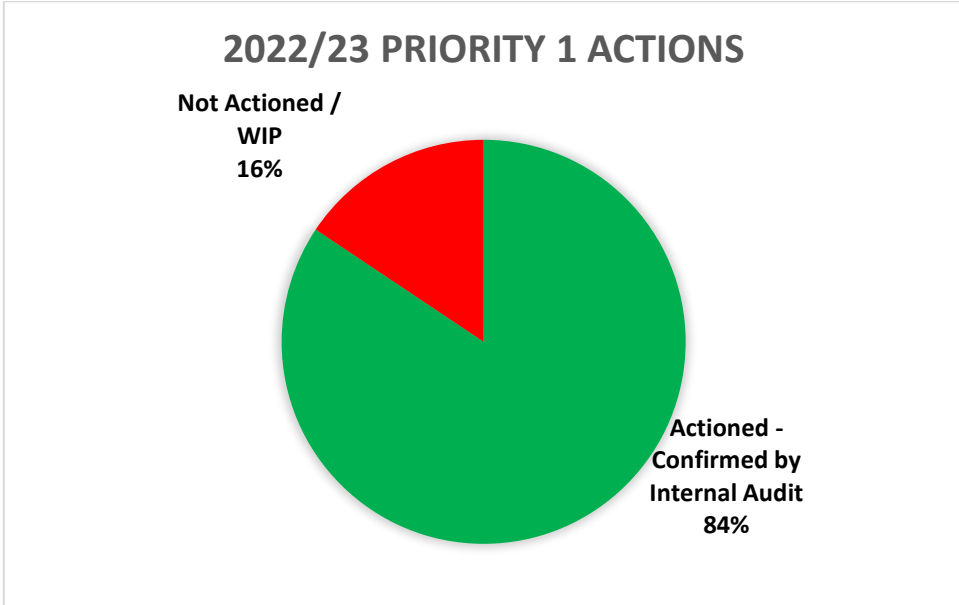
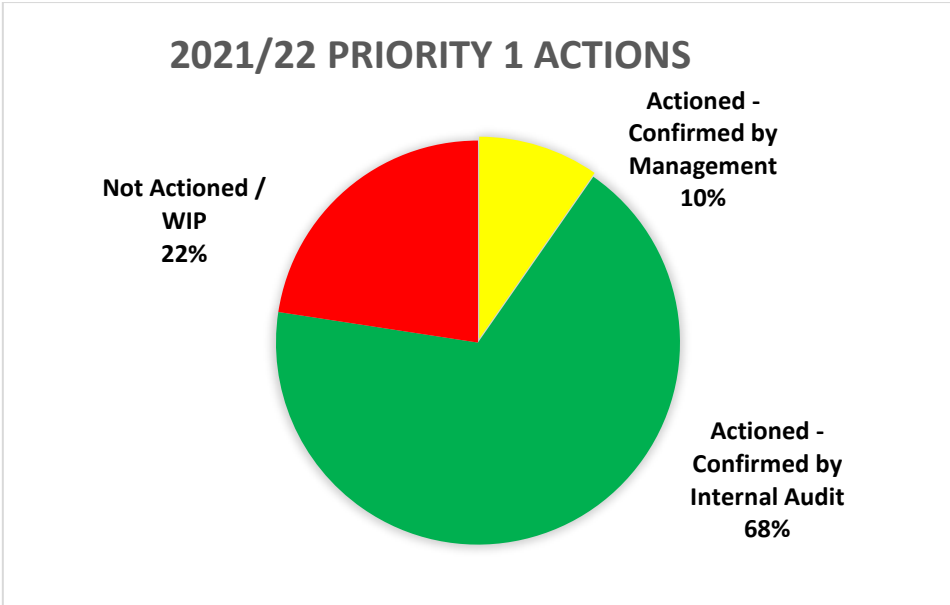
2. Internal Audit carries out follow-up work every six months, as follows:

Priority rating of recommendation	Management assurance	Internal Audit assurance
Priority 1	Updates sought from action owners about implementation	Testing to confirm management assurances about implementation
Priority 2		Sense-checking of updates, but no testing required

3. The charts, tables and text in this report, and its appendix, describe the progress made by action owners in implementation, and the outcomes of testing for Priority 1 actions.

***Priority 1 Actions***

4. The degree of progress made with implementing and testing the more recent Priority 1 actions are summarised in the pie charts below, which cover the latest two financial years:



5. The green segments of the pie charts confirm that the majority of Priority 1 recommendations from both years have been actioned. We have successfully tested these actions and confirmed that they are implemented. Those that have been confirmed in this latest 6-monthly exercise are summarised in the table in paragraph 6 below.
6. Our testing has confirmed satisfactory implementation for the following Priority 1 actions:

Priority 1 Actions – Cleared by Internal Audit following recent testing	
Audit	Actions cleared
2022/23	
<b>Counter-Fraud Learning &amp; Responsiveness – Direct Payments</b>	2 of the 4 actions were cleared. All referrals for new direct payments are being made to the Direct Payments Team who are encouraging use of pre-paid cards (the use of which is more visible to the Council). There is guidance for recording discussions and decisions (on the Mosaic system), and reminders about this guidance are periodically included in the regular practice newsletter, most recently in November 2023.

Priority 1 Actions – Cleared by Internal Audit following recent testing	
Audit	Actions cleared
Adult Care Direct Payments – prepaid cards	7 of the 8 actions were cleared – on account closures, checks on replacing expired cards, checks on payments, and access to systems and records.
ICT – Active Directory	All 5 Priority 1 actions were cleared. Two domains to be removed are no longer functioning, an unnecessary administrator account has been disabled, and a review of active directory group memberships has been completed.
ICT - Cyber Security	2 of the 3 Priority 1 actions that are now due have been cleared. There has been recruitment and the Security & Risk Management team is fully staffed; and patching work is now on track.
2023/24	
Bank Mandate Fraud	Both actions were cleared, which were to address fraud risks in schools, including bank mandate fraud.

7. Where management provides assurance that Priority 1 actions have been implemented, Internal audit tests them before confirming they are implemented (as in paragraph 6 above). We have obtained evidence to test all implemented Priority 1 actions, apart from the following three actions where management’s response indicates that the actions have mostly been implemented. This will be confirmed by internal audit in our next 6-monthly review.

Priority 1 Actions – implementation to be confirmed by internal audit in our next review	
Audit	Actions implemented – to be confirmed by internal audit
2021/22	
Councillors Divisional Fund	The original report had 6 Priority 1 actions and 3 were cleared a year ago in our November 2022 Committee report. The other 3 Priority 1 actions relate to the completeness of application forms; checks on applications before payment; and checks undertaken after payment. Management’s response indicates that the first two of these have been implemented, and the third is partly implemented, with remaining improvements to be explored. This will be confirmed by internal audit in our next 6-monthly review.

8. However, despite the positive messages above, our work continues to identify Priority 1 actions where implementation is overdue, including some earlier ones which were delayed by the pandemic. These are set out in **Appendix 1**, and summarised by year, and by department, below:

Overdue Priority 1 Actions						
Audit report year	Council total	Departmental Analysis				
		ASCPH	C&F	Place	CEx	Cross-cutting
Pre-2021/22	7	0	0	0	0	7
2021/22	7	0	0	1	6	0
2022/23	5	3	0	0	2	0
2023/24	2	0	0	0	2	0
<b>Total</b>	<b>21</b>	<b>3</b>	<b>0</b>	<b>1</b>	<b>10</b>	<b>7</b>

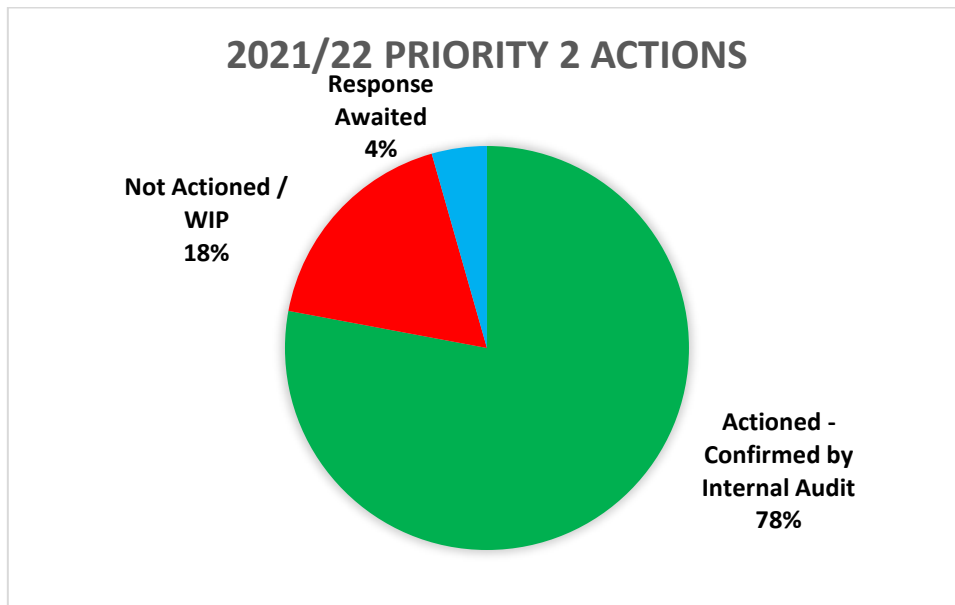
### Governance of ‘Category A’ Outside Bodies

9. In the above table six of the overdue actions in the Chief Executive’s department relate to our report on Governance Arrangements for ‘Category A’ Outside Bodies. The nine recommendations within that report are now due for implementation based on the original

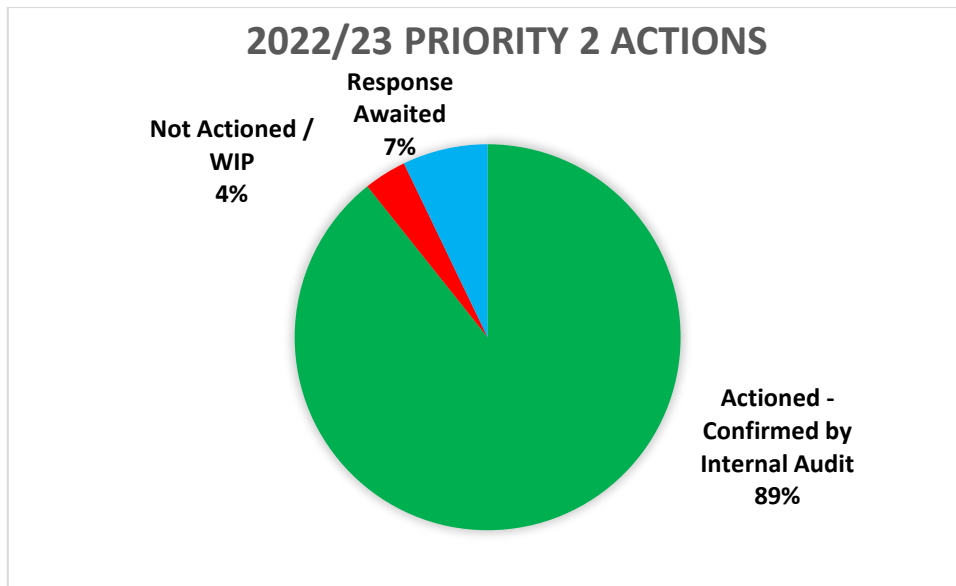
estimated timescales provided by management, which were given subject to the availability of additional resources to carry out this new work. Progress with the implementation of the Priority 1 recommendations is summarised in Appendix A in which reference has been made to limited progress because of those previously identified resource and capacity issues. However, it is acknowledged that implementation of the range of recommendations in the original Internal Audit report has recently been discussed by the Corporate Director of Place, Section 151 Officer and Monitoring Officer who intend to develop an Annual Report to the Governance & Ethics Committee on the governance arrangements and assurance provided by NCC Companies. A review of arms length organisations is scheduled for the G&E Committee in February 2024. As part of our Internal Audit tracking process, we will seek to test and ensure that these recommendations are addressed and implemented as part of this Annual Report or through other appropriate measures.

### **Priority 2 Actions**

10. Progress with implementing Priority 2 actions over the last two financial years is summarised in the following pie-charts:



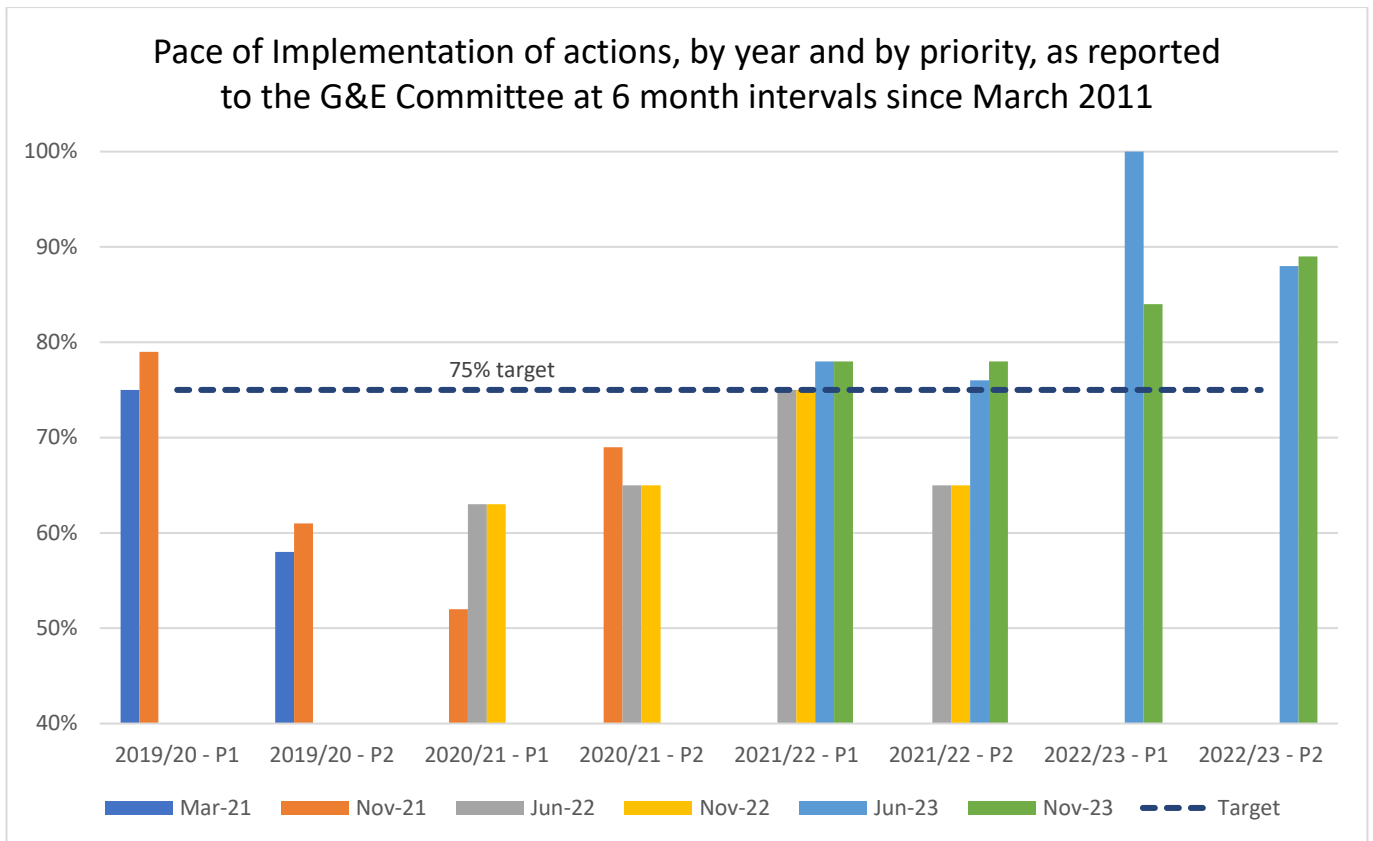




11. The green segments confirm that the majority of Priority 2 recommendations from both years have been actioned. The red segments indicate where there remains more to do.

***Pace of implementation***

12. For each financial year, a key performance indicator has been agreed for 75% of agreed Priority 1 and Priority 2 actions to be implemented on schedule. The following chart tracks the pace with which actions have been implemented since 2019/20, as reported to successive G&E Committees since March 2021, when the implementation of actions were being impacted by the pandemic:



13. The above chart shows that there was a slowdown in of the pace of implementation of actions during the pandemic, with the lowest figures being 2020/21 actions reported to the November 2021 committee. There has been an improving trend since then, and implementation exceeded the 75% target at our previous review in June 2023. This time, the implementation rate for Priority 2 actions has continued to rise, and whilst the overall target of 75% has still been achieved, the implementation rate for Priority 1 actions has declined, which is explained as follows:

14. The implementation rate for 2021/22 Priority 1 actions has remained at 78%.

15. The implementation rate for 2022/23 Priority 1 actions has fallen from 100% to 84%. Since June 2023 many more actions have become due and been implemented (27 compared to 11 previously - the extra 16 are summarised in paragraph 6 above). But five other actions have also since become due and are not yet implemented (summarised in Appendix 1).

16. The overall implementation rate on this latest action tracking exercise is 77% for 2021/22 actions and 87% for 2022/23 actions, so it remains above the target.

**Management updates to the Governance & Ethics Committee**

17. The continued drive and support from the Committee is key in securing improved implementation rates going forward. Arising from the details presented in this report, the Committee may consider that it requires further updates and assurances from management at its next meeting in relation to one or more of the areas in which agreed actions remain outstanding.

## **Other Options Considered**

18. The other option considered would be to not bring an update report to the Committee, however this was rejected as it would mean the committee would not have the oversight of progress needed to gain assurance that actions identified were being implemented.

## **Reason for Recommendation**

19. To enable the Governance & Ethics Committee to consider whether it has received sufficient assurance that actions in response to Internal Audit's recommendations are being implemented as agreed, or whether it considers that further and more detailed updates from management are required.

## **Statutory and Policy Implications**

20. 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.

21. Many of Internal Audit's recommendations are made with specific financial implications in mind. Such recommendations, and the associated management actions, are designed to secure effective governance, internal control, and risk management.

## **RECOMMENDATIONS**

- 1) That the Committee note the contents of the reports and the progress that has been made against the Internal Audit recommendations.
- 2) That a further progress report and an update on those actions outstanding be included in the next 6-monthly review.

**Nigel Stevenson**

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

**For any enquiries about this report please contact: Simon Lacey, Chief Internal Auditor**

### **Constitutional Comments (GR - 01/11/2023)**

22. Pursuant to the Nottinghamshire County Council constitution the Governance and Ethics Committee has the authority to receive this report.

### **Financial Comments (CSS - 01/11/2023)**

23. 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

Agreed action and risk	Original implementation target and position at the previous follow-up in June 2023	Latest progress update	Internal Audit follow-up
<b>Pre-2021/22 audit reports</b>			
<b>Budget Forecasting (cross-cutting) – March 2020</b>			
<p><b>Training</b> A training package is being developed. This will be available as on-line training and will include updated guidance on the expectations of budget holders and approvers.</p> <p><i>Risk: Where staff are not fully aware of their roles and responsibilities or properly trained, inaccurate forecasts may be produced.</i></p>	<p>September 2020</p> <p>June 2023: Delays to the 2021/22 external audit, and staff vacancies, have delayed the planned development of on-line training. Budget training continues to be delivered by finance staff to individual budget holders as and when required. Monthly budget monitoring has not identified any inaccurate forecasts and the overall budget monitoring process continues to be robust.</p>	<p>A deep dive reivev of financial monitoring in the Public Health area including a training needs assessment and the development of online training has been scoped with an aim to complete by end Dec 2023. Following this it is planned that the online training will be rolled out across other departments, hopefully to be in place by April 2024.</p>	<p>To be followed up in next 6 months.</p>
<b>Commissioning (cross-cutting) – June 2020</b>			
<p><b>Commissioning Project Management</b> Draft commissioning plans to be circulated between departmental commissioning boards, panels and teams and also a cross-departmental Expert Commissioner group.</p> <p><i>Risk: Opportunities for joint working and commissioning are missed at the operational level.</i></p>	<p>October 2020</p> <p>June 2023: This was largely addressed by the Departmental Commissioning Boards established for the Adults and Children’s departments. For the Place Department, there are discussions on how commissioning activity can be covered by the Place Leadership Team meetings, so we will continue to track this.</p>	<p>Analysis has been undertaken of Place Spend and Contract Pipeline to understand where future opportunities may sit to consider Strategic Commissioning – following the September 2023 Place Leadership Team it is the intention that Place will identify a specific contract where they can apply Strategic Commissioning as a Pilot, and then look to build on this more widely across the department.</p>	<p>To be followed up in next 6 months</p>
<p><b>Training and quality control</b> A framework of commissioning courses ranging from basic to advanced, sourced either internally or externally, to be established and rolled out.</p> <p><i>Risk: The quality of commissioning activity varies across the organisation.</i></p>	<p>October 2020</p> <p>June 2023: A new Strategic Commissioning Framework went to Cabinet in March 2023. The Cabinet Report included a Training Plan with timescales for implementation from April 2023. It also included a Draft Strategic Commissioning Toolkit. Internal audit will review the introduction of the Training and Toolkit in future follow-ups.</p>	<p>The e-Learning Module for Strategic Commissioning has been drafted and is with HR for final development, it is expected to be released late Autumn 2023 and is closely aligned to the Contract Management and Procurement e-Learning which already exist. Our first two commissioners from Public Health have joined the August 2023 cohort of the Commissioning Academy and a further 18</p>	<p>As above</p>

**Overdue Priority 1 Actions**

**Appendix 1**

Agreed action and risk	Original implementation target and position at the previous follow-up in June 2023	Latest progress update	Internal Audit follow-up
		commissioners will join the January 2024 cohort which will be hosted by NCC at County Hall.	
<p><b>Databases and data analysis</b>                      Commissioning groups and teams to review the data analytical skills required of staff and consider options for addressing skills gaps.</p> <p><i>Risk: Best practice is not promoted, resulting in sub-optimal outcomes.</i></p>	<p>October 2020</p> <p>June 2023: The new Strategic Commissioning Framework which went to Cabinet in March 2023 is based on 8 principles including, but not limited to, Data Analysis. Internal audit shall obtain a wider update on the embedding of strategic commissioning across the Council in future follow-ups.</p>	<p>Meetings have been held with all Service Directors and their senior leadership teams to introduce Strategic Commissioning and to raise awareness of the resources available for commissioners to support them in this activity. It has been agreed that Service Directors will continue to meet quarterly with the Group Manager for Procurement to ensure embedding activities are underway and lessons learned can be shared.</p> <p>Phase 2 Strategic Commissioning is expected to begin March/April 2024 with resource from the Transformation and Delivery team and will ensure that:</p> <ul style="list-style-type: none"> <li>• Departmental-level gap-analysis in relation to the implementation of Strategic Commissioning</li> <li>• Creation and delivery of departmental-level roadmaps which will focus on moving from the current position to the use of the Strategic Commissioning Framework being embedded into practice</li> <li>• Development of commissioning intentions, outlining our forward plans across the Council and exploring opportunities for collaboration and joint work internally and externally</li> </ul> <p>We expect that the 8 principles of strategic commissioning underpin all commissioning activity. This will come out through the e-Learning and also 'How to use the Strategic Commissioning Toolkit' which will be explicit in detailing the importance of each principle.</p>	<p>As above</p>

Agreed action and risk	Original implementation target and position at the previous follow-up in June 2023	Latest progress update	Internal Audit follow-up
<b>Business Continuity Planning (BCP) (cross-cutting) – August 2020</b>			
<p><b>BCPs</b> Managers of critical services in the ASC&amp;PH and C&amp;F Departments need to produce BCPs for the 10 critical services currently without one. Once completed they need to be uploaded onto SharePoint.</p> <p><i>Risk: Services deemed as critical do not have an action plan in the event of an emergency.</i></p>	<p>March 2021</p> <p>June 2023: The Risk, Safety and Emergency Management Board (RSEMB) have agreed that a full and thorough review of the Council's business continuity arrangements is urgently required considering the significant lessons identified from the response to the Covid-19 pandemic, a Ransomware (Cyber) attack exercise and the County Hall fire. The RSEMB have agreed that the Business Continuity Forum will be formed again to lead this work. The work will be led by the Head of Service Delivery Governance &amp; Standards, Technology &amp; Digital ICT, and supported by the Emergency Planning Team.</p> <p>The programme of work, overseen by the Forum will include:</p> <ul style="list-style-type: none"> <li>• Review of the NCC Business Continuity strategy, considering organisational changes since the last review (hybrid working, investing in Nottinghamshire, ASDMs/Outsourcing).</li> <li>• Review of the current corporate Business continuity arrangements as outlined in the NCC Corporate Plan, to address gaps.</li> <li>• Review of NCC Critical Services list.</li> <li>• Review and revision of critical service plan templates and guidance, to include cyber incidents and lessons from Covid and the County Hall fire.</li> <li>• Monitoring of progress of Business Continuity incident recommendations e.g. Ransomware attack action plan approved at the RSEMB in July.</li> <li>• Liaison with RSEMG's and critical services to ensure BC plans and arrangements are up to date.</li> <li>• Identification of training needs for Emergency Planning to develop eLearning / workshop.</li> <li>• Validation of new corporate BC plans and arrangements (through exercising).</li> </ul>	<p>The first meeting of the NCC Business Continuity Forum, chaired by the Head of Service Delivery and Governance Standards, Technology and Digital ICT, took place on 15 September 2023. The group agreed the ToR and the intended program of work:</p> <ul style="list-style-type: none"> <li>• Review of the NCC Business Continuity strategy, considering organisational changes since the last review (hybrid working, investing in Nottinghamshire, ASDMs/Outsourcing)</li> <li>• Review of the current corporate Business continuity arrangements as outlined in the NCC Corporate Plan, to address gaps.</li> <li>• Review of NCC Critical Services list.</li> <li>• Review and revision of critical service plan templates and guidance, to include cyber incidents and lessons from Covid and the County Hall fire.</li> <li>• Monitoring of progress of Business Continuity incident recommendations e.g. Ransomware attack action plan approved at the RSEMB in July.</li> <li>• Liaison with RSEMG's and critical services to ensure BC plans and arrangements are up to date.</li> <li>• Identification of training needs for Emergency Planning to develop eLearning / workshop</li> <li>• Validation of new corporate BC plans and arrangements (through exercising).</li> </ul> <p>The priority being:</p> <ul style="list-style-type: none"> <li>• the simplification of the current Business Impact Analysis and Critical Service BC Plan templates to help increase buy in from services. A new Excel based system has already been drafted and circulated for</li> </ul>	<p>To be followed up in next 6 months.</p>

**Overdue Priority 1 Actions**

**Appendix 1**

Agreed action and risk	Original implementation target and position at the previous follow-up in June 2023	Latest progress update	Internal Audit follow-up
	<p>The Forum have been asked to prioritise the review and revision of critical service plan templates and guidance to support departmental business continuity planning.</p>	<p>consultation. This will be discussed at the next forum meeting on 10 November 2023.</p> <ul style="list-style-type: none"> <li>• Corporate workshop, led by Zurich, to review the critical services list</li> <li>• Review of corporate BC arrangements e.g. relocation, ICT, telephony</li> </ul> <p>In the meantime, critical services can continue to use the current templates and guidance to update their plans and are being encouraged to do so via the departmental RSEMG's.</p>	
<p><b>Training</b> The Emergency Planning Team to submit a report to the Risk, Safety and Emergency Management Board (RSEMG) on training options and other matters arising from the returned questionnaires.</p> <p><i>Risk: Lack of engagement from BCP managers and ineffective actions taken in the event of an emergency.</i></p>		<p>Discussed at BC Forum. Training will be focused on:</p> <ul style="list-style-type: none"> <li>• eLearning top level BC training for all managers / plan authors</li> <li>• Departmental workshops for plan authors to help the completion of BIA's and plans (once the new templates and guidance have been issued / are due to be).</li> </ul>	As above
<p><b>Annual Reviews of BCPs</b> Managers of critical services to ensure that BCPs to be reviewed, updated, and made subject to training exercises.</p> <p><i>Risk: Actions taken in response to an emergency situation are not effective, exposing the Council and its service users to prolonged disruption.</i></p>		<p>A program will be put in place to ensure this is audited by the emergency planning team, via the RSEMG's once the new guidance and templates are in place. At present, critical services are reminded re the need to review on a regular basis.</p>	As above
<p><b>2021/22 audit reports</b></p>			
<p><b>Sale of land and building properties (Place Dept) – November 2021</b></p>			



**Overdue Priority 1 Actions**

**Appendix 1**

Agreed action and risk	Original implementation target and position at the previous follow-up in June 2023	Latest progress update	Internal Audit follow-up
<p><b>Asset Management Plans</b> To develop the Service Asset Management Plans.</p> <p><i>Risk: The property requirements of the Council may be unclear.</i></p>	<p>March 2022</p> <p>June 2023: Some progress was made before a delay caused by Covid-19. It is on the Property Services action plan for this year to complete Suitability Assessments for all properties and Service Asset Management Plans for all services.</p>	<p>Service Asset Management Plans are being developed but this remains in progress. It is envisaged that these will be in place across all services by the end of the year.</p>	<p>To be followed up in next 6 months.</p>
<p><b>Governance of 'Category A' Outside Bodies (Chief Execs Dept) – December 2021</b></p>			
<p><b>Ownership of Company Governance</b> Centralise the Council's governance arrangements for its companies, including monitoring, reporting and guidance.</p> <p><i>Risk: Lack of oversight and assurance</i></p>	<p>April 2022 to June 2023</p> <p>June 2023: Responsibility for monitoring has been allocated to Corporate and Environmental Law Team. To strengthen the control framework it is proposed to develop an established model for engagement with Outside Bodies - defining shareholder/director roles and responsibilities; managing conflicts of interest, governance assurance and financial &amp; viability assurance requirements of the Council, with responsibility for different aspects allocated to officers with appropriate skills and knowledge. Further update on the proposal will be provided via the first proposed annual governance report on the companies to the G&amp;E committee.</p>	<p>No progress has been made due to no additional resources being made available to support this work. Legal Services have asked for the 'Due Dates' for the work assigned to them to be reviewed and extended by a further 12 months pending additional resources being made available.</p>	<p>An annual governance report on the companies is to be provided to the G&amp;E Committee. Internal audit will also follow this up in the next 6 months.</p>
<p><b>Roles and Responsibilities</b> Ensure appropriate Council representatives are on each company's board, and appointed as shareholders, and their roles are clear and understood.</p> <p><i>Risk: Ineffective governance if roles and responsibilities are not defined.</i></p>	<p>November 2022 to June 2023</p> <p>June 2023: There has not been a comprehensive review of appointments to the companies. However, some appointments have been changed due to changes in personnel at the Council.</p>		<p>As above</p>
<p><b>Training and Development</b></p>	<p>November 2022</p>		<p>As above</p>

**Overdue Priority 1 Actions**

**Appendix 1**

Agreed action and risk	Original implementation target and position at the previous follow-up in June 2023	Latest progress update	Internal Audit follow-up
<p>Professional training provided to Council representatives on each company's board, and those appointed as shareholders.</p> <p><i>Risk: Ineffective governance if representatives are not appropriately trained.</i></p>	<p>June 2023: Training was offered to all known directors of the companies as of December 2022. Five directors attended the training in January 2023 and a record kept. However not all directors attended, and some new directors have since been appointed.</p>		
<p><b>Conflicts of Interest</b> Review the Council representatives on each company's board, and those appointed as shareholders, for any conflicts of interest. Manage this on an ongoing basis.</p> <p><i>Risk: Ineffective governance if conflicts of interest are not managed.</i></p>	<p>November 2022 to June 2023</p> <p>June 2023: No formal review of appointments has taken place to check for risks of conflicts of interest. However general advice on conflicts was covered in the training for Directors (above) and specific advice was given to manage a potential conflict that was identified in the case of one company directorship.</p>		As above
<p><b>Assurance Reporting</b> Performance reporting by the companies to be tracked, and an annual governance report on the companies to be provided to the G&amp;E Committee.</p> <p><i>Risk: Governance is not demonstrated if arrangements are inconsistent.</i></p>	<p>December 2022</p> <p>June 2023: This reporting, which is a matter for the relevant service departments, is anticipated to feature in the first annual governance report on the companies to the G&amp;E Committee.</p>		As above
<p><b>Terms of Appointment</b> Terms of appointment for shareholders acting on the Council's behalf to specify their limits of authority. Records of meetings with decisions made to be retained.</p>	<p>June 2023</p> <p>The current update (see next column) is the first time that we have followed up this action.</p>		As above

**Overdue Priority 1 Actions**

**Appendix 1**

Agreed action and risk	Original implementation target and position at the previous follow-up in June 2023	Latest progress update	Internal Audit follow-up
<p><i>Risk: Decisions made without control, oversight, or visibility.</i></p>			
<p><b>2022/23 audit reports</b></p>			
<p><b>Pensions Administration (Chief Execs Dept) – August 2022</b></p>			
<p><b>Inaccurate data</b> As part of the national Guaranteed Minimum Pension project, it was identified that there was a requirement to reconcile the pensioner payroll in SAP with the pension benefit payment held in the Pension Administration System (UPM).</p> <p><i>Risk: Inaccurate data is held relating to pension scheme contributors and their payments.</i></p>	<p>May 2022 onwards</p> <p>The current update (see next column) is the first time that we have followed up this action.</p>	<p>To progress the Guaranteed Minimum Pension rectification exercise, the programme was split into several parts. Part 1 of the programme (Reconciliation) has been completed and the Fund is now able to progress with the Rectification phase.</p>	<p>To be followed up in next 6 months.</p>
<p><b>Counter-Fraud Learning &amp; Responsiveness – Direct Payments (Adults Dept) – December 2022</b></p>			
<p><b>Annual reviews outstanding – identification</b> Prompt identification where information has not been provided for the annual review of the bank account</p> <p><i>Risk: Funds may be misappropriated without detection and recovery of funds may be difficult.</i></p>	<p>April 2023</p> <p>The current update (see next column) is the first time that we have followed up these actions.</p>	<p>Training, and a review of the checklist, has taken place in the Living Well Service and is to be completed in the Ageing Well Service by the end of December 2023.</p>	<p>To be followed up in next 6 months.</p>
<p><b>Annual reviews outstanding - actioning</b> Review of cases where bank account information is not provided, and the consideration of alternatives, such as a pre-paid</p>			

**Overdue Priority 1 Actions**

**Appendix 1**

Agreed action and risk	Original implementation target and position at the previous follow-up in June 2023	Latest progress update	Internal Audit follow-up
card (the use of which is more visible to the Council)  <i>Risk: Funds may be misappropriated without detection and recovery of funds may be difficult.</i>			
<b>ICT – Cyber Security (Chief Execs Dept) – March 2023</b>			
<b>Risk appetite and tolerance</b> Development of risk appetite and tolerance, within the ICT Operational Risk Register.  <i>Risk: Lack of clarity about risks may lead to ineffective decision making.</i>	June 2023  The current update (see next column) is the first time that we have followed up this action.	The risk register format is being considered to take account of risk appetite and tolerance.	To be followed up in next 6 months.
<b>Adult Care Direct Payments – Pre-paid Cards (Adults Dept) – March 2023</b>			
<b>Monitoring of Excessive Account Balances</b> To check accounts with large balances, to confirm if the accounts continue to be used.  <i>Risk: Funds in card accounts no longer being used may be misappropriated.</i>	April 2023  The current update (see next column) is the first time that we have followed up this action.	The introduction of quality checks on higher account balances is planned to be in place by the end of 2023. This is the only one of the 8 actions in the audit report that has still to be implemented.	To be followed up in next 6 months.
<b>2023/24 audit reports</b>			
<b>ICT – Patching and Change Management (Chief Execs Dept) – April 2023</b>			
<b>Cyber Essentials</b> To meet the requirements of the Cyber Essentials certification.  <i>Risk: Exposure to Cyber attacks</i>	Ongoing 2023  The current update (see next column) is the first time that we have followed up this action.	Cyber Essential application to be made this Autumn 2023.	To be followed up in next 6 months.
<b>End of Life Systems</b> To monitor systems and applications reaching the end of life.	June 2023  The current update (see next column) is the first time that we have followed up this action.	The biggest risks are being addressed but there are still actions to be taken in relation to the life of SAP (BMS) which are receiving attention.	To be followed up in next 6 months.

**Overdue Priority 1 Actions****Appendix 1**

<b>Agreed action and risk</b>	<b>Original implementation target and position at the previous follow-up in June 2023</b>	<b>Latest progress update</b>	<b>Internal Audit follow-up</b>
<i>Risk: Systems no longer supported may present a security risk</i>			



**29 November 2023**

**Agenda Item: 7**

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

**GOVERNANCE UPDATE**

**Purpose of the Report**

1. To inform Committee of the progress being made with the Governance Action Plan for 2023/24.

**Information**

2. The Accounts and Audit (England) Regulations 2015 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. The Council continues to review progress against the action plan on a regular basis throughout the year. This ensures the AGS is used as a live document, contributing towards maintaining an appropriate, strategic focus on the Council's ongoing governance arrangements.
4. This latest update identifies the following as the most significant governance issues for the Council.

Issue	Comment
<p><b>Cabinet/Scrutiny model of corporate governance</b></p>	<p>Full Council at its meeting on the 31<sup>st</sup> March 2022 approved a revised model of governance which was implemented following the Annual General Meeting on 12<sup>th</sup> May 2022. It was agreed that the member working group would remain in place to deal with any issues arising and undertake a review of the operation of the new model after 12 months. The member working group reconvened for March 2023 to consider the operation of the new governance model and made recommendations to Full Council which were approved at its meeting in July 2023.</p> <p>To inject both independence and best practice suggestions into the review of the scrutiny arrangements, the Centre for Governance and</p>

Issue	Comment
	<p>Scrutiny (CfGS) has been engaged. It is an independent body which is a centre of expertise in scrutiny matters and who assist organisations to achieve their outcomes through improved governance and scrutiny.</p> <p>The CfGS has undertaken an independent review and will report back shortly. The findings of the review will be considered by the member working group, chairman and vice chairman of Overview Committee.</p>
<b>Devolution</b>	<p>On 30 August 2022, Derbyshire County Council, Nottinghamshire County Council, Derby City Council and Nottingham City Council (the Constituent Councils) signed a £1.14 billion devolution deal with the Government. The signing of the deal will, subject to relevant approvals, consultation and primary and secondary legislation passing through Parliament, establish the first ever Mayoral Combined County Authority in the country. Through our devolution programme, we are working together with our regional council partners and Government to progress the establishment of an East Midland Combined County Authority. The passing of the Levelling-up and Regeneration Bill through Parliament on the 26 October 2023 means the programme can now move into a transitional phase, which includes proposal submission to government, establishment of the statutory instrument (SI) and full council approval to create the EMCCA. An Interim Lead Team is in place to shape the EMCCA and drive the work forward. Devolution will secure long term major investment, jobs and increased prosperity for Nottinghamshire and the East Midlands.</p>
<b>Climate change</b>	<p>At its Annual General Meeting on 27/5/2021, the Council declared a Climate Emergency, and tasked the Transport and Environment Committee to drive forward measures to achieve the Council's commitment to achieving carbon neutrality in all its activities by 2030. Following the move to a Cabinet system the Cabinet Member for Transport and Environment has subsequently received a number of reports on progress including reviewing the Corporate Environment Policy to incorporate the 2030 target noted above, receiving the Councils Greenhouse Gas Reports for 2019/20, 2020/21, 2021/22 and agreeing projects to be funded through the Green Investment Fund.</p> <p>A carbon reduction plan was published in February 2023, input into the Corporate Property Strategy review and design standards and supporting Highways &amp; Transport colleagues to green the internal fleet. Departmental working groups are being established where necessary, and the Employee Green Initiatives Group has been relaunched and supported on an ongoing basis. A Carbon Literacy Training package has been developed and is being offered to all Members and Officers, and work continues to embed climate change impacts within all Council decisions.</p>
<b>The transformation agenda</b>	<p>There has been significant progress on reviewing the corporate transformation portfolio, as per the commitment in the Nottinghamshire Plan Annual Delivery Plan for 2023/24 (Action 10.11) to align with the Council's strategic aims and ambitions. The Council has moved to a whole organisation portfolio approach, seeking to make all change activity connected and visible. Governance has been</p>



Issue	Comment
	<p>refreshed to create clear line of sight and accountability for transformation across the organisation.</p> <p>The Transformation and Change group, work closely with projects leads and subject matter experts in departments to support delivery of the three corporate transformation programmes. The Portfolio Office coordinates the monitoring and reporting of corporate transformation programmes and departmental service improvement programmes, working with senior responsible and accountable officers to track delivery.</p>
<p><b>Financial resilience and sustainability</b></p>	<p>The recent significant increases in inflation and specific increases in external costs for essential services continues to impact on the Council through additional budget pressure bids. The importance of effective management of the most volatile elements of the annual budget is heightened and remains a key area of focus. The Medium-Term Financial Strategy (MTFS) continues to be updated and reported regularly. Maintaining the flow of transparent, financial data for Councillors remains a key priority.</p> <p>Full Council approved the Budget for 2023/24 on 9 February 2023. This set out the 4-year MTFS funding gap of £30.8m, with a balanced budget in 2023/24 and 2024/25. This followed a review of pressures and inflation together with mitigations and efficiencies. The report set out the assumptions underlying the MTFS and followed public consultation and review by Overview Committee through the year. The level of contingency and reserves were agreed in light of a full review of the risks inherent within the MTFS.</p> <p>Cabinet received an update to the MTFS on 9 November 2023 which indicated that the funding shortfall may rise to £60.2m over the next 3 years. However, this is before the local government settlement, further reviews of the pressures and inflation assumptions as well as the measures that the Council will identify as part of its ongoing transformation and change programme. The Period 5 monitoring report identifies a forecast in-year overspend of £0.7m (0.1% of the Council's Net Budget Requirement), with identified significant pressures arising from increasing demand on our social care services, including SEND Transport, and the impacts of inflation. Management actions are in place to help mitigate the impacts of these increasing pressures.</p>
<p><b>People Strategy and the Nottinghamshire Way</b></p>	<p>A Workforce Review has been commissioned to identify key risks and issues across the Council in relation to workforce and actions to address these. The outcome of the review will be used to support service redesign and develop a new operating model for the Council. This work falls within the People Strategy and will ensure that we have cost effective, sustainable workforce plans and resourcing strategies enabling us to recruit and retain staff and develop the skills we need. A core of part of this work is to continue to improve our approach to health and wellbeing, working environment and ways of working.</p>

Issue	Comment
	<p>The work on next phases of the Nottinghamshire Way programme continue to support the development of all of our leaders and of the culture and ways of working we require.</p>
<p><b>Adult Social Care reforms</b></p>	<p>New guidance for the next steps for “People at the Heart of Care” was published by the Department of Health and Social Care (DHSC), on the 4th of April 2023 and builds on the 10-year vision for adult social care set out in the white paper in December 2021. Below are the six areas of focus for the next two years:</p> <ul style="list-style-type: none"> <li>• Improving access to care and support to make sure people have access to the right care, in the right place at the right time.</li> <li>• Recognising skills for careers in care with the recent completion of a survey to gather evidence for a new care workforce pathway for adult social care.</li> <li>• Supporting people to remain independent at home with an older people’s housing taskforce in place.</li> <li>• Personalising care through stronger data with the introduction of a client level data set for Local Authorities</li> <li>• Digitising adult social care through the development of a shared care record and increased use of care technologies</li> <li>• Driving innovation and improvement through embedding innovative approaches in delivering care.</li> </ul> <p>The new guidance halved the funding commitment for workforce training and qualifications and the Better Care Fund is being used to fund housing integration at a much lower level than anticipated. Furthermore, the delay to charging reform set out in the Autumn statement in November 2022 is still in place, therefore the estimated cost of the reforms and resource requirements still present significant risks for the Council.</p> <p>Alongside this, the introduction of a new Care Quality Commission (CQC) led assurance and inspection regime brings a reputational risk for the Council. To mitigate against this, a Quality Assurance Framework is being launched and priority areas for development continue to be reviewed and monitored through improvement plans following the submission of the Local Authority Self-Assessment and Information Return (LASAIR) for Quality Assurance readiness was submitted for peer review by ADASS (East Midlands) in February 2023. The Annual Conversation (part of the sector-led improvement process) took place in July and was broadened to incorporate more of a mini-inspection approach to help the department to prepare for future external inspection.</p> <p>The continued pressures and lack of capacity in the care workforce were reflected in the self-assessment as this directly impacts on the Council’s ability to meet its statutory duties under the Care Act and will have a direct influence on any CQC future rating. The department is currently piloting a prioritisation matrix which has been adopted across the East Midlands to support allocation of work according to risk.</p>

Issue	Comment
<p><b>Demand for care and support</b></p>	<p>The Council and external care market continues to be impacted by high demand for Adult Social Care support with some people waiting for home-based care and other interventions. The Council has seen an increase in the complexity of support needs for adults requiring social care support leading to increased levels of longer-term services and additional support required for unpaid carers.</p> <p>In January 2023 Nottinghamshire ICS (Integrated Care System) was one of six ICS' in England to be identified by NHSE for national escalation due to high numbers of people in acute hospital care. An action plan is in place and system partners are working closely to reduce unnecessary delays in hospital discharge. The implementation of 'Transfer of Care Hubs' (Multi-Disciplinary Teams) in the hospitals has helped to decrease the number of people experiencing a delay in discharge planning. The ICS has also developed a shared data set across the acute hospitals, Community Health, and Local Authorities to aid earlier discharge planning and increase efficiency throughout people's hospital care and discharge.</p> <p>The Council has a significant waiting-list for care and support in some areas which continues to present a risk to the individuals concerned and impacts on wider Council services such as an increase in enquiries and complaints. However there have been successful recruitment campaigns recently for roles for Community Care Officers which has improved our workforce vacancy rates, which in turn has helped the Council to reduce waiting times and offer more proactive support. For example, the Maximising Independence Service (short-term support) has reduced waiting times for people requiring reablement services.</p> <p>The external market is also reporting that they are experiencing improved recruitment, which has shown a slight increase in hours of care and support delivered.</p> <p>All the risks identified are set out in a comprehensive departmental risk register.</p>
<p><b>Risk management</b></p>	<p>An action plan has been developed to address the scope for improvement in the Council's risk management arrangements, following an external 'health check'. A clearer distinction is being drawn between the management of operational and strategic risks, presenting the opportunity to link risk management through to strategic planning and reporting in a more impactful way. Due to operational issues the work was delayed, however it has now restarted with assistance from Zurich. Revised departmental and corporate risk registers have developed and a new corporate reporting format has been agreed with the Corporate Leadership Team. Work currently continues to review and update both departmental and corporate risk registers along with updating the risk management framework for subsequent reporting to the Governance and Ethics Committee. Work has also continued to recruit a permanent resource to lead on Corporate Risk Management.</p>

5. Corporate Leadership Team colleagues have been consulted with in compiling the above list of issues which continue to represent the most significant governance issues on which the Council needs to focus. CLT colleagues have provided insight to these governance issues by considering 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 update. The Action Plan for 2023/24 is set out in **Appendix 1**, showing the progress that has been identified through consultation with relevant managers. Actions that were agreed as completed as part of the previous update have now been removed.

### **Other Options Considered**

7. None – the Council has a single governance action plan and has determined to receive regular 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**

- 1) That Members note the actions taken to update the governance issues raised in this report.

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

**For any enquiries about this report please contact:**  
Simon Lacey, Group Manager – Internal Audit & Risk Management

### **Constitutional Comments (SR – 14/11/2023)**

10. The recommendations fall within the remit of the Governance and Ethics Committee.

### **Financial Comments (CSS – 31/10/2023)**

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

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



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

- None

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

- All



Planned Action	Officer responsible	Target date for completion	Progress status
<p><b>1. Risk management:</b> agree and implement a revised approach to risk management for the Council.</p>	<p>Group Manager – Internal Audit &amp; Risk Management</p>	<p>March 2024</p>	<p style="text-align: center;"> In progress</p>
<p>The work has been delayed due to operational issues however progress has been made with assistance from Zurich until a permanent internal resource can be recruited. The departmental and corporate risk registers have been revised and updated and work continues to continually refresh them. A new corporate reporting format has been agreed with CLT and the risk management framework is being revised to reflect the agreed changes. A Risk Management Update report will be presented to the Governance &amp; Ethics Committee shortly to highlight progress against the risk management approach action plan and provide an update on the work undertaken with the support of Zurich.</p>			
<p><b>2. Data quality in Mosaic:</b> greater priority given to addressing issues highlighted by routine reporting.</p>	<p>Corporate Director – Adults Social Care and Public Health.</p>	<p>March 2024</p>	<p style="text-align: center;"> In progress</p>
<p>The departments approach to data quality is now aligned to the requirements set out in the Care Data Matters: a roadmap for better data for adult social care published by the DHSC in February 2023. This guidance introduced a mandatory quarterly submission of our Client Level Data (CLD) which commenced in July 2023 covering key Adult Social Care activity and support during April to June 2023. Of the 32 mandatory fields required the department was only able to submit 19, with 70% of data requiring manipulation, and only four fields derived directly from Mosaic.</p>			
<p>The risk levels remain very high and to mitigate this the department continues to develop a Data Quality Framework with an agreed three phased approach. A data cleanse is underway as part of phase one, and a list of mandatory items to address data gaps has been identified and prioritised.</p>			
<p>A dedicated data working group has been set up to support the data quality framework and improve data quality which will include CLD and a planned roadmap of work is being developed. Project resource has been secured until March 2025 to support this work.</p>			





**29 November 2023**

**Agenda Item: 8**

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

### **WORK PROGRAMME**

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

1. To review the Committee's work programme.

#### **Information**

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

#### **Other Options Considered**

4. The option to not present a work programme to the Committee was rejected as it would not allow forward planning or management of agenda items.

#### **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

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

### **Constitutional Comments (EH)**

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

### **Financial Comments (NS)**

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

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

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

- None

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

- All

**GOVERNANCE & ETHICS COMMITTEE – WORK PROGRAMME (as at 15 November 2023)**

<b>Report Title</b>	<b>Brief Summary of agenda item</b>	<b>Lead Officer</b>	<b>Report Author</b>
<b>10 January 2024</b>			
Update on Local Government and Social Care Ombudsman Decisions	To consider any recent findings of the Local Government Ombudsman in complaints made against the County Council	Marie Rowney	Richard Elston
Internal Audit Charter	To review the Charter for the operation of internal audit in the Council	Nigel Stevenson	Simon Lacey
Regulation of Investigatory Powers Annual Report	To consider the use of Investigatory Powers	Marjorie Toward	Heather Dickinson
Counter Fraud Report	To update the committee on work undertaken to date in 2023/24	Nigel Stevenson	Simon Lacey
Annual Audit Findings report 2022/23	To consider the Annual Audit Findings	Nigel Stevenson	Glen Bicknell
Statement of Accounts	To seek approval for the 2021/22 Statement of Accounts and present the External Auditor's Audit Findings Report	Nigel Stevenson	Glen Bicknell
<b>28 February 2024</b>			
Update on Local Government and Social Care Ombudsman Decisions	To consider any recent findings of the Local Government Ombudsman in complaints made against the County Council	Marie Rowney	Richard Elston
Annual Audit Report 2022/23	To inform Members of the External Auditors' Annual Audit Report	Nigel Stevenson	Glen Bicknell
Internal Audit Term 2 Progress 2023/24 and Term 1 Plan 2024/25	To consider proposed audit coverage for Term 1	Nigel Stevenson	Simon Lacey
Review of Arms Length Organisations	To review the governance arrangements of Arms Length Organisations	Nigel Stevenson	Derek Higton
Whistleblowing Policy Annual Update	To consider the outcome of the review	Marjorie Toward	Heather Dickinson/ Catherine Haywood
<b>17 April 2024</b>			
Update on Local Government and Social Care Ombudsman Decisions	To consider any recent findings of the Local Government Ombudsman in complaints made against the County Council	Marie Rowney	Richard Elston
Review of the improvements to communication	To review the impact of the measures introduced by Adult Social Care Financial Services following corporate review and in response to LGSCO decision findings	Sue Batty	Nicola Peace

Governance Update	To consider progress against the Governance Action Plan for 2023/24	Nigel Stevenson	Simon Lacey
Statement of Accounts – 2023 – 24 Accounting Policies	To review and approve the proposed accounting policies used in creating the Statement of Accounts for 2023/24	Nigel Stevenson	Glen Bicknell
<b>19 June 2024</b>			
Update on Local Government and Social Care Ombudsman Decisions	To consider any recent findings of the Local Government Ombudsman in complaints made against the County Council	Marie Rowney	Richard Elston
Governance and Ethics Committee Annual Report	To consider the draft annual report	Nigel Stevenson	Simon Lacey
Annual Governance Statement 2023 – 24	To consider the draft statement for 2023/24	Nigel Stevenson	Simon Lacey
Assurance Mapping Annual Report	To review the assurance provided from the map in 2022/23 and consider coverage for 2023/24	Nigel Stevenson	Simon Lacey
Head of Internal Audit's Annual Report 2023/24	To inform the Committee of the Annual Report for 2023/24 and opinion on adequacy of arrangements for governance, risk management and control	Nigel Stevenson	Simon Lacey
Follow-Up of Internal Audit recommendations – 6 monthly update	To consider an update on progress with implementing agreed actions from Internal Audit reports	Nigel Stevenson	Simon Lacey
Use of the Councillors Divisional Fund 2023/24	To provide an annual update on the use of the Councillor's Divisional Fund for 2022/23	Marjorie Toward	Keith Ford
<b>24 July 2024</b>			
Update on Local Government and Social Care Ombudsman Decisions	To consider any recent findings of the Local Government Ombudsman in complaints made against the County Council	Marie Rowney	Richard Elston
Term 3 Progress 2023/24 and Term 2 Plan 2024/25	To consider proposed audit coverage for Term 2	Nigel Stevenson	Simon Lacey
Annual Fraud Report 2022-23	To review the incidence of fraud over the year and an update on risks and mitigations	Nigel Stevenson	Simon Lacey