

## **Governance and Ethics Committee**

**Monday, 16 October 2023 at 14:00**

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

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### **AGENDA**

1	Minutes of last meeting held on 6 September 2023	3 - 4
2	Apologies for Absence	
3	Declarations of Interests by Members and Officers:- (see note below)	
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## **Notes**

- (1) Councillors are advised to contact their Research Officer for details of any Group Meetings which are planned for this meeting.
- (2) Members of the public wishing to inspect "Background Papers" referred to in the reports on the agenda or Schedule 12A of the Local Government Act should contact:-

Customer Services Centre 0300 500 80 80

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

Councillors or Officers requiring clarification on whether to make a declaration of interest are invited to contact Kate Morris (Tel. 0115 804 4530) or a colleague in Democratic Services prior to the meeting.

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



Meeting GOVERNANCE AND ETHICS COMMITTEE

Date Wednesday 6 September 2023 (commencing at 10.30am)

membership

### **COUNCILLORS**

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

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

Sue Saddington  
Helen-Ann Smith  
Nigel Turner  
Roger Upton

### **SUBSTITUTE MEMBERS**

Councillor Jim Creamer substituting for Councillor Michael Payne

### **OFFICERS IN ATTENDANCE**

Robert Briggs - Children and Families  
Heather Dickinson - Chief Executives  
Richard Elston  
Simon Lacey  
Kate Morris  
Jo Toomey

### **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 Michael Payne (Other Council Business)

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

None.

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

The report set out information about one complaint against the Council where fault was found by the Local Government and Social Care Ombudsman. Members were

given the opportunity to ask questions of officers and seek assurance about actions put in place from the relevant departments regarding those complaints.

Members raised concerns that another case regarding Education Health and Care Plans was the subject of a complaint and welcomed the more in depth report that would be brought to the next meeting detailing actions taken to improve performance.

Members asked about quality assurance processes surrounding communication and sought assurance that processes were in place to ensure the quality of communications with service users.

**RESOLVED: 2023/32**

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

Members considered the report which set out the contents of the Annual Review letter from the Local Government & Social Care Ombudsman.

There were no actions arising from this report.

**6. MEMBERS TRAVEL AND SUBSISTENCE SCHEME**

The report broadly set out the Travel and Subsistence scheme and detailed the duties for which it applied. Members were given the opportunity to ask questions and seek assurance that the Scheme was appropriately applied to claims.

The Chairman confirmed that he had not been required to approve any travel expenses as set out in the Scheme and that Officers administered the scheme whilst the Monitoring Officer oversaw it.

Members welcomed the opportunity for an Internal Audit review of the scheme.

**RESOLVED: 2023/33**

- 1) That the contents of the report be noted.
- 2) That an internal audit is carried out to provide assurance over the processes associated with Members' travel claims.

**7. WORK PROGRAMME**

**RESOLVED: 2023/34**

That the work programme be agreed.

**16 October 2023****Agenda Item: 4****REPORT OF THE SERVICE DIRECTOR FOR CUSTOMERS, GOVERNANCE  
AND EMPLOYEES****LOCAL GOVERNMENT & SOCIAL CARE OMBUDSMAN DECISIONS  
AUGUST TO SEPTEMBER 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 7<sup>th</sup> August 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 6<sup>th</sup> September 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 five 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 three of the five cases. The first case was in Childrens. The complaint was about the way the Council has handled annual reviews of the child's Education, Health and Care (EHC) plan. There were delays in 2021 and 2022 in completing annual reviews and the Council failed to issue a decision with appeal rights when he applied for a statutory reassessment. The Council recognised the delays and apologised. 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 8 months of missed provision. £5300 will be the total financial remedy. The service is reviewing its procedures, for diary management and managing potential missed deadlines. Following the last Committee meeting I raised the question around the language used in Ombudsman reports that complainants spend the money "as they see fit". The reply was that the Ombudsman has responded to confirm that the wording used in this case is appropriate and in line with their guidance on remedies.
8. The second case is in Childrens. The Council failed to meet its legal duty to secure the provision in Ms Z's Education, Health and Care plan (EHC plan). This caused her to miss out on provision she was entitled to receive between January and May 2022. The Council had already accepted fault and offered Ms Z £1200. The Ombudsman recommended the Council increase the remedy for missed provision to £2,500, in addition to paying Ms Z's mother, Ms X, £300 to reflect the frustration and distress caused to her. The Council did not delay in producing Ms Z's EHC plans, or fail to consider her views as an independent adult, during this complaint period. The issue was around securing provision rather than producing the EHCP. It is worth noting that a lot of work is being undertaken around dealing with complaints and preventing escalation through workshops as well as communication between the departments and the complaints team. If a resident is affected adversely this is recognised by the relevant department, in this case ICDS, and a remedy is suggested earlier and explained to the complainant as well as what is possible if something is out of our control.
9. The third case is in Childrens but the complaint never fully progressed as it was difficult to engage with the complainant due to lack of response despite the Council being very patient. The complaint is about the Council failing to properly support Ms X as a care leaver. She complained staff were rude and the Council did not provide a proper care leaver's grant or support her with housing. The Ombudsman believe that the Council failed to consider the complaint through the appropriate statutory complaints process. The Council put the complaint initially through the corporate process. It is important to note that after initial enquiries it is occasionally possible and feasible to change which process the complaint goes through. We hadn't got as far into the complaint to be able to judge this. However, this did not lead to significant injustice in Miss X's case. There was also found no fault in the support provided to Miss X. The Complaints team did challenge the Ombudsman's draft decision as Ms X had a few other complaints the Ombudsman refused to look at due to being out of timescales. We explained that the complaints team did consider Ms X's first 3 complaint contacts through the children's procedure and she received a Stage 1 response in reply to one of the complaints. As Ms X did not engage with us, we were unable to proceed with these through the children's process or reach the point where we could exercise any discretion to investigate matters which dated back 6-8 years. Usually we only accept complaints for events that occurred in the previous twelve months. Without Ms X's engagement, we could not clarify the details of the complaint therefore offer any discretion in deciding how or whether we could investigate any elements of the historical complaints. However, for the same reasons the LGSCO has stated it seemed that the issues dated back too far, it would be very unlikely we could carry out a fair or thorough investigation. We therefore explained why we could not accept why fault has

been found. The Ombudsman maintained their position. There was no injustice and no actions to be taken on this case.

### **Other Options Considered**

10. 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**

11. 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**

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

### **Data Protection and Information Governance**

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

### **Financial Implications**

14. The details of any financial payments are set out in Appendix A. £8100 will come from Children's services.

### **Implications for Service Users**

15. 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:**

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

16. 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 26/09/2023)**

17. The financial implications are set out in paragraph 12 of the report.

18. 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
23.8.23	22005755	Corporate	Complaint by Mr X who says he has recently become aware of a letter stating that the Council referred his child to another service in 2020. He also says the letter from the Council (sent to his ex-partner) was used by his ex-partner in court in a money claim awarded against him	Ombudsman cannot investigate this complaint about a letter written by the Council to the complainant's ex-partner concerning a child because it is linked to private law proceedings, and a legal bar prevents from investigating its content
31.08.23	23005102	Corporate	Mr X complains that the Council refuses to accept he is blind and therefore will not issue him with a blue badge or his wife with a companion bus pass	Ombudsman decided not to investigate as Mr hadn't sent in the required evidence in time but the blue badge and companion bus pass had been sent out before Ombudsman approached us
11.08.23	23005259	Corporate	Mr X complains the Council is threatening to act under the Highways Act 1980 to force them to remove two stones in the verge outside their home. He says the stones have been in place for 18 years and are there to prevent damage to the verge.	The Ombudsman will not investigate this complaint as there is not enough evidence of fault in the Council's actions. Nor would further investigation lead to a different outcome.
01.09.23	23007404	Corporate	Complaint about potholes damaging their car	Ombudsman cannot investigate as the Courts is the right of appeal

### FULL INVESTIGATIONS WHERE NO FAULT FOUND

DATE	LGO REF	PROCEDURE	COMPLAINT SUMMARY	DECISION	
21.8.23	23000083	Corporate	Ms M complains about her dealings with the Council in connection with her daughter G's education. The Ombudsman cannot add any further to what we investigated	No fault in how we handled complaint or how we acknowledged and tried to remedy	

				previous delays.	
01.09.23	22013539	Corporate	Mrs X complained the Council failed to secure the provision set out in her son, Mr Y's, Education, Health and Care (EHC) Plan. Mrs X also complained the Council kept School A named on the plan and involved in securing provision after Mr Y stopped attending.	No fault found in how the Council managed the EHCP and communicated with Mrs X, unfortunately she just didn't agree with our actions	

#### FULL INVESTIGATIONS WHERE FAULT FOUND

DATE	LGO REF ANNEX PAGE NO	PROCEDURE	COMPLAINT SUMMARY	DECISION	RECOMMENDATION	FINANCIAL REMEDY	STATUS OF AGREED ACTION
29.08.23	22017740	Corporate	Mr X complains There was delay in finalising an EHC plan in 2021 and 2022 and a failure to respond to a request for statutory reassessment. This caused distress, frustration, time and trouble and	Fault found	Apologise for delays, financial remedy for frustration and time and payment for 8 missed months of provision	£5300	Actions will be completed by the end of September

			delayed a right of appeal by eight months				
09.08.23	22006645	Corporate	The Council failed to meet its legal duty to secure the provision in Ms Z's Education, Health and Care plan (EHC plan). This caused her to miss out on provision she was entitled to receive between January and May 2022. Ms Z also missed education earlier between May and December 2021. H	Fault found	Apologise to Ms X and Ms Z for the injustice caused by the faults in this decision; pay Ms Z £2,500 to reflect the period between January and May 2022 of termtime education and SEN support that she missed; c) pay Ms X £300 in recognition of the frustration and distress caused to her by the missed provision and d) demonstrate that it has begun to plan catch up education for Ms Z, provided that catch up sessions are currently appropriate and accessible to her	£2800	Actions all completed
07.09.23	21 018 026	Childrens	Miss X complained the Council failed to properly support her as a care leaver. She complained staff were rude and the Council did not provide a proper	Fault found in Council not applying correct complaint process but no fault in how we provided support	No recommendations as no injustice caused. The Council did question the Ombudsman decision with evidence of how we have tried to help resolve Miss X's concerns and previous	£0	No actions required

			care leaver's grant or support her with housing	when she was younger	Ombudsman decisions around this case		

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

Summary: There was delay in finalising an EHC plan in 2021 and 2022 and a failure to respond to a request for statutory reassessment. This caused distress, frustration, time and trouble and delayed a right of appeal by eight months. The Council will apologise, make a symbolic payment and carry out service improvements.

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## **The complaint**

1. Mr X complains about the way the Council has handled annual reviews of his child's Education, Health and Care (EHC) plan. Mr X says there was delay in 2021 and 2022 in completing annual reviews and the Council failed to issue a decision with appeal rights when he applied for a statutory reassessment.
2. Mr X also complains about poor communication by the Council and problems when changing to a digitalised EHC plan format.
3. Mr X says because of the alleged delay:
  - He was put to additional time and trouble which has been difficult to manage alongside work, studying and caring for his children.
  - His appeal was delayed.
  - His child missed out on additional provision during the period his appeal was delayed.
  - His child's behaviour has deteriorated, and he lost the opportunity to seek changes to provision, and additional professional advice, which may have helped address this.
  - The whole situation has caused anxiety and distress.

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

4. 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*)
5. We cannot investigate a complaint if someone has appealed to a tribunal about the same matter. (*Local Government Act 1974, section 26(6)(a), as amended*)

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6. The First-tier Tribunal (Special Educational Needs and Disability) considers appeals against council decisions regarding special educational needs. We refer to it as the SEND Tribunal in this decision statement.
  7. 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*)

## **What I have and have not investigated**

8. I have investigated the Council's administration of the EHC plan during 2021 and 2022.
9. I have not investigated matters which Mr X has appealed to Tribunal. When someone has used an alternative legal remedy to the Tribunal about the same matter, the Ombudsman has no jurisdiction to also consider it.
10. As Mr X has an outstanding appeal, it is premature for me to assess the impact of any delayed appeal right on his child's education. I explain this further below.

## **How I considered this complaint**

11. I considered information provided by Mr X and the Council including:
  - Draft and final EHC plans
  - Complaint documents
  - Annual review documents.
12. I have considered relevant law and statutory guidance including:
  - The Children and Families Act 2014 ('The Act')
  - The Special Education and Disability Regulations 2014 ('The Regulations')
  - The Special Educational Needs and disability code of practice: 0 to 25 years ('The Code')
13. I have considered the Ombudsman's Guidance on Remedies.
14. I have also spoken to Mr X by telephone.
15. Mr X and the Council had an opportunity to comment on my draft decision. I considered any comments received before making a final decision.
16. Under the information sharing agreement between the Local Government and Social Care Ombudsman and the Office for Standards in Education, Children's Services and Skills (Ofsted), we will share this decision with Ofsted.

## **What I found**

### **Relevant law and guidance**

17. 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.
18. The procedure for reviewing and amending EHC plans is set out in legislation and government guidance.

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19. EHC plans must be reviewed at least every twelve months (*Section 44(1) of the Act*).
  20. The annual review process requires information to be gathered from the family, professionals, and the education setting. A meeting must be held, and a report produced for, or by, the Council within two weeks of the meeting. On receipt of the report the Council must make one of three decisions:
    - To amend the plan
    - To keep the plan the same
    - To cease the plan. (*SEND Regulation 20*)
  21. Where a child or young person attends school, Councils can require the school to carry out the review meeting on its behalf.
  22. Within four weeks of a review meeting, a council must notify the child's parent of its decision to maintain, amend or cease the EHC plan.
  23. Where a council proposes to amend an EHC plan, it must send the child's parent or the young person a copy of the existing (non-amended) plan and an accompanying notice providing details of the proposed amendments and give them at least fifteen days to comment on the draft plan.
  24. Following comments from the child's parent or the young person, if the council decides to continue to make amendments, it must issue the amended EHC plan as soon as practicable and within eight weeks of the date it sent the EHC plan and proposed amendments to the parents.
  25. In *R(L,M and P) v Devon County Council* [2022] the Judge found the Regulation which requires the Council to notify the parent of its decision within four weeks of the meeting and the Regulation which sets out the process for amending the plan must be read together. This means Councils must both notify the parent of a decision to amend and what the proposed changes are within four weeks of the annual review meeting. Therefore a final amended plan should be issued no later than twelve weeks after the review meeting.
  26. Parents have a right of appeal to the SEND Tribunal if they disagree with the special educational provision or the school named in their child's EHC plan. The right of appeal is only engaged when the final amended plan is issued.
  27. Section 44(2) of the Children and Families Act says a Council must secure a reassessment of the educational, health and care needs of a child if a request is made by the parent or their school unless it has carried out an assessment within the previous six months or it considers it is not *necessary* to make a further assessment. (*SEND Regulation 24*)
  28. The Council must notify a parent whether it is necessary to reassess the child within fifteen days of receiving the request and notify the parent of their right to appeal this decision to the Tribunal (*The Children and Families Act s.51(2)(d)*).

### **Key facts**

29. The Council has maintained an EHC Plan for Mr X's child since 2018.
30. In April 2021 an annual review meeting was held. The Plan was previously updated in April 2020. The Council issued a proposed amended plan in October 2021, six months after the meeting. The final amended plan was issued in November 2021. Mr X did not appeal the contents of this Plan.
31. The next annual review meeting was held in April 2022. Mr X says no-one from the Council attended. In [Page 15 of 124](#) the Council issued a decision letter stating it

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intended to amend the EHC plan and would aim to finalise it within eight weeks. The final plan was issued in February 2023. This was not accompanied by a decision letter with appeal rights, but this was emailed to Mr X in March 2023.

32. Mr X says his child's behaviour deteriorated during 2022 and he considered additional professional advice was required from an occupational therapist, speech therapist and educational psychologist to assess why this was happening and what strategies were needed. Mr X says there were weeks and weeks of his child coming home with bruises and it was stressful and distressing. Mr X says he had asked school to obtain additional advice several times, but when the School asked the Council, the Council told the School it needed to submit additional paperwork such as a sensory information form.
33. Mr X told me the School agreed with him there was a need for more specialist input.
34. Mr X says his caseworker at the Council was off sick, so communication was poor. He says the Council ignored his request for an assessment of his child's sensory needs.
35. In December 2022, Mr X requested a statutory reassessment of his child's needs under Section 44(2) of The Children and Families Act 2014. This would have involved the Council obtaining new reports from professionals. Mr X says he did not receive a written decision from the Council with appeal rights in response to this request.
36. Mr X said due to the delay in issuing the final plan, or a decision about his request for reassessment, he could not bring an appeal until Spring 2023. Mr X told me he had previously sent five emails asking for a decision he could appeal.
37. Mr X says while a final EHC plan was issued in February 2023 to provide him with a right of appeal, this did not include the additional professional assessments and advice he considered were necessary. Mr X submitted an appeal to the SEND Tribunal about the contents of the Plan.
38. Mr X said when the Council moved to a digitalised version of the EHC plan in 2022/23 it was not based on the most recent version of his child's plan and did not include changes agreed at the annual review meeting. It was also not an amendable copy. This meant when he wanted to make corrections, he could not do so using a computer, the only way for parents to make changes was to print off the plan and make changes by hand or to comment line by line. Mr X says the Council could not provide him with a 'working document' version to make his amendments. Mr X also had concerns that the School could access the digital version and make changes at any time.
39. Mr X says as the School and Council were working from different versions of the EHC plan this caused confusion. There was additional time and trouble getting the Council to accept it was using an outdated version of his child's plan.
40. The Council accepted during the local complaints process it had failed to complete the annual reviews in 2021 and 2022 on time and that there had been poor communication at times due to staffing issues. It offered Mr X an apology for this. The Council said it did not provide a 'working document' at draft plan stage, this was a process to agree plan amendments during an appeal.
41. The Council said it had not made changes to the EHC plan without using the draft plan process and allowing Mr X to comment. It said it had changed the format but not the content of the final Plan.



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42. In March 2023, Mr X was allocated a new case officer. Mr X said communication did then improve. The new officer took his request for additional professional advice seriously, acknowledged his concerns about previously agreed changes being omitted from the plan, and called a review. Mr X says an amended final plan was issued in May 2023, which was within timescales, however he is continuing with his appeal to address parts of the plan where there remains disagreement.

## **Analysis**

### **Fault**

43. Mr X and the Council appear to be at cross-purposes about whether he was given the opportunity to comment at draft stage. As I understand the complaint, Mr X is saying changes were discussed and agreed at annual review but then not incorporated into the amended version sent. In essence the Council had ignored the views of the School and Mr X from the annual review meeting about changes that were required.
44. As I understand it this matter has now been resolved by the issue of a further amended final plan in May 2023.
45. Mr X was also not saying he needed a 'working document' as would be used during an appeal, more than he wanted an electronic copy of the draft plan on which he could easily note his proposed changes. It is not for the Ombudsman to tell the Council what format EHC plan to use, but if the new digital format means families will not be able to make comments or suggest changes quickly and easily, this is feedback the Council should be willing to take on board. While Mr X is not claiming he requires any reasonable adjustments due to disability, this may be an issue for other parents.
46. I acknowledge Mr X will have experienced unnecessary frustration and time and trouble getting the plan amended again in May 2023 with information that was available to the Council in April 2022.
47. Mr X is still awaiting the outcome of additional professional assessment of his child and still disagrees with some elements of the EHC Plan. However, as Mr X has used an alternative legal remedy to the SEND Tribunal about this matter, it is no longer within the jurisdiction of the Ombudsman. The Tribunal will decide whether further changes to the Plan are needed and has case management powers to seek additional evidence if required.
48. The Council took seven months to amend the plan following the April 2021 review meeting. This is fault. The law and guidance say this should take no longer than twelve weeks. The Council has acknowledged this delay in its complaint response and apologised. As Mr X did not appeal in 2021 and his child remained in the same school, there is no evidence delay in 2021 caused significant injustice in terms of delayed provision. I acknowledge Mr X will have been put to extra time and trouble and been frustrated by the delay.
49. The next review meeting was held in April 2022. Again, if the Council wished to amend the Plan it should have completed this within twelve weeks. It took ten months. This is fault and excessive delay.
50. Mr X's appeal rights were delayed by eight months in 2022/23. This is an injustice. It is premature to assess the impact on Mr X's child's education of this delay. This will depend on the outcome of the Tribunal, for example if the Tribunal orders that additional special educational provision is required.

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51. Mr X made a formal request for a statutory reassessment in December 2022. The Council appears to have decided to conduct a review, not a reassessment. The Council failed to provide Mr X with a formal decision about his request for reassessment within 15 days. This is fault. Mr X lost a right of appeal in December about the reassessment decision.

### **Injustice**

52. When someone has suffered because of fault, we try to put them back in the position they would have been if that error had not happened. Where that is not possible, we may recommend a financial payment to acknowledge the impact of faults. This is often a modest, symbolic amount.
53. The Council has apologised for the delay in processing the annual reviews and for elements of its communication with him but has not offered any additional remedy for Mr X's time and trouble or distress. It has also not apologised for failing to issue a decision on his request for reassessment or acknowledged the loss of his appeal rights in 2022 at a time when his child was really struggling.
54. Usually, I would recommend a Council issue a decision with written reasons about the reassessment request, but in this case, as Mr X has appealed, he can raise any lack of evidence or concerns about the wording in the plan with the Tribunal.
55. I have not considered if the delay in appeal rights has led to loss of provision for Mr X's child. It is premature to do so when the appeal has not yet been decided.

### **Agreed action**

#### **Within four weeks of my final decision**

56. The Council will provide a further apology to Mr X for the failure to issue a decision following his request for reassessment and for the unnecessary time and trouble he has been put to getting updated final EHC plans issued.
57. The Council will pay Mr X a symbolic payment £500 for the frustration and additional time and trouble caused by its fault in 2021 and 2022 and for delaying his appeal rights by eight months. This does not include any amount for lost educational provision. The Council should consider in line with the Ombudsman's Guidance on Remedies if a remedy for lost provision due to the eight months delay is merited. If Mr X and the Council cannot agree a suitable remedy, Mr X may bring this matter back to the Ombudsman after the outcome of the appeal for us to determine.
58. The Council will remind officers about the importance of completing annual reviews on time and of providing written decision letters with appeal rights where required by the Act. The Council should review whether it has adequate diary and reminder processes in place for officers to keep track of missed deadlines or missing documents.
59. The Council will provide us with evidence it has complied with the above actions.

### **Final decision**

60. I have completed my investigation. There was delay in finalising an EHC plan in 2021 and 2022 and a failure to respond to a request for statutory reassessment. This caused distress, frustration, time and trouble and delayed a right of appeal

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by eight months. I am satisfied that completion of the agreed actions above are a satisfactory resolution to the complaint. The complaint is upheld.

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



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

Summary: The Council failed to meet its legal duty to secure the provision in Ms Z's Education, Health and Care plan (EHC plan). This caused her to miss out on provision she was entitled to receive between January and May 2022. Ms Z also missed education earlier between May and December 2021. However, this could not be remedied by the Ombudsman as it is outside of our jurisdiction to investigate. The Council has already accepted fault and offered Ms Z £1200. We recommend the Council increase the remedy for missed provision to £2,500, in addition to paying Ms Z's mother, Ms X, £300 to reflect the frustration and distress caused to her. The Council did not delay in producing Ms Z's EHC plans, or fail to consider her views as an independent adult, during this complaint period.

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## **The complaint**

1. Ms X complained that between 7 May 2021 and 12 August 2022, the Council:
  - a) delayed in producing her daughter's EHC plans;
  - b) failed to secure the provision in her daughter's EHC plans, and as ordered by the SEND Tribunal; and
  - c) failed to properly consider her daughter's views as an independent adult when making decisions about her education and other provision in her EHC plan.
2. Ms X said the Council's actions have caused her daughter to miss out on education and suffer deteriorating mental health. She said the Council's actions have also affected her own wellbeing and put her to avoidable time and trouble.

## **What I have and have not investigated**

3. I have not investigated Ms X's complaint that the health provision in Section G of Ms Z's EHC plan dated 7 May 2021 was not secured. I have only investigated whether the Council provided what was in Section F of that plan.
4. This is because the duty to secure the provision in Section G was the responsibility of the health bodies, not the local authority. The Ombudsman can only investigate bodies within its jurisdiction. I have told Ms X it is open to her to make a complaint to the health bodies about this section of her complaint.
5. I have investigated whether some health provision was met in Ms Z's EHC plan dated 9 May 2022. This is because the SEND Tribunal ordered that health

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provision to be placed in Section F. Therefore the duty to secure that provision was the responsibility of the Council.

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

6. We investigate complaints about 'maladministration' and 'service failure'. In this statement, I have used the word fault to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. I refer to this as 'injustice'. If there has been fault which has caused an injustice, we may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1), as amended*)
7. We cannot question whether a council's decision is right or wrong simply because the complainant disagrees with it. We must consider whether there was fault in the way the decision was reached. (*Local Government Act 1974, section 34(3), as amended*)
8. The First-tier Tribunal (Special Educational Needs and Disability) considers appeals against council decisions regarding special educational needs. We refer to it as the SEND Tribunal in this decision statement.
9. The courts have established that if someone has lodged an appeal to a SEND Tribunal, the Ombudsman cannot investigate any matter which is 'inextricably linked' to the matters under appeal. This means that if a person disagrees with the placement named in an EHC plan we cannot seek a remedy for lack of education after the date the appeal was engaged if it is linked to the disagreement about the school place named. (*R (on the application of ER) v Commissioner for Local Administration (Local Government Ombudsman) [2014] EWCA Civ 1407*).
10. If we are satisfied with an organisation's actions or proposed actions, we can complete our investigation and issue a decision statement. (*Local Government Act 1974, section 30(1B) and 34H(i), as amended*)
11. Under our information sharing agreement, we will share this decision with the Office for Standards in Education, Children's Services and Skills (Ofsted).

## **How I considered this complaint**

12. I considered the information provided by Ms X and the Council.
13. I considered the relevant law and guidance as set out below.
14. I considered our [Guidance on Remedies](#).
15. I considered all comments made by Ms X and the Council on a draft decision, before making a final decision.

## **What I found**

### **Law and guidance**

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

16. A young person with special educational needs may have an EHC plan. This sets out their needs and what arrangements should be made to meet them.
17. The EHC plan is set out in sections. The Ombudsman cannot direct changes to the sections about education or name a different educational setting. Only the SEND Tribunal can do that.

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19. Councils are responsible for making sure that arrangements specified in the EHC plan are put in place. We can look at complaints about this, such as where support set out in the EHC plan has not been provided, or where there have been delays in the process.
20. There is a right of appeal to the SEND Tribunal about the content of the final EHC plan. An appeal right is only engaged once a decision not to assess, issue or amend a plan has been made and sent to the parent or a final EHC plan has been issued.
21. Where the Tribunal orders a council to amend an EHC plan, the council shall amend the EHC plan within five weeks of the order being made.

### **EHC plan timeframes**

22. The statutory guidance, the SEND Code of Practice, says:
- EHC plans must be reviewed as a minimum every 12 months;
  - Within four weeks of the review meeting the council must decide whether it proposes to keep the EHC plan as it is, amend the plan or cease to maintain it, and notify the child's parent or young person and the educational setting;
  - If the plan needs amending, councils should start the process of amendment without delay;
  - If amending the plan, councils must send the child's parent or the young person a copy of the existing plan and a notice providing details of the proposed amendments, and they must be given at least 15 calendar days to comment on the proposed changes; and
  - Councils must issue the amended EHC plan as quickly as possible after receiving comments and within 8 weeks of the original amendment notice. [recent caselaw has interpreted this particular timeframe slightly differently but this is the timeframe which was in force at the time of this complaint].

### **Education other than at school (EOTAS)**

23. Section 61 of the Children and Families Act allows councils to arrange for special educational provision to be made otherwise than in a school. I refer to this as EOTAS in this decision statement.

### **What happened**

24. Ms X's adult daughter, Ms Z, has had an EHC plan since 2020. Ms Z has been diagnosed with several conditions including a neurodevelopmental disorder and complex mental health issues.
25. On 7 May 2021 the Council issued a final EHC plan for Ms Z as ordered by the SEND Tribunal. This said she would continue to attend her mainstream sixth form college, which I refer to as School A.
26. It also listed in Section F of the EHC plan, several forms of special educational support Ms Z would receive to assist her in studying her A-Levels. This included support for Ms Z's sensory needs, interoceptive awareness, emotional regulation and additional resources including documents in large font, A3 paper and a touch screen laptop.
27. A scheduled annual review of Ms Z's EHC plan was held by the school shortly after this, on 27 May 2021. It noted Ms Z had reduced attendance but did not recommend a change of placement. However shortly after this, Ms Z stopped attending School A completely due to a decline in her mental health.



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28. Ms X said the school was not providing enough support to Ms Z and she was struggling to complete her work independently. The school said it could continue to meet Ms Z's needs for another year and provide what was in the EHC plan if Ms Z attended. However, Ms X and Ms Z said Ms Z needed a different setting.
29. While Ms Z was not attending School A, the school put in place private tutoring and sent home some of the SEN resources Z required such as pens and A3 paper. However, School A said it could not provide all the SEN support in her EHC plan while she was not attending the school.
30. A further meeting about Z's future at School A was held on 23 July 2021 which was requested by Ms X. Ms Z was too unwell to attend but passed on her views beforehand. The Council, the school and other professionals attended.
31. The meeting considered Ms Z's views. She said she still wanted to do her A-levels but did not want only home-based learning. During this meeting, Ms X said the tutors put in place by the school so far had not worked out.
32. In this meeting, it was agreed that the Council would consult some alternative colleges for Ms Z and the Council would make further enquiries about EOTAS provision. On 6 August 2021, the Council sent consultation requests to four colleges. None could meet Ms Z's needs.
33. The Council issued its amendment notice and proposed, amended EHC plan on 9 August 2021.
34. Ms Z's final EHC plan was issued on 25 August 2021 and continued to name School A. It said Ms Z would receive several forms of SEN support and 1:1 assistance from school staff to assist her in accessing education. Ms X disagreed with the Council naming School A and appealed the EHC plan to the SEND Tribunal on 28 September 2021.
35. In the meantime, the Council put in place tutoring. By October 2021 records show the Council was not aware if Ms Z was accessing this tutoring and chased Ms X for a response about this by email.
36. By 11 October 2021 the Council had consulted with seven alternative colleges. Most could not meet her needs and a few did not respond.
37. In late October 2021 the Council spoke with Ms X and she said Ms Z had received none of the provision in her EHC plan since June that year.
38. In November 2021, the Council told Ms X it would now look into an alternative EOTAS package for Ms Z, starting with a tutoring service that could assist her in completing one A-Level, with a view to her then starting at a college in September 2022. The Council still believed School A could meet Ms Z's needs but consulted with the alternative tutoring service the following month.
39. By December 2021 School A took Ms Z off-roll. Ms Z had not received any of the provision in her EHC plan by that date and the Council was aware of this.
40. The Council did not consult any further school placements for Ms X between October 2021 and the date of the upcoming SEND Tribunal and instead consulted tutoring services.
41. On 2 April 2022, the SEND Tribunal ordered Ms Z's EHC plan to be changed as it said all parties agreed that a school setting was no longer suitable to meet her needs. Therefore, section I was to be left blank.
42. The Tribunal also decided there was "overwhelming and consistent professional advice" demonstrating that for Ms Z to access education, she required various



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forms of SEN, mental health and physical support. Therefore it ordered that all of the following should be included in section F of her EHC plan and be considered as special educational needs provision:

- occupational therapy;
- sensory support;
- mental health support;
- SEN support;
- interoceptive awareness support; and
- emotional regulation support.

43. The Council issued Ms Z's final EHC plan on 9 May 2022 in accordance with the Tribunal's directions.
44. The Council began consulting with providers shortly after the SEND Tribunal including seeking a keyworker to oversee the EOTAS package. Emails from this time show the Council working regularly towards commissioning the provision. By mid-June 2022, Ms Z had not decided all the A-level subjects she wished to study.
45. The Council said it had a quote by late June 2022 from a psychiatrist who said they were available to work with Ms Z and this work began from August 2022. It said Ms Z's occupational therapy including the sensory programme began in June 2022. It said it offered tutoring and specialist learning support but Ms X refused this as she said the provision offered was unsuitable.
46. Ms X made a formal complaint to the Council. She said the provision in Ms Z's EHC plans – the one issued following the 2021 tribunal hearing and one issued following the recent tribunal hearing - had not been met and the Council was in breach of its statutory duties.
47. The Council responded at the final stage of the complaints process on 12 August 2022. It said when Ms Z was on-roll with School A, it could provide all the education and SEN provision in Ms Z's plan. However, Ms X said School A was unsuitable. It then looked for tutors but none could meet the level of specificity in the plan. It acknowledged the lack of provision but said it had made every effort.
48. It said for the period May 2022 to August 2022 following the Tribunal, the level of provision in the plan meant it would need to be provided by more than one provider and Ms Z had not known what subject she wished to study, which contributed to a delay in setting up the educational provision. It said it was working hard to arrange the EOTAS package in full.
49. Regarding the provision Ms Z missed between May 2021 and May 2022, it offered Ms X £900 as a financial remedy. Regarding the distress caused to Ms X and Ms Z during that period it offered her an additional £300. The Council said it would also aim to address the shortfall in education by commissioning additional education during holiday periods.
50. Ms X was unhappy with the Council's response and complained to the Ombudsman. By the time she complained to us in mid-August 2022, Ms Z was receiving the education provision in her plan through a tutor that Ms X had identified, was receiving the SEN support in her EHC plan through a specialist learning assistant and was receiving the mental health support and occupational therapy in her plan.

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## **My findings**

### **Complaint 1a) EHC plan delays**

51. The Council issued its amendment notice and proposed, amended EHC plan on 9 August 2021. Ms Z's final EHC plan was issued on 25 August 2021. The Council - at this time - had eight weeks from the date of the amendment notice to issue the final EHC plan. The Council took less than eight weeks. The Council was not at fault.
52. The Council issued Ms Z's amended final EHC plan of 9 May 2022 five weeks and two days after the SEND Tribunal ordered it to. The Council had five weeks to issue the plan. This two day delay is not significant enough to warrant a finding of fault and did not cause a significant injustice.

### **Complaint 1b) Failure to deliver provision from EHC plans**

53. From May 2021 to May 2022, Ms Z did not receive all the education and SEN provision in her EHC plan. I have split this twelve month period into sections below.

#### **May 2021 – December 2021**

54. Between May 2021 and December 2021 School A remained open to Ms Z to attend and it said it could meet all the provision in Ms Z's plan. However, Ms X and Ms Z said School A was unsuitable and she did not attend the school. Due to non-attendance Ms Z did not receive the education or SEN provision in her plan during this period.
55. However, the reason Ms Z missed education during this time was due to a disagreement between Ms X, Ms Z and the Council over whether the placement at School A was suitable. The May 2022 SEND Tribunal considered this issue specifically and therefore is outside of the Ombudsman's jurisdiction to investigate or remedy, for the reasons set out in paragraph 9 of this decision statement.

#### **January 2022 – May 2022**

56. From January 2022, Ms Z's school was no longer available to her as it took her off-roll. At this point, Ms Z had no suitable placement so the Council was under a duty to secure the provision in the EHC Plan.
57. Between January 2022 and her next EHC plan in May 2022, Ms Z received almost none of the education or SEN support in her plan. The Council offered tutoring but Ms Z and Ms X said the tutoring would not meet all the SEN provision in the plan which she needed to access education, and therefore was not suitable.
58. There is no evidence showing the tutoring offered during this time met all the requirements of the EHC plan as Ms Z required several forms of SEN support to access education. The Council failed to secure the provision in line with the EHC plan between January and May 2022. The Council was at fault. This fault caused Ms Z to miss five term-time months of education and SEN provision.
59. I have recommended the Council pay Ms Z a higher remedy than originally offered in recognition of the injustice caused by this fault.

#### **May 2022 – August 2022**

60. The Council issued Ms Z's final EHC plan on 9 May 2022, just over five weeks after the Tribunal ordered it to. As set out in paragraph 51, this was not fault.

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61. Between the date of this plan and August 2022 when the Council responded at the final stage of its complaints process, Ms X complained the council had not put in place the May 2022 EHC plan provision quickly enough. The plan said in section F that Ms Z would receive an EOTAS package including tutoring, mental health support, occupational therapy and SEN support.
62. Ms Z had her mental health provision, education and SEN provision in place by August 2022. The occupational therapy began earlier in June 2022. Records from this time do not show any periods of drift or inactivity by the Council in commissioning the provision. The package contained multiple forms of support from multiple providers and Ms Z was not certain on all the subjects she wished to study following the final plan being issued. The Council made the efforts we would expect to see to meet the provision in the plan during this time. The Council was not at fault.

### **Complaint 1c) Consideration of Ms Z's views as an adult**

63. Ms X also complained that the Council failed to consider Ms Z's views as an independent adult. The records I have seen show the Council consistently sought Ms Z's views including through the EHC plan process. Where she could not attend meetings, her views were provided beforehand and were central to the discussions. The Council was not at fault.

### **Agreed action**

64. Within one month of the date of the final decision, the Council has agreed to:
- a) apologise to Ms X and Ms Z for the injustice caused by the faults in this decision;
  - b) pay Ms Z £2,500 to reflect the period between January and May 2022 of term-time education and SEN support that she missed;
  - c) pay Ms X £300 in recognition of the frustration and distress caused to her by the missed provision (where the Council has already paid out the previously offered financial remedy of £1200, the Council should only pay the difference between this and the amounts recommended in this decision); and
  - d) demonstrate that it has begun to plan catch up education for Ms Z, provided that catch up sessions are currently appropriate and accessible to her.
65. The Council should provide us with evidence it has complied with the above actions.

### **Final decision**

66. I have completed my investigation. I have found fault leading to injustice and recommended an apology and a financial remedy. Part of this complaint was outside our jurisdiction to investigate.

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



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

Summary: Miss X complained the Council failed to properly support her as a care leaver. She complained staff were rude and the Council did not provide a proper care leaver's grant or support her with housing. We found the Council failed to consider the complaint through the appropriate statutory complaints process. However, this did not lead to significant injustice in Miss X's case. We found no fault in the support provided to Miss X.

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## **The complaint**

1. Miss X complains the Council failed to properly support and care for her while she was in care from age 15 to 21. She complained that her needs were not met in general and she moved placements too much and staff did not listen to her. She feels this set her up to fail.
2. Miss X also complained the 21plus team failed to properly support her. She stated she did not receive a full care leaver home establishment grant, members of the 21plus team laughed at her and acted unprofessionally and the Council did not adequately support her to find housing. She says she found shared accommodation difficult due to her ADHD.
3. Mrs X complained the Council's actions meant she was set up to fail and was now without accommodation, living with her mum which is difficult.

## **What I have and have not investigated**

4. We considered whether the Council's decision not to use the Statutory Children's complaints process to consider Miss X's complaint in 2022 was properly made.
5. We also considered whether the Council properly decided whether to use discretion to investigate older events; complaints Miss X made about care between the ages of 15 and 21.
6. We have not investigated all of Miss X's concerns about care prior to age 21. This is due to the length of time that has passed since Miss X was in care as a child. This is also because Miss X's engagement with the complaints process in 2019 and 2020 was limited. Miss X was also unable to be specific about the older issues that she wished to complain about. Our investigation has focussed on the support provided by the 21plus team, the issues Miss X raised about her care leaver's grant in 2021 and the support provided to Miss X to find accommodation. We obtained information from the Council about the circumstances around rent

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arrears that Miss X built up. This was to understand their relevance to her current housing situation.

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

7. 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*)
8. If we are satisfied with an organisation's actions or proposed actions, we can complete our investigation and issue a decision statement. (*Local Government Act 1974, section 30(1B) and 34H(i), as amended*)

## **How I considered this complaint**

9. I spoke to Miss X. I considered the complaint she made and information she provided. I asked the Council for information and I considered its response to the complaint. I considered statutory complaint handling guidance. I issued a second draft decision following comments received.
10. Miss X and the Council had an opportunity to comment on my draft decision. I considered any comments received before making a final decision.

## **What I found**

### **Legal and administrative framework**

11. The guidance 'Getting the best from complaints' Social Care Complaints and Representations for Children, Young People and Others (Guidance) is based on the Children Act 1989 Representations Procedure (England) Regulations 2006. Only in exceptional circumstances can councils justify a variation from this document.
12. The Guidance sets out which complaints should be considered under children's statutory complaints procedure, who can complain and the process and timescales for considering complaints.
13. Councils do not need to consider complaints made more than one year after the grounds to make representations arose. In such cases councils should follow the process below:
  - The complaints manager should write to advise the complainant their complaint cannot be considered, explaining the reasons;
  - The letter should include an advice of the complainant's right to approach the Local Government and Social Care Ombudsman;
  - Councils should make their decisions on a case by case basis with the general presumption in favour of accepting the complaint unless there is good reason against it.
14. The time limit can be extended at the council's discretion if it is still possible to consider the representations effectively and efficiently or it would be unreasonable to expect the complainant to have made the complaint earlier.
15. Possible grounds for accepting a complaint made after one year are:

- genuine issues of vulnerability;
- benefit to the complainant in proceeding;
- sufficient access to information or individuals involved at the time, to enable an effective and fair investigation;
- where action should be taken in light of the human rights-based legislation.

## What Happened

### How Miss X's complaints were considered

16. In 2019 Miss X complained about a period in care when she was aged 15 to 21. Miss X stated she never really got any support, was moved around a lot and staff made allegations about her and neglected her. She complained a house was taken away from her when she was aged 17 and she was forced to claim benefits when she was 18, living in shared accommodation. The complaint also stated that an after-care worker in the 21plus team put the phone down on her and treated her less favourably than other people. Miss X was concerned about her housing situation and support she had to find accommodation.
17. The Council tried to speak to Miss X to discuss the complaint and understand her concerns. It wrote to Miss X stating that it would not be able to investigate any matters further back than 12 months because it was unlikely an investigation about those matters would be successful. The Council agreed to consider more recent issues. It asked for more detail to her complaint and stated it could not progress the complaint unless it was provided. The Council told us Miss X did not make any further contact, so the complaint was closed. The Council had intended to investigate the complaint through the Statutory Children's Complaints Process.
18. The Council stated Miss X made a further complaint in 2020 which also was not investigated because Miss X did not respond to requests for information.
19. In 2021, Miss X complained about a home establishment grant. The Council responded to this complaint and confirmed Miss X had received more than the £2000 that the Council set as a maximum. It considered the support provided by the 21plus team and set out what this had been. The Council referred to the support it had provided.
20. In 2022 Miss X raised a further complaint to the Council about her time in care from age 15. Miss X stated she was concerned about her housing situation and that accommodation she was staying in was unsafe. Miss X stated the 21plus team did not listen to her and were rude to her when she declined things they offered because they were not for her. The Council re-iterated to Miss X that it could not investigate issues that occurred over 12 months ago. It did investigate her complaint about the 21plus team and issues around accommodation. Miss X's 2022 complaint was considered via the Council's Adult Social Care (ASC) complaints process and responded in August 2022.
21. Miss X's advocate challenged the use of the ASC complaints process in September 2022. The Council discussed the situation with the advocate and explained it would consider using the Statutory Childrens Complaint Process if Miss X wished them to. However, the investigator would expect Miss X to engage directly in the complaint process. As Miss X was (then) 25 and the key issues related to her current housing situation, the Council proposed continuing to consider the complaint under the ASC process. The Council sent a final response on 25 October 2022 on that basis.



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## **The Issues**

### **Care Leaver's Grant**

22. The Council provided a breakdown of the amount paid to Miss X as a Care Leaver's Grant. This was in excess of the £2,000 that is usually the maximum.

### **Support with Accommodation/Rent Arrears**

23. Miss X complained that the Council had not provided appropriate support with accommodation and had not listened to her preferences for housing.
24. The Council explained the background and support it had provided to Miss X over a number of years. I have taken account of this but not repeated this in this statement as it is detailed.
25. The Council told us that rent arrears built up when Miss X had two properties. The first was obtained through a district council. The Council told us Miss X did not reside at the property which meant that she could not claim the relevant benefits to help her pay the rent and other costs. As a result, rent arrears of £1753.70 accrued. The Council stated that both the district council and the 21plus team had difficulty contacting Miss X about the situation and because Miss X refused permission for the Council to speak to the DWP or district council on her behalf, it could not advocate for her.
26. In other accommodation provided through the district council, Miss X refused to pay the rent charge and built up £400 of arrears. In YMCA accommodation Miss X refused to pay the weekly service charge, accruing a debt of £122.75.
27. Miss X is not able to join the housing register with the district council until her rent arrears are significantly reduced and applicants demonstrate they are committed to repaying the arrears. The Council told us that its 21plus team worked with the district council and a specialist homelessness prevention officer to support Miss X to start a payment plan and to look for future accommodation. One of the options offered was self-contained supported accommodation, to avoid Miss X having shared facilities. However, Miss X declined all the options offered.
28. Miss X told us the Council offered to pay 75% of her rent arrears, but this did not happen. The Council confirmed to us that it made this offer and the district council accepted it, provided that Miss X also committed to repaying the remaining arrears. On this basis, the district council would have been able to assist Miss X to move forward with a tenancy with a fairly high degree of housing priority. The Council stated Miss X would not commit to a payment plan for the remaining arrears, which was why this did not happen.
29. The Council told us that at times of crisis, emergency accommodation was offered including the 21Plus Service funding a hotel overnight when the district council discharged its homelessness duties.

### **21plus team support**

30. The Council reviewed recordings and interactions between the 21plus team and Miss X and it concluded there was no evidence that the staff in the team were rude or unprofessional. The Council noted, at times, Miss X was frustrated or did not agree with information or options being discussed. The Council acknowledged that when staff presented options that Miss X did not want, this could be perceived as the staff not listening, but the Council stated staff had listened and tried to recognise how she was feeling.



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31. The Council noted that on occasions, staff ended calls. However, it noted that this had occurred because Miss X had become verbally abusive. The Council did not agree there was evidence that staff had acted inappropriately.

### **Was there fault by the Council**

#### **Support provided by the Council**

32. I found that the 21plus team had provided appropriate support to Miss X. The Council set out work with other organisations to help Miss X with housing and options that were offered. The Council also confirmed support was provided at times of crisis. It provided a detailed chronology of contacts with Miss X that we shared with her.
33. I recognise Miss X considered the team did not listen to her and that staff were rude. The Council stated, at times, telephone contacts became difficult and staff ended calls. I cannot reach a view on whether verbal encounters between staff and Miss X were unprofessional.
34. While I recognise that some of the options being presented by the Council were not what Miss X ideally wished to pursue, the options being presented to Miss X appear to have been appropriate and reflected some of the concerns that Miss X had. I found, on balance, it was likely that the Council was promoting options which were in Miss X's best interests to consider.
35. Miss X told us, at times, she felt forced to claim benefits that she did not wish to claim. It is good practice for those who are supporting individuals to ensure that they are aware of and are claiming benefits that they are entitled to. This does not represent fault by the Council.
36. In its response to our enquiries, the Council agreed to stand by its previous offer to pay 75% of Miss X's rent arrears (£1315.28) provided that she agrees to make an arrangement to clear the remaining arrears within the next twelve months. This is a positive offer by the Council to assist Miss X. It would likely give Miss X more housing options and potentially enable Miss X to progress an application for housing with the district council.
37. The Council told us the 21plus team provided a higher level of support to Miss X than would usually be the case. The team would generally reduce support as young people gain more independence. The Council's approach recognised that Miss X had a diagnosis of ADHD. It stated the team had a discussion with Miss X and her advocate about how best it could provide support and it had recognised this in its dealings with Miss X.
38. The Council provided a breakdown of the amounts spent as part of Miss X's Care Leaver's Grant. The amount paid was slightly in excess of the grant usually paid, so we found there was no evidence of fault by the Council in this respect.

#### **Complaint Process**

39. The guidance 'Getting the best from complaints' sets out complaints that should be considered through the Statutory Children's complaints process.
40. The guidance also states that councils do not need to consider complaints made more than one year after events of the complaint arose. It gives councils discretion to consider older complaints if it considers there are good reasons to do so. Councils should not adopt a blanket approach to declining older complaints without properly considering, in each case, whether to exercise this discretion.

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41. As Miss X's 2021 and 2022 complaints were about her time as a care leaver, I found it was fault that the Council did not consider them through the childrens' statutory complaints process. However, I note that the Council offered to use this process when addressing the 2022 complaint with Miss X's advocate.
  42. Although it was fault not to use the statutory complaints process, in the circumstances, I found that not using the correct process did not cause injustice to Miss X. This is because the Council did consider the issues raised by Miss X appropriately, albeit using the ASC complaints process and I found it unlikely that considering the complaint afresh through the Statutory Children's process would now achieve more for Miss X given the Ombudsman's investigations are carried out independently.
  43. When considering previous complaints from Miss X, the Council attempted to speak with Miss X to establish details of her complaints. When it was unable to speak to her it wrote asking for more information. Miss X did not make contact. Without more detailed information, the Council could not reach a view about what or how far back it should investigate. It could not proceed with an investigation and the complaint investigations did not proceed.
  44. I found it was not fault that the Council decided against investigating the older events Miss X raised. This is because it did not have sufficient information from Miss X to do so, because Miss X had not engaged with the complaints processes when she initially raised these issues and due to the difficulty of investigating as the events became older.
  45. Overall, I found that the council were at fault for not using the correct complaints process in 2021 and 2022. However, no injustice was caused, in this case. There was no fault in the support provided to Miss X.

## **Final decision**

46. There was fault by the Council. We found this did not cause injustice to Miss X.

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

**16 October 2023**

**Agenda Item: 5**

## **REPORT OF THE SERVICE DIRECTOR, EDUCATION, LEARNING AND INCLUSION**

### **RESPONSE TO LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN DECISIONS 2023**

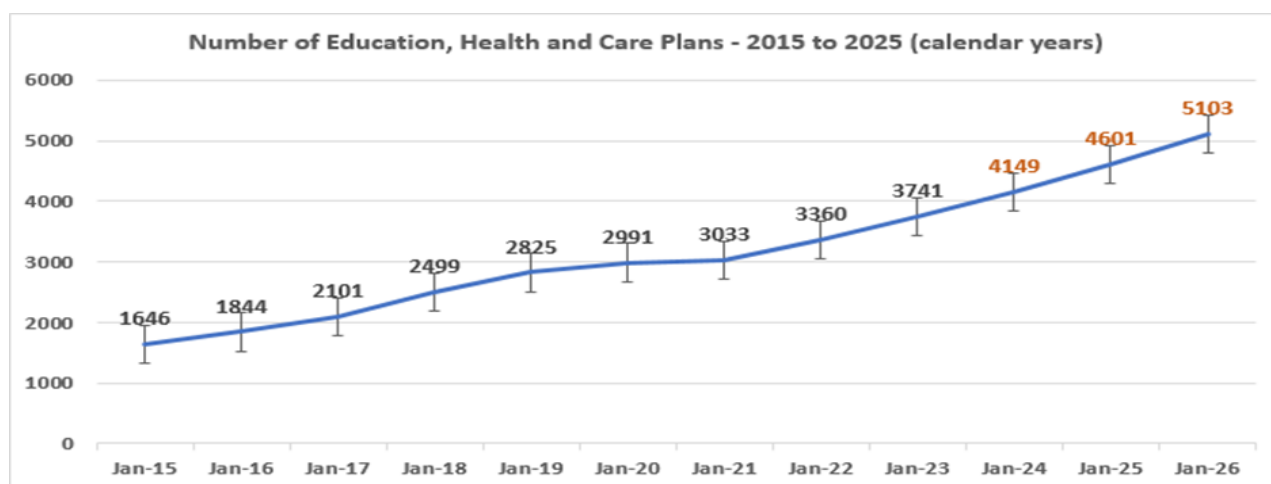
#### **Purpose of the Report**

1. The purpose of this report is to provide an update on the improvements made to increase the Local Authority's Education, Health and Care Plan (EHCP) Annual Review performance.

#### **Information**

2. Over the last six years the number of EHCPs that the Local Authority maintains has increased significantly. The total number of EHCPs has increased from 2,104 in January 2017 to 3,741 in January 2023, an increase of 77.8%. At the end of August 2023, the Local Authority maintained 4,040 EHCPs and of these 35% were made in the previous two years.

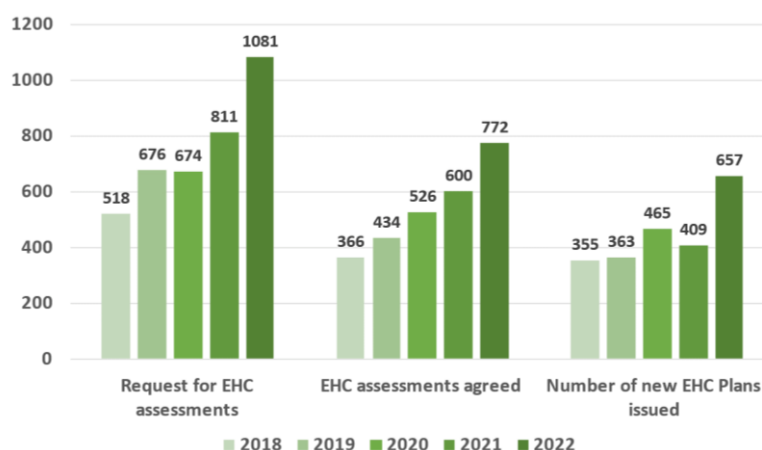
**Table 1** shows the increase in EHCPs maintained by the County Council including projections until January 2026



3. The demand for statutory EHC Needs Assessments continues to increase. Over the first eight months of 2023, the number of EHC Needs Assessments that the Local Authority received increased by 34.3% when compared with the same period in 2022. These

increases continue to place services and provision for children and young people under significant pressure.

**Table 2** shows the increasing demand for EHC Needs Assessments and EHCPs



4. As the number of EHCPs grow, so therefore does the number of Annual Reviews. In the previous years, the Local Authority has responded to the increasing demand for EHC Needs Assessments and EHCPs by investing in additional staff. However, the significant increase in requests for EHC Needs Assessments and EHCPs has outstripped the predicted increases. As a result, the additional resources secured did not have the expected impact. This is considered to be the root cause analysis of the complaints made from 2021 and 2022 that have been escalated to the LGSCO.

### The Annual Review process

5. EHCPs must be reviewed, and the process completed by the Local Authority as a minimum within every 12 months. For pre-school children with EHCPs, this review must be within six months. Schools must co-operate with the Local Authority in the review process and, as part of the review, the Local Authority can require schools to convene and hold annual review meetings on its behalf. The educational setting is required to prepare a report of the meeting, this is the record of Annual Review.
6. After receiving the Annual Review report from the education setting, the Local Authority must issue a decision within four weeks whether to (a) make no amendments to the EHCP and simply maintain it without change or (b) amend the EHCP or (c) cease to maintain the EHCP. If the Local Authority agrees to amend the EHCP, this must be issued and finalised within eight weeks of the decision being made.

### Annual review performance

7. In 2022, the Local Authority completed 66% of Annual Reviews within 12 months.

**Table 3** shows performance for the completion of EHCP Annual Reviews in the first eight months of 2023 compared with the same period in 2022

Percentage of Annual Reviews completed within the 12-month time scale		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Year to date
	2023	66.4%	66.8%	67.7%	53.2%	46.3%	40.6%	46.6%	45.2%	55.2%
	2022	66%	58.4%	60.9%	47.8	56.9%	43.4%	32.9%	34.2%	52.7%

\*NB - There is a delay in reporting due to 12-week process between the date of the review and the issuing of an amended EHCP so the percentage completed in the previous couple of months should increase as amended Plans are issued.

### **Actions taken to improve Annual Review performance**

8. Following the Nottinghamshire local area inspection in January 2023, there has been a significant financial investment to support the timely issuing of EHCPs and holistic oversight of these plans through Annual Reviews.
9. In June 2023, the Local Authority invested in six new EHC Plan writers. These positions have been secured to solely focus on the Annual Review process. This is to ensure that the decision following an Annual Review is made within four weeks and, if required, the amendment to the EHCP will be completed within a further eight weeks.
10. A further six EHC Co-ordinators have been secured to reduce the high number of children and young people a single worker is responsible for. These posts will improve the level of service and communication that children, young people and their parents or carers receive.
11. Three Senior Practitioner posts have also been secured to ensure that there are appropriate levels of support and supervision across the service. Senior Practitioners now have the capacity to support and quality assure complex casework.

### **Measuring Impact**

12. To ensure the additional staffing can be deployed as quickly as possible agency staff have initially been recruited. Recruitment to fixed term two-year contracts with the County Council is ongoing. Most Annual Review meetings with educational settings are held virtually on Microsoft Teams. These arrangements make the best use of the resources within the team; there is a significant saving in travelling time and as a result the service is more efficient.
13. The additional EHC Plan writers that commenced employment in June 2023 have cleared a backlog of 450 EHCPs that needed to be amended following their Annual Review.
14. For children and young people who are not on a school roll the Local Authority must convene the Annual Review. The Local Authority has arranged Annual Reviews for all children who are electively home educated or educated otherwise than at school for this academic year.

15. The Annual Review performance monitoring group meets every month to review the progress that is being made. Annual Review performance is beginning to improve and it is anticipated that by the end of the year, the Local Authority will have completed over 75% of annual reviews within 12 months. The aim and ambition is for 100% of annual reviews to be completed within 12 months and building from current performance in a staged approach to improvement, in 2024 the Local Authority seeks to ensure over 80% of annual reviews are completed within 12 months.
16. This performance will be monitored on a regular basis by the Special Educational Needs and Disabilities (SEND) Improvement Board and the SEND Partnership Assurance and Improvement Board which will meet for the first time later this autumn.

### **Further steps to improve performance**

17. The Local Authority's Annual Review performance relies on educational settings and partners to ensure that Annual Reviews are held on time. To improve performance the Local Authority will be using additional resources to improve partnership working and offer support and challenge to educational settings to ensure that the Annual Review timescales are met. This will include the Local Authority seeking direct confirmation that Annual Reviews have been arranged and have taken place.

### **Other Options Considered**

18. The other option considered was taking regular reports to the Senior Leadership Team detailing each decision made by the Local Government and Social Care Ombudsman. This option was accepted and is happening giving oversight of this report and assurances leading to improvements in services. The learning from these findings is being fed back into the approach in order to help prevent increase in future cases.

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

19. 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**

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.

### **Financial Implications**

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

## **Implications for Service Users**

22. All of the complaints were made to the Council through its own complaints process. Service users have the right to approach the LGSCO once they have been through the Council's own complaints process.

## **RECOMMENDATIONS**

That:

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

**Peter McConnochie**  
**Service Director, Education, Learning and Inclusion**

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

Robert Briggs  
Service Manager, Children and Families  
T: 0115 9774522  
E: [Robert.briggs@nottscc.gov.uk](mailto:Robert.briggs@nottscc.gov.uk)

## **Constitutional Comments (EKH 25/09/23)**

23. It is appropriate for the contents of this report to be considered by the Governance and Ethics Committee.

## **Financial Comments (SS 25/09/23)**

24. There are no direct financial implications arising 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.  
CF0113





**16 October 2023****Agenda Item: 6****REPORT OF THE SERVICE DIRECTOR, CUSTOMERS, GOVERNANCE AND  
EMPLOYEES / MONITORING OFFICER****UPDATE ON USE OF RESOURCES BY COUNCILLORS****Purpose of the Report**

1. This report updates the Committee on the use of resources by Councillors.

**Information**

2. At the meeting of Full Council on 10 May 2018, Council adopted the Councillor and Co-opted Member Protocol for the use of resources, the most recent version of the Protocol, which was updated for inclusion in the Members Induction Pack in 2021 to capture technical changes is attached as **Appendix A**. The Protocol's guiding principles include the need to be mindful of costs and not using resources for political purposes.
3. Governance and Ethics Committee takes an overview of this issue through receipt of annual update reports. This report covers the period April 2022 to March 2023.

**Printing and photocopying costs**

4. The threshold for reporting printing and photocopying charges is £20. The total printing and photocopying charges that have exceeded that threshold between 1 April 2022 and 31 March 2023 are included in **Appendix B** along with charges incurred by Group support officers.

**Out of contract charges – calls and data usage**

5. County Councillors are provided with smartphones and laptop devices from which calls can be made free of charge within the existing contract limits. A breakdown of such charges is included in **Appendix C**.
6. At its meeting of 30 September 2021, the Committee considered the issue of Out of Contract Charges for ICT equipment. This mainly related to Members' willingness to continue to conduct Council business whilst holidaying abroad. As agreed by the Committee, Members were issued with further guidance but despite Members' best efforts, such charges are on occasions still being unknowingly incurred. It is hoped that the planned changes to arrangements for mobile data provision in November 2023 will help eradicate this issue. It is

therefore proposed that, following those changes, updated guidance regarding use of mobile phones and laptops when outside the UK be circulated to Members.

## **Other issues**

7. As agreed by the Committee in January 2019, any areas of ongoing concern from the relevant Democratic Services budget will be highlighted on an ongoing basis (as with the out of contract charges issue highlighted above).

## **Other Options Considered**

8. This report is required by the Councillors and Co-opted members Protocol for Use of Resources, supporting Committee in its oversight role.

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

9. The report updates the Committee and provides an opportunity to seek any relevant approvals required by the Code of Conduct and the Councillor and Co-opted Member Protocol for the use of Resources.

## **Statutory and Policy Implications**

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

## **Financial Implications**

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

## **RECOMMENDATION/S**

That the Committee:

- 1) Notes the relevant resources expenditure for the period April 2022 to March 2023 as detailed in Appendix B and Appendix C to the report.
- 2) Agrees 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.
- 3) Considers whether there are any further actions required in respect of specific items of expenditure in line with the Councillor and Co-opted Member Protocol for use of Resources.

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

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

Jo Toomey, Advanced Democratic Services Officer Tel. 0115 977 4506

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

**Constitutional Comments (CEH 15.09.2023)**

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

**Financial Comments (SES 15/09/2023)**

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

**Background Papers and Published Documents**

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

- None

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

- All



## **Nottinghamshire County Council**

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

#### **1. INTRODUCTION**

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

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

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

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

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

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

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

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

## SCHEDULE

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

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

If you have been provided with a smartphone, you will have access to unlimited calls and texts to standard numbers and an unlimited data allowance. Your tablet device may have a SIM card which you can use to connect to the network when WiFi is not otherwise available.

Phone calls from your smart phone to or from abroad will incur additional phone charges which you may be required to cover.

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

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

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

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

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

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

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

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

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

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

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

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



## **County Hall Essential Information**

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

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

Each card is individually programmed to provide access to particular areas in the building and will also enable you to scan, copy and print from the large machines around the building (called Multi-Function Devices or MFDs).

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

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

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

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

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

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

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

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

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

## **APPENDIX B**

### **COUNCILLORS' USE OF RESOURCES – 1 APRIL 2022 – 31 MARCH 2023**

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

The following costs for printing and photocopying have been recorded for Councillors during the latest monitoring period. Other print charges for Councillors under the £20 threshold are not included

<b><u>COUNCILLOR</u></b>	<b><u>TOTAL COST</u></b> <b><u>(£)</u></b>
Sinead Anderson	£32.77
Chris Barnfather	£37.82
Richard Butler	£28.54
Neil Clarke	£36.14
Tracy Taylor	£92.47
Michelle Welsh	£41.02

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

<b><u>OFFICER ROLE</u></b>	<b><u>COST (£)</u></b>
Team Leader Ruling Group	£202.77
PA to Committee Chairs – Ruling Group	£214.19
Member Support Officer	£99.37
Executive Officer to the Ruling Group Senior Leadership Team	£155.79
<b>Conservative Group Officer Total:</b>	<b>£672.12</b>
Senior Research Officer to Opposition Group	£36.53
Executive Assistant to Opposition Group	£180.72
<b>Labour Group Officer Total:</b>	<b>£217.25</b>
Admin and Research Officer/s	£3.48
Admin and Research Officer/s	£1.65
<b>Independent Alliance Total:</b>	<b>£5.13</b>

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

Chairman and Vice-Chairman	
Stickers for commemorative wreaths	102.00
Collection box stickers for Chairman's Charity	65.00
Civic service invitation and order of service	385.00
Thanksgiving service order of service	130.00
Chairman's Carol service invitation	255.00
Cheese and wine evening invitation	100.00
Chairman's civic lunch invitation and tickets	275.00
Chairman's Christmas cards	237.00
<b>Chairman and Vice-Chairman Total:</b>	<b>£1,549</b>



**APPENDIX C****COUNCILLORS' OUT OF CONTRACT CHARGES – DATA AND PHONE CALLS**  
**1 APRIL 2022 – 31 MARCH 2023**

The following out of contract charges have been incurred:

<b><u>COUNCILLOR</u></b>	<b><u>COST (£)</u></b>
Reg Adair	30.89
Erroll Henry	77.00
Gordon Wheeler	49.43
Jonathan Wheeler	114.85
Philip Owen	200.61
Johno Lee	43.99
Mike Pringle	0.05



**16 October 2023****Agenda Item: 7****REPORT OF SERVICE DIRECTOR – FINANCE, INFRASTRUCTURE &  
IMPROVEMENT****FINANCIAL REGULATIONS WAIVERS 2022/23****Purpose of the Report**

1. To inform Members about requests to waive the Financial Regulations (waivers) in the Period 1<sup>st</sup> April 2022 - 31<sup>st</sup> March 2023.

**Information**

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

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

6. The Group Manager for Procurement presents an annual waiver report to Governance and Ethics Committee. The table below summarise the number of waivers granted in 2022/23 (Table1) compared to the previous year by directorate and value, full details for those waivers are contained in Appendix 1.

<b>Table 1</b>	<b>2022-23</b>				<b>2021-22</b>			
<b>Directorate</b>	<b>Number Waivers</b>	<b>Total Value</b>	<b>No. Rejected</b>	<b>Value Rejected</b>	<b>Number Waivers</b>	<b>Total Value</b>	<b>No. Rejected</b>	<b>Value Rejected</b>
Chief Exec	6	£244,817	0	£0.00	10	£1,140,381	1	£20,000
Adult Social Care (ASC) Health & Public Protection & Public Health	8	£1,097,782	0	£0.00	12	£965,261	4	£662,890
Children, Families & Cultural Services (CFCS)	6	£438,293	5	£400,793	13	£911,247	2	£129,387
Place	4	£235,411	0	£0.00	9	£193,792	2	£78,500
Schools	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>23</b>	<b>£2,016,303</b>	<b>5</b>	<b>£400,793</b>	<b>44</b>	<b>£3,210,681</b>	<b>9</b>	<b>£890,777</b>

7. The number of waivers received for 2022/23 has significantly decreased, almost half the amount of waivers have been received compared with the previous year.
8. There has been an decrease in waiver requests across all departments and a 49% decrease in waivers which were approved.
9. The spend on approved waivers only accounts to 0.3% of the total expenditure for 2022/23.



10. Category Managers continue to work with the directorates to develop Procurement Category Strategies that aids the continued reduction of waiver requests. Colleagues are becoming increasing aware of the criteria in which a waiver can be submitted which are set out in paragraph 5.
11. The Procurement team have delivered several training sessions at departmental team meetings reminding officers / commissioners of the financial regulations.
12. Section 151 Officer has briefed senior officers regarding adhering to financial regulations.
13. A recent audit confirmed the waiver process provided substantial assurance and identified strong controls over the management of expenditure with suppliers, to minimise the need for waivers from tendering. Where waivers from tendering have been required, no significant control failures have been identified. The report made some minor recommendations for improvements in administrative processes.

### **Other Options Considered**

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

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

15. This report is to inform Members about requests to waive the Financial Regulations (waivers) in the Period 1<sup>st</sup> April 2022 - 31<sup>st</sup> March 2023. Every effort is made to ensure waivers are kept to a minimum and through this report, members are updated of the detail of spend coming through financial regulation waivers.

### **Statutory and Policy Implications**

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

### **RECOMMENDATION/S**

- 1) Members of the Governance and Ethics Committee to support the detail contained in the report Financial Regulations Waivers 2022/23 and the continued progress in keeping waivers to a minimum.

**Nigel Stevenson**

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

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

Kaj Ghattaora - Group Manager, Procurement

## **Constitutional Comments [CEH 26/09/2023]**

The report falls within the remit of Governance and Ethics Committee.

## **Financial Comments (NS 4/10/2023)**

As stated in the report, the Section 151 Officer does write to members of the Corporate Leadership Team to remind them of their responsibilities under the County Council's financial regulations, namely:

These Financial Regulations provide the framework of financial control and standards necessary to achieve the proper administration of the Council's financial affairs and are designed to safeguard the interests of both the Council and its employees. These Regulations cover the Council's main activities, its trading organisations and Pension Funds, and partnerships where the Council acts as the lead authority or where it acts as the accountable body.

Corporate Directors have delegated responsibility for the financial management of their services. They are responsible for ensuring that employees and consultants in their departments are both aware of and comply with these Financial Regulations and that failure to comply may result in disciplinary action.

Each Corporate Director is responsible for the observance of Financial Regulations and for compliance with the decision-making process defined in the Constitution.

Section 8 of the Financial Regulations sets out the specific regulations for commissioning and procurement of goods and works that must be adhered to.

## **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 1

### Waiver Details

No.	Ref	Subject	Value	Department	Waiver Details	Approval/Rejection
1	396	CareCubed funding calculator	£36,384	ASCH	CareCubed is a dynamic and sustainable tool with +10 years of experience in calculating the fair cost of care for different care provider settings. Used in more than 100 organisations across the UK, the tool is available for use in both Adults and Children's services.	Approved - There are no known alternative providers in the marketplace which offer a like for like placement of the tool, particularly in relation to benchmarking, provider and LA joint usage and reporting. Without this tool, the department may reduce its ability to scrutinise residential care fees. Procurement category manager is engaged to source a compliant method to contract with this provider.
2	397	Homecare and Care Home Analytics	£140,000	ASCH	The DHSC requirements for the cost of care exercise split between Homecare 18+ and Care Homes 65+. There is not sufficient time to undertake a procurement exercise ready for work to start May 22.	Approved - Care analytics have advance knowledge due to work theyre already doing for other authorities and due to the tight deadlines, no time for a procurement exercise.
3	398	Education Software Solutions Ltd	£50,062	Chief Execs	This is the sole provider from which we can purchase the SSU Team charge and Lesson Monitor module. ESS own the SIMS, FMS and Lesson Monitor products which are necessary for the support provided to schools.	Approved - There are no frameworks available to procure the Team Charge and Lesson monitor module. Schools finance and ICT teams are working with procurement to ensure a compliant contract is in place.
4	399	Extension of the CareCubed (Care funding calculator) annual subscription	£36,384	ASCH	There are no known alternative providers in the marketplace which offer a like for like replacement of the tool, particularly in relation to LW benchmarking, provider and LA joint usage and reporting	Approved - There are no known alternative providers in the marketplace which offer a like for like replacement. Without this tool, the department may reduce its ability to scrutinise residential care fees. Procurement category manager is engaged to source a

						compliant method to contract with this provider.
5	400	Kinship Service	£42,000	Children & Families	This waiver for one year allows the department to assess the impact of the Kinship Care Service to decide whether the service should continue or taken inhouse.	Rejected - Kinship care is an ongoing service. The understanding of the need was set out as part of the budget process for determining the Budget in February 2022 so plenty of time to set out a commissioned ask to the market.
6	401	Household support fund	£6,475	Chief Execs	Print and distribute household support fund cheques. The stock of cheques within the council will not be sufficient to meet the demand and the cheque printer is out of service. There is a hard date of 30th September which cannot be made by printing and distributing cheques in house.	Approved - Alternatives were explored however no other viable option to meet the time frame.
7	402	CIPD	£19,000	Chief Execs	Nationally recognised body overseeing HR profession to undertake workforce review which will enable members and senior officers to make informed decisions in respect of budget and resourcing requirements.	Approved - CIPD are not on any frameworks so the only other option would be to go out for 3 quotes which would delay the work being carried out and unlikely to result in another supplier
8	403	NDS	£18,000	ASCH	Waiver to cover one years whilst the retender of the contract goes ahead, NDS provide a service for deaf service users and receive funding to do so.	Approved - temporary measure to allow compliant procurement to take place.
9	404	Princes Trust	£238,176	CFCS	Waiver to allow inspire to deliver Princes Trust TEAMS programme, no other provider has the contract to do it through Nottinghamshire	Rejected - No initial assessment of the most appropriate programme was done.

10	405	Rufford Sluice Gate	£21,516	Place	Survey of the surrounding structure and civils of the Rufford sluice gate to identify what remedial works are required in line with the 1975 Reservoir Act.	Approved - urgent work to ensure no further environmental impact and cost.
11	406	Metal Detector-Clayfields	£11,275	CFCS	Walk through metal detector with Mi2 sensors plus 2 engineers to build, test and calibrate on site. Model recommended by HMPS	Rejected - Two further quotes required
12	407	Cost of Living	£86,945	Place	The scheme will provide an in home service in addition to remote advice to support the following public health outcomes: reduce fuel poverty, reduce excess winter mortality and morbidity; and improve independent living and mental wellbeing in vulnerable and older people. Programme extended to work into summer 2023 in preparation from winter 2023.	Approve - critical programme to support vulnerable residents. Due to the urgency and no other provider in the market approved for 6 months.
13	408	LA Waiver - Caunton Dean Hole School	£52,772	CFCS	To provide and secure strategic leadership at Caunton Dean Hole Cof E in the absence of a permanent headteacher. To support the temporary arrangements to ensure the school continues to make rapid progress following a period of turbulence.	Rejected – Headteacher to be hired through a recruitment process or via the agency contract.
14	409	Sustainable Warmth Programme	£117,450	Place	Provide customer support for the Retrofit - Midlands Net Zero Hub. Provider will be paid through secured grant funding.	Approved - Midlands energy hub ran a tender where the vendor was awarded the contract. To fulfil funding agreement for the sustainable warmth fund, NCC needs to work with NEP therefore a direct award is required
15	410	Victim and Reparation Services	£37,500	CFCS	Extension to current contract of 3 months as procurement includes aspect of work which is currently undertaken by NCC and therefore may involve possible TUPE implications. 3 months will ensure continuation of statutory service whilst all HR implications are considered	Approved - temporary pause to retender process whilst TUPE is resolved.

16	411	PEN Guide	£9,279	Chief Execs	Extension to pension fund subscription with Pen Guide which covers all guidance and regulations from LGPS.	Approved - PEN Guide is a key repository for governing the Local Government Pension Scheme. There is no other provider that exists that brings together LGPS regulations, and the interpretation of the regulations. The waiver is therefore approved as there are no other options available.
17	412	Recruitment Funding	£50,000	ASCH	To undertake a joint social care recruitment campaign with Nottingham City Council. Utilising £90,000 from the Adult Social Care Discharge Fund to increase workforce capacity in our external provider market and promote the sector and career opportunities across the ICB.	Approved - Shortness of timeframes for grant funding and immediate pressure on the care sector.
18	413	MyNotts App	£160,000	Chief Execs	3 year contract for app was signed pre Covid, a year of contract was lost due to covid and lack of resource. Reprocurement of the app would cost significantly more	Approved - continue working with the existing supplier for licence costs, maintenance and continued delivery. Any further development work is not included in this approval. Procurement team is closely working with the department and discussions have taken place with the current Supplier who has agreed to apply for G Cloud 14 when it opens for applications. This would enable NCC to then follow a compliant route for future procurement.
19	414	Hilton Gr Rushcliffe Extra Care	£288,358	ASCH	Extra care services in Rushcliffe to bridge between current contract ended and new contract commencement	Approved - Continuation of service provision is required with a set process for the new contract to commence Oct 2024
20	415	Cricketers Ct Rush Extra Care	£528,656	ASCH	Extra care services in Rushcliffe to bridge between current contract ended and new contract commencement	Approved - Continuation of service provision is required with a set process for the new contract to commence Oct 2024

21	416	GB Connexus IQ Investigate	£9,500	Place	Provides essential intelligence development tool for trading standards and is the only provider in the market. Going through Gcloud would cost significantly more.	Approved - No other options available and this is the most cost effective route
22	417	Governor Hub	£56,569	CFCS	Online platform used by schools governors to access and share information.	Rejected - Retrospective
23	418	AVC Wise	£0.00	Chief Execs	SCAVC scheme linked to the LGPS allowing both employee and employer to benefit from national insurance savings.	Approved - Only provider to cover this scheme and there is no cost to the council.





**16 October 2023****Agenda Item: 8**

## **REPORT OF SERVICE DIRECTOR FOR FINANCE, INFRASTRUCTURE & IMPROVEMENT AND SERVICE DIRECTOR CUSTOMERS, GOVERNANCE & EMPLOYEES**

### **BEST VALUE STANDARDS AND INTERVENTION**

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

1. To provide members with the response provided by the County Council to the Government's consultation entitled 'Best value standards and intervention - a statutory guide for best value authorities.'

#### **Background**

2. The Rt Hon Michael Gove, Secretary of State for Levelling Up, Housing & Communities, wrote to Leaders of local authorities in July 2023, setting out a consultation on the proposed statutory guidance for local authorities on the Best Value Duty. The guidance is aimed at providing more clarity on the use of powers under the Local Government Act 1999 where this Best Value Duty is not, or is at risk of not, being met. And where these standards are not upheld, it sets out the models of statutory and non-statutory intervention available, with stages of escalation.
3. The deadline for responses was 15 August 2023. Due to the timing of the consultation the response as set out in this report were provided on behalf of the County Council by the Section 151 Officer in consultation with the Chair & Vice-Chair of the Committee, the Chief Executive and the Monitoring Officer.

#### **Best Value Guidance**

4. This new guidance sets out seven themes of good practice for running an authority to secure continuous improvement and provide value for money. These include the characteristics of a well-functioning local authority and the indicators used to identify challenges that could indicate failure. The guidance also sets out the models of statutory and non-statutory intervention available when standards are not upheld. The Government have indicated that it will publish the guidance after consideration of the results of the consultation.
5. The guidance provides greater clarity to the local government sector on how to fulfil the Best Value Duty by describing what constitutes best value, the standards expected by the department and the models of intervention at the Secretary of State for Levelling Up, Housing and Communities' disposal in the event of failure to uphold these standards.

6. Government's approach to ensuring all authorities carry out their functions in compliance with the Best Value Duty is based on the following principles:
  - a. Local accountability
  - b. Continuous improvement
  - c. Openness to challenge and support
  - d. Expectations
  - e. Prevention
  - f. Meeting the cost of failure
  - g. Default commissioner powers and de-escalation
7. The proposed statutory guidance sets out seven overlapping themes of good practice for running an authority that meets and delivers best value. The seven best value themes are all interdependent, namely:
  - a. Strong governance
  - b. Culture
  - c. Leadership
  - d. Partnerships and community engagement
  - e. Service delivery
  - f. Use of resources.
  - g. Continuous improvement - being the outcome of all the themes working well together
8. The guidance sets out a detailed description of these themes, including characteristics of a well-functioning local authority and indicators used to identify challenges that could indicate failure. This includes an illustrative list of indicators including both qualitative and quantitative data and no single metric automatically leads to inspection or intervention. Decisions to intervene pursuant to the 1999 Act are based on a holistic judgement of all available information and considered engagement with authorities to understand the environment they are operating within and their capacity, capability and commitment to lead their own improvement. An example of an area description is as follows:
  - a. Continuous improvement
  - b. Making arrangements to secure continuous improvement in performance and outcomes is a core requirement for achieving best value.
  - c. Any organisation with a duty of best value needs to make effective arrangements to secure continuous improvement in the way in which all its functions are exercised on an ongoing basis and at pace.
  - d. These arrangements will include inviting independent external challenge and scrutiny, in the form of regular service specific as well as corporate or finance peer challenges, engaging with sector support initiatives on offer and informal experience sharing among peers.
  - e. Local authorities should also have a sense of collective responsibility for the performance of the sector and help other authorities to improve.
  - f. The Chartered Institute of Public Finance and Accountancy (CIPFA) / Society of Local Authority Chief Executives (SOLACE) Delivering Good Governance in Local Government Framework, along with the Centre for Governance and Scrutiny and Localis Governance Risk and Resilience Framework can help authorities to identify, understand, and act on risks to good governance.
9. The Government's local government stewardship function continually reviews the health of local authorities' governance, financial management processes, including commercial

operations and the sustainability of authorities' medium-term financial outlooks, and delivery of corporate and key services. The information reviewed combines the use of:

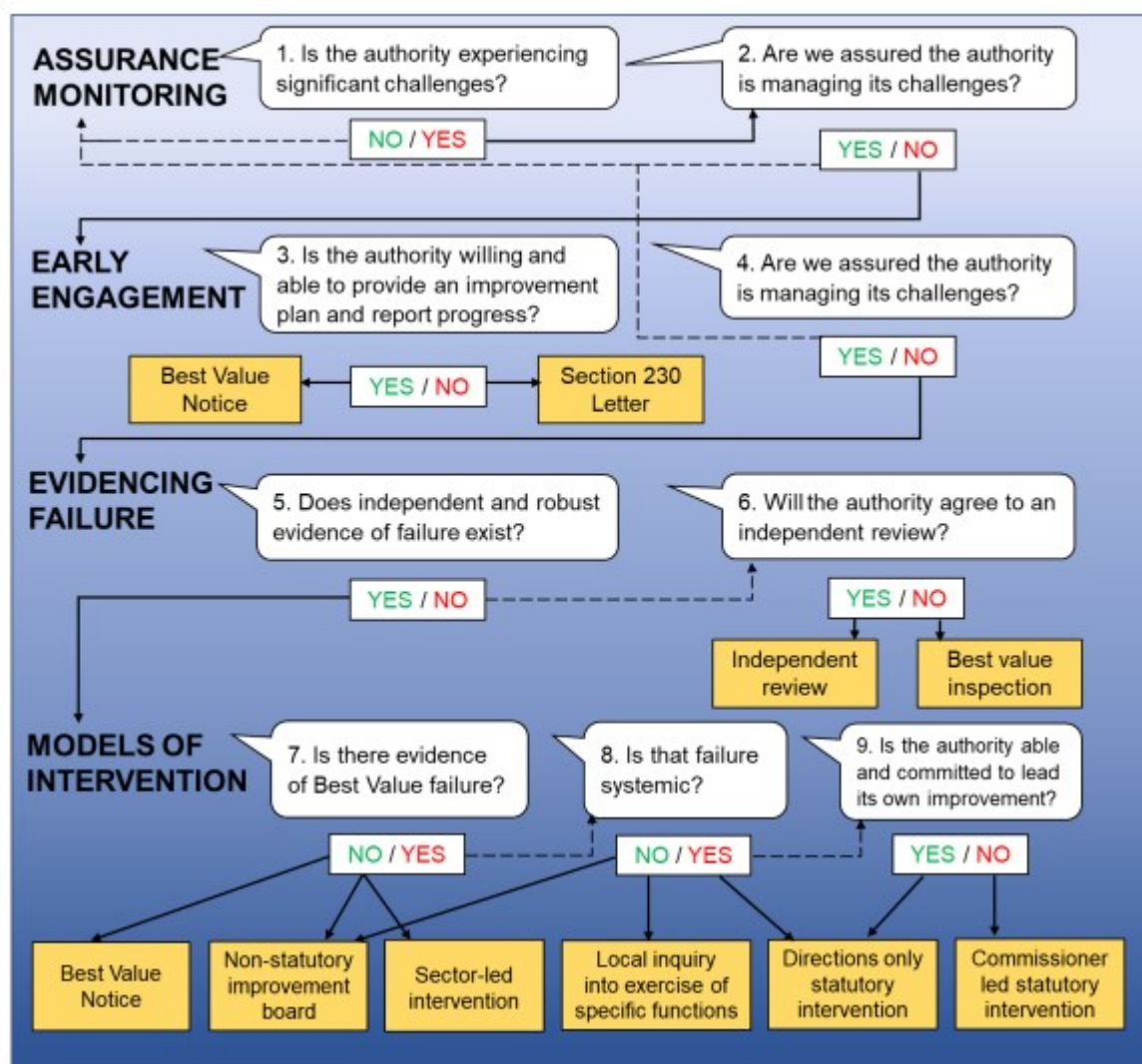
- national data metrics,
- published documents from local authorities (annual governance statement, committee papers, statement of accounts, and locally commissioned reviews),
- auditors' annual reports and other reporting,
- reports from inspectorates such as Ofsted and the Care Quality Commission,
- reports from the Local Government and Social Care Ombudsmen,
- LGA corporate peer challenge reports and any follow-up reports, and
- residents' and MPs' letters where they raise concerns under the Best Value Duty.

10. In addition to this guidance, the Levelling Up and Regeneration Bill will introduce measures to provide a flexible range of interventions for the department to investigate and remediate extreme risk in relation to a local authority's investment and borrowing. Intervention in a local authority will be considered when a trigger point is breached with respect to certain risk metrics, which fall into the following categories:

- Proportionality of debt (e.g., total debt compared to Core Spending Power),
- Proportion of commercial investments,
- Types of debt (e.g., novel credit arrangements and loans), and
- Under-provision of Minimum Revenue Provision (a statutory duty to make sufficient provision to repay debt).

11. The Secretary of State must be satisfied that an authority is failing to carry out its functions in compliance with the Best Value Duty before intervening on a statutory basis under section 15 of the 1999 Act. If an authority is exhibiting some characteristics that may indicate best value failure, but there is insufficient evidence available for the Secretary of State to make an informed judgement, the Secretary of State may commission an inspection to determine whether best value failure has occurred. Annex A of the guidance sets out the process for statutory inspection in more detail.

12. The guidance also sets out the models of intervention, both non-statutory and statutory as well as the process and criteria for exiting intervention. The models of intervention set out in the guidance is set out in the following diagram:



## Questions and Response by the County Council

13. The consultation included a number of questions regarding the proposed statutory guidance. These questions together with the responses are set out below:

Nu.	Question	Answer
Q1.	What is your name?	Nigel Stevenson
Q2.	What is your organisation?	Nottinghamshire County Council
Q3.	Are you answering the consultation as?	An Upper Tier Local Authority
Q4.	From the list below, where are you or your organisation based?	East Midlands
Q5.	Do you agree that the principles in Section 4 should apply to all best value authorities?	Yes
Q6.	This statutory guidance has been developed principally for local councils, including combined authorities. However, all best value authorities should be mindful	Yes. This should be applied to all best value authorities. This is particularly relevant with the current description of

	of the principles set out in this document. Would further published guidance be welcome for other best value authorities to set out the application of best value duty given their specific responsibilities, structures and context? These include national park, fire, rescue, waste disposal, integration and sub-national transport authorities, the London Fire Commissioner and Transport for London.	partnerships and community engagement set out in the guidance.
Q7.	Do you agree with the seven principles proposed in section 4?	Yes
Q8.	Do you agree with the seven best value themes?	Yes
Q9.	Do you agree with the suggested key characteristics of a well-run authority and key indicators of failure in relation to continuous improvement?	Yes
Q10.	Do you agree with the suggested key characteristics of a well-run authority and key indicators of failure in relation to leadership?	Yes
Q11.	Do you agree with the suggested key characteristics of a well-run authority and key indicators of failure in relation to governance?	Yes, however, an indicator setting out the proper management of conflict of interests especially in the governance of companies may need to be included.
Q12.	Do you agree with the suggested key characteristics of a well-run authority and key indicators of failure in relation to culture?	Yes
Q13.	Do you agree with the suggested key characteristics of a well-run authority and key indicators of failure in relation to efficient use of resources?	Yes
Q14.	Do you agree with the suggested key characteristics of a well-run authority and key indicators of failure in relation to service delivery?	Yes
Q15.	Do you agree with the suggested key characteristics of a well-run authority and key indicators of failure in relation to partnerships and community engagement?	Yes
Q16.	The seven themes have a description, characteristics of a well-run authority and indicators of potential failure (Tables 1-7, Section 5). Which, if any, of the proposed characteristics and indicators of failure do you think are priorities and the strongest indicators of best value?	We notice that indicators in one theme may be due to failure of an indicators in another theme. Rather than looking at indicators in a theme and trying to give weight to them we feel it more appropriate that a more holistic approach to all the indicators across

		the themes are reviewed. This would allow weight being given to a broad range of indicators and recognise the interdependencies between them.
Q17.	Many of these indicators are measured by metric but there is scope to identify more to more accurately assess Best Value. What do you think are the top most appropriate quantitative metrics for monitoring Best Value, against the indicators in section 5?	One suggestion may be for a formal annual self-assessment which is published against all indicators rather than trying to attempt to identify a top set.
Q18.	The guidance sets out a number of characteristics and indicators across seven themes in section 5. If certain characteristics or indicators were to be identified as key, and more important than others in achieving Best Value, what would be the risks be to this approach? The department is mindful of proportionality and the need to ensure the full context and circumstances of each case is taken into account and is clear that no single characteristic or indicator automatically results in actions relating to the use of Best Value powers. How could any risk be further mitigated?	We believe it difficult to identify key indicators when considering that some indicators of failure will cross onto indicators on other themes. There will also be the issue where some indicators of failure would be early signs that the more serious sign of failure may occur, e.g., under use of resources theme the issuance of a S114 notice may occur after failure to implement difficult budget decisions or inadequate reserves and poor benefits realisation. It would be more the timing of indicators of failure appearing rather than if they are key or not. Consequently, more work is required to understand the timing, interdependencies and the holistic view of all the indicators.
Q19.	Are you happy with the level of clarity and detail in the description of statutory and non-statutory Best Value Notices? (Section 6)	Yes
Q20.	Besides those mentioned in section 5, are there other ways in which the government could engage earlier with the individual local authorities to prevent any challenges experienced from escalating?	Yes. We believe authorities would benefit from understanding what the earlier signs of failure are based on the experiences currently faced by the sector. This would be linked to the suggested annual self-assessment across the suite of indicators with the potential to explore support from external sector led experts.
Q21.	Based on lessons learned from interventions to date, the guidance proposes that where authorities are unable to correct failure in specific services, such as social care or education, for two years,	No. Initially it would appear reasonable; however, we believe this is too arbitrary and believe it needs to be set in the context of the organisation, its wider



	this is potentially symptomatic of wider governance and leadership failure and the department should consider the authority's compliance with the Best Value Duty. Do you agree that two years is a reasonable timeframe to consider whether an authority's service performance may impact its ability to deliver Best Value? (Section 6, para 32)	partnerships and their effectiveness overall.
Q22.	Is the description of a Best Value Inspection sufficiently clear? (Section 7 and Annex A)	Yes
Q23.	Is the description of independent reports sufficiently clear?	Yes
Q24.	Are the models of intervention described in this guidance clear in terms of description, purpose and scenario when they would be applied? (Section 8).	Yes
Q25.	Do you agree with the position that intervention should end as soon as an authority can demonstrate that it can independently sustain its journey of continuous improvement without support? (Section 9, para 50)	We agree that both the criteria and the timeframes for assessment on progress should be set out at the beginning of any intervention considering local and national context and partnership arrangements. This is both important to the authority and to the residents. Any lengthy period of uncertainty, especially through non-statutory intervention, may in itself cause further failure.
Q26.	Are there any areas missing from the statutory guidance that you think would be helpful to include?	Yes. The guidance would be completed with the process set out for the appointment and performance assessment of commissioners or chairs of statutory improvement and assurance boards.

## Other Options Considered

14. The report presents members with the response provided by the County Council to the Government's consultation entitled 'Best value standards and intervention - a statutory guide for best value authorities.' Formulation of the response was undertaken with the Chair & Vice-Chair of the Committee, the Chief Executive and the Monitoring Officer. No other options were considered.

## Reason for Recommendation

15. To present members with the opportunity to consider the content of the Government's consultation entitled 'Best value standards and intervention - a statutory guide for best value authorities' alongside the response to the consultation provided by the County Council.

## Statutory and Policy Implications

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

## Financial Implications

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

## RECOMMENDATION

- 1) Members consider the content of the Government's consultation entitled 'Best value standards and intervention - a statutory guide for best value authorities' and note the response to the consultation provided by the Council.

### **Nigel Stevenson**

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

### **Marjorie Toward**

Service Director for Customers,  
Governance & Employees and Monitoring  
Officer

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## Constitutional Comments (LW 15/08/2023)

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

## Financial Comments (NS 08/08/2023)

19. There are no specific financial implications arising 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





Department for Levelling Up,  
Housing & Communities

# Best Value Standards and Intervention

A statutory guide for best value authorities

DRAFT

July 2023  
Department for Levelling Up, Housing and Communities



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July 2023

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## Ministerial foreword



Local councils are the frontline of democracy. They play a vital role in our communities and are critical partners as we level up the nation. We need our councils to support everyone, including the most vulnerable. They must be able to make our towns, cities, villages and communities great places to live where every citizen, no matter their circumstances, can thrive. That means providing the effective and efficient local services – from schools, social care and waste collection – that people want and deserve. To do that, they must make the most of every penny they receive from taxpayers to achieve better results for the communities they serve.

Councils in this country tend to have a robust record of transparency, probity, scrutiny and accountability – a reputation worth protecting. Most councils are also committed to continuous improvement and transformation, and strive to achieve value for money when carrying out their functions. Yet as well as celebrating the best of local government, we must also act when the high standards we expect are not met. The cause of devolution and decentralisation is set back by the glaring failures of some councils. It is right that the Government intervenes in these circumstances using powers under the Local Government Act 1999. The Government recognises the importance of councils' independence and accountability to communities, and does not use these powers lightly. At the same time, we will take all necessary steps to protect residents and uphold the good name of local government.

Under the 1999 Act, local authorities must legally deliver what is termed 'Best Value' – a council must be able to show that it has arrangements to secure continuous improvement in how it carries out its work. This guidance provides more clarity on the use of powers under the Act where this Best Value Duty is not, or is at risk of not, being met. And where these standards are not upheld, it sets out the models of statutory and non-statutory intervention available, with stages of escalation.

This guidance has been developed for local authorities, including combined authorities and combined county authorities, in England, but I encourage all best value authorities to bear its principles in mind. Prompt intervention to identify and address challenges is always the better approach. When we collectively put appropriate support in place before failure takes root, we can protect citizens and taxpayers from more severe consequences.

It is also the case that in tackling weaknesses earlier, we can expect to see more inspections and locally instigated reviews. This transparency and challenge should be welcomed by all councils that seek continuous improvement – the core aim of the Best Value Duty.

Already, residents fortunate to live in the very best, flagship authorities benefit from a culture relentlessly focused on achieving best value across all public services, even where current performance is good. This guidance will help all authorities in their efforts to reach the same high bar.

**The Rt Hon Michael Gove MP**  
**Secretary of State for Levelling Up, Housing and Communities**

DRAFT

## 1. Introduction

1. Local authorities are democratically elected bodies that exercise a range of statutory and discretionary functions for the benefit of local communities, and which operate in accordance with a range of statutory requirements. Local authorities are responsible for ensuring proper democratic accountability, transparency, public scrutiny and audit of their activities, and are subject to external scrutiny from their external auditor and a number of government bodies including Ofsted and the Care Quality Commission. The department, the local government sector and others are responsible for oversight of different aspects of local government accountability and assurance. The department's Accounting Officer is responsible for ensuring a sector-wide local accountability system is in place and that it remains robust. The department's Accounting Officer and officials provide the Secretary of State with advice and analysis on the sector's risk and instances where central government intervention is necessary.
2. The Best Value Duty relates to the statutory requirement for local authorities and other public bodies defined as best value authorities in Part 1 of the Local Government Act 1999 ("the 1999 Act") to "make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness". In practice, this covers issues such as how authorities exercise their functions to deliver a balanced budget (Part 1 of the Local Government Finance Act 1992), provide statutory services, including adult social care and children's services, and secure value for money in all spending decisions.
3. Best value authorities must demonstrate good governance, including a positive organisational culture, across all their functions and effective risk management. They are also required, pursuant to section 3 of the 1999 Act, to consult on the purpose of deciding how to fulfil the Best Value Duty. The annual process of setting the authority's budget, the corporate plan and the medium-term financial plan provides a key opportunity to conduct such consultation. This is the stage at which consultation will best assist the authority in deciding how to make arrangements to secure continuous improvement.
4. Failure to deliver best value can occur within any aspect of governance, the delivery of services or financial management. To help local authorities to achieve best value, government funds a programme of improvement support, primarily via the Local Government Association, that includes a wide range of sector-led support activities, including peer challenges, mentoring and the dissemination of best practice. Government expects local authorities to participate in the sector-led improvement initiatives available to them, to take up any offers of sector support or seek their own bespoke support if they require, and to be open to challenge. Government also expects all local authorities to have a corporate or finance peer challenge at least every five years, to publish the outcomes and deliver on the recommendations of that review, and to complete a progress review within a year. Improvement support is also provided for specific service areas such as in social care, public health, planning and transport. For example, the Sector Led

Improvement Partners Programme for Children's Social Care, where local authorities can request support from high-performing peers to help them improve.

5. Where, over a period of time, continuous improvement is not demonstrated sufficiently, the 1999 Act grants the Secretary of State powers to intervene to ensure compliance with the Best Value Duty. These powers include taking action to protect the public purse and ensure significant or long-term failings are corrected and performance is raised to an acceptable and sustainable level.
6. This statutory guidance on the Best Value Duty is issued to local authorities in England under section 26 of the Local Government Act 1999 and they are required to have regard to this guidance under the 1999 Act. Local authorities include county and district councils, London borough councils, combined and county combined authorities, the Common Council of the City of London, the Greater London Authority so far as it exercises its functions through the Mayor and the Council of the Isles of Scilly.
7. However, all best value authorities should be mindful of the principles set out in this document in order to ensure they deliver the Best Value Duty, defined in Part 1 of the 1999 Act. In exceptional cases, and recognising the existence of other inspection and intervention regimes across Government, the Secretary of State may intervene in these authorities as listed below where there is clear and significant failure:
  - National Park authorities (for National Parks in England),
  - The Common Council of the City of London in its capacity as a police authority,
  - Fire and rescue authorities,
  - London Fire Commissioner,
  - Waste disposal authorities,
  - Integrated transport authorities,
  - Combined authorities and economic prosperity boards,
  - Sub-national transport bodies,
  - Transport for London.
8. This guidance provides greater clarity to the local government sector on how to fulfil the Best Value Duty by describing what constitutes best value, the standards expected by the department and the models of intervention at the Secretary of State's disposal in the event of failure to uphold these standards. It supplements statutory guidance issued setting out reasonable expectations of the way authorities should work with voluntary and community groups, and small businesses<sup>1</sup> on the making and disclosure of Special Severance Payments<sup>2</sup> and non-statutory guidance on digital infrastructure<sup>3</sup>. This guide should not be taken

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<sup>1</sup> [Revised Best Value Guidance](#) (March 2015)

<sup>2</sup> [Statutory guidance on the making and disclosure of Special Severance Payments by local authorities in England](#)

<sup>3</sup> [Guidance on access agreements](#)

as a definitive guide to the interpretation of the legislation, which is reserved for HM Courts.

## 2. Office for Local Government

9. This guidance is published as the [Office for Local Government](#) (Oflog) is being established.
10. Oflog will provide an authoritative and accessible source of information about the performance and health of the local government sector. The department's best value analysis to inform judgements to inspect or intervene will be improved through Oflog's objective to increase transparency of performance in the sector.
11. Both Oflog and the department are committed to high standards, which are frequently met by authorities, and to identify early indications of failure. To support this, alongside the publication of this guidance the department is consulting on what indicators should be prioritised in informing engagement with authorities to ascertain compliance with the Best Value Duty and what quantifiable metrics would be appropriate to consider.
12. The standards and models for interventions set out in this guidance belong to the department. This guidance may be updated as Oflog's role continues to develop.



### 3. Best value powers

13. The Secretary of State has powers under section 10 of the 1999 Act to appoint a person to carry out an inspection into an authority's compliance with the Best Value Duty. This power may be exercised to provide evidence for the Secretary of State to make a judgement on whether to intervene, but an inspection is not formally required prior to statutory intervention (see section 8 of this guide for the various models of statutory intervention).
14. Where the Secretary of State is satisfied that an authority is failing to carry out its functions in compliance with the Best Value Duty, section 15 of the 1999 Act provides powers for the Secretary of State to intervene on a statutory basis in that authority. These powers include the ability to:
  - direct a local inquiry to be held into the exercise by the authority of specified functions,
  - direct the authority to carry out a review of its exercise of specified functions,
  - direct the authority to take any action which the Secretary of State considers necessary or expedient to secure its compliance with the requirements of the Best Value Duty, and
  - direct that a specified function or functions of the authority be exercised by the Secretary of State or a person nominated by them (referred to as "commissioners" in previous interventions) for a specified period.
15. The Secretary of State's decision to intervene, when, and what form that intervention should take relies on the analysis of a complex set of data and circumstances, set out in section 5 of this guide. Weighing up the degree and impact of failure on local residents requires an element of judgement and consideration of the confidence in a local authority's capacity, capability and commitment to lead its own improvement.

## 4. Principles

16. Government's approach to ensuring all authorities carry out their functions in compliance with the Best Value Duty is based on the following principles:

### Local accountability

17. Accountability should primarily be to local residents and businesses. Statutory intervention will only be used when there are significant and extensive indications of failure and authorities are not delivering to the high standards which their local communities have a right to expect. As far as possible, Government will look to existing local checks and balances in the system to mitigate risks of failure. Where there are indications that the local authority is not complying with these checks and balances, Government may seek additional assurances or intervene to secure compliance with the Best Value Duty.

### Continuous improvement

18. Every best value authority must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. The reference to "making arrangements" makes it clear that the Best Value Duty is concerned more with intentions, namely securing improvement in the way in which an authority performs its functions, than outcome. This means that authorities are not expected to be perfect, but rather that they should prioritise learning and development throughout the organisation and always strive to learn from past mistakes, address under-performance, and avoid continuing in a direction where failure is evident. Errors and poor performance should be clearly isolated and exceptional rather than repeated or systematic, and should not be significant in value, governance, or have wider implications. Persistent mistakes and poor performance should be promptly addressed, and steps taken to remedy clearly documented.

### Openness to challenge and support

19. Best value authorities are responsible for their own performance. Government expects these authorities to make their own arrangements to secure continuous improvement in the way in which their functions are exercised. This includes being open to external challenge and scrutiny, including in the form of regular peer challenges and participating in the broad range of formal and informal improvement initiatives available to authorities. It also means being responsive to challenge from the press, public and local communities more generally. Authorities should be transparent in their Annual Governance Statements about how they are delivering improvements over time against any recommendations made by external parties. Authorities are also expected to have a sense of collective responsibility for the performance of the sector as a whole and engage in sector-led support to other councils and benchmarking.

## **Expectations**

20. Government should be clear in its expectations of an authority to demonstrate it is securing best value in key areas such as governance, culture, finances and statutory services (see section 5 of this guide on the department's best value themes). These expectations, clarified in this guidance, should be shared with the sector and reflect what most local authorities already do or are striving to achieve. Authorities need to demonstrate that they are making arrangements to secure continuous improvement in all these areas on an ongoing basis and at the necessary pace. An inability or reticence to acknowledge clear failings and/or resistance to external challenge or scrutiny is indicative of failure to secure best value. However, it is the Secretary of State's decision to ascertain whether the Best Value Duty is being met and judgements will be made based on the circumstances of each case.

## **Prevention**

21. Government will engage early with authorities showing signs of not complying with the Best Value Duty and will encourage local authorities to come forward and ask for targeted support, to prevent challenges from escalating. It will act swiftly to investigate significant indications of failure and determine the appropriate support or model from a range of statutory and non-statutory options. Local authorities should take responsibility for identifying early warning signs and act appropriately to address potential failures at the earliest opportunity by participating in the sector-led improvement initiatives available to them. This guidance highlights relevant indicators and signals of potential failure, but this should not be taken as an exhaustive list as each local authority and the context it operates in is different.

## **Meeting the cost of failure**

22. Whilst most authorities want to do the right thing, if Government was to reward failure by funding necessary improvement where there is best value failure, this could risk introducing a financial motive to fail. Leaders, both official and elected, should take responsibility for their actions rather than being bailed out by Government. While local leaders are held to account for the impact of their decisions at the ballot box, authorities should apply performance management procedures in line with their usual policies where there is failure. Local authorities are responsible for taking all reasonable steps to meet the financial cost of failure locally.

## **Default commissioner powers and de-escalation**

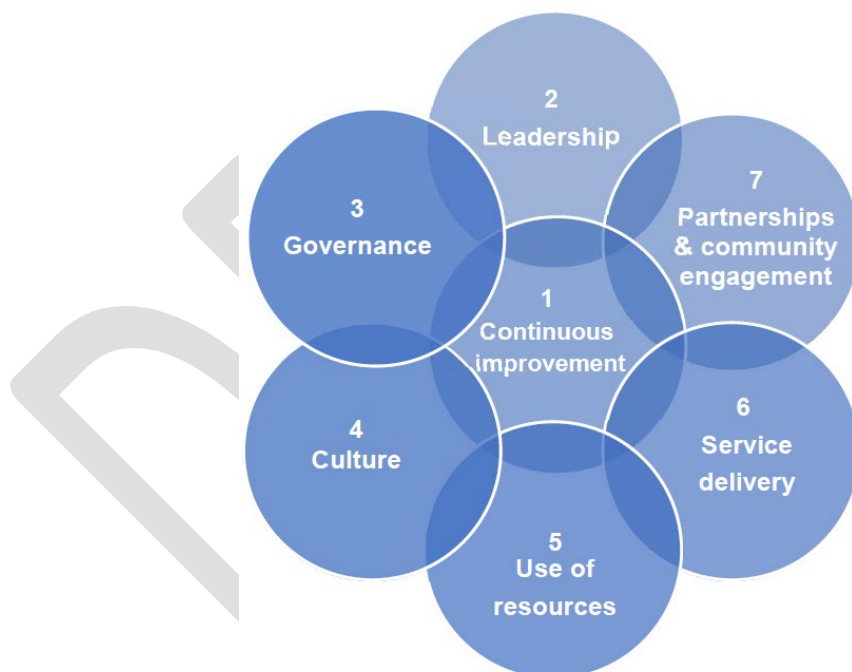
23. Lessons learned from past interventions have shown that when failure in a local authority has been more widespread than first thought, the requirement to expand commissioner powers has delayed improvement. In cases where there have been significant failure in a particular functional area or areas and where commissioners have been appointed, the department will make a default presumption that failure

may be more pervasive. In such cases, commensurate powers relating to governance and senior appointments will be automatically provided to commissioners on appointment, unless there is good reason not to provide the default powers. Such powers may not need to be used but will empower commissioners to accelerate the discovery phase of an intervention to ensure potential failure in any function is quickly identified, and to promptly address any additional issues that may arise in order to accelerate improvement. This ultimately should support the intervention ending within the fastest possible timeframe. A statutory intervention should de-escalate over time and finish in accordance with the anticipated end date, extendable if necessary. This should be based on an agreed exit strategy, with clear indicators of success, which should be developed by the commissioners and the authority together as early as possible in the intervention, but which should be sufficiently flexible to reflect the journey that the local authority is making.

## 5. Defining best value

24. The Best Value Duty is concerned with making arrangements to secure continuous improvement. To provide greater clarity to the sector on how to fulfil the Best Value Duty, this statutory guidance sets out seven overlapping themes of good practice for running an authority that meets and delivers best value. These seven best value themes build on the lessons learned from past interventions, including those which the department published in June 2020, and reflect what most local authorities already do or are striving to achieve. While these themes are all interdependent, strong governance, culture, and leadership underpin effective partnerships and community engagement, service delivery, and the use of resources. Continuous improvement is the outcome of all the themes working well together.

**Diagram 1: Seven best value themes**



25. There is no single version of 'good' – different aspects might look different in different areas – but these seven themes represent the key areas where authorities should be able to demonstrate they are making effective arrangements to secure continuous improvement in the way in which its functions are exercised. Inspection and intervention, described in later sections, are contingencies for the Secretary of State to use in the event that they consider these themes of good practice are not, or are at risk of not, being met.

26. Local authorities are not expected to perform perfectly, given the complex set of legal responsibilities and inherent levels of risk authorities must manage, but should strive for excellence and be able to demonstrate they are making effective arrangements to secure continuous improvement in each of these areas.
27. A detailed description of these themes, including characteristics of a well-functioning local authority and indicators used to identify challenges that could indicate failure, is set out below. This is an illustrative list of indicators including both qualitative and quantitative data and no single metric automatically leads to inspection or intervention. Decisions to intervene pursuant to the 1999 Act are based on a holistic judgement of all available information and considered engagement with authorities to understand the environment they are operating within and their capacity, capability and commitment to lead their own improvement.
28. There is significant variation in the functions of individual combined authorities, as well as those local authorities which have agreed individual devolution deals, which will need to be considered when assessing their performance. In addition, combined authorities typically have fewer services to deliver and have more of a focus on strategic delivery and developing partnerships and community engagement, as well as local assurance frameworks, which will be considered when assessing the different themes, although all still apply. For constituent councils of combined authorities, working with their devolution partners will be of particular note when considering Partnerships and Community Engagement.

## 1. Continuous improvement

Description	Characteristics of a well-functioning authority	Indicators of potential failure
<p>Making arrangements to secure continuous improvement in performance and outcomes is a core requirement for achieving best value.</p> <p>Any organisation with a duty of best value needs to make effective arrangements to secure continuous improvement in the way in which all its functions are exercised on an ongoing basis and at pace.</p> <p>These arrangements will include inviting independent external challenge and scrutiny, in the form of regular service specific as well as corporate or finance peer challenges, engaging with sector support initiatives on offer and informal experience sharing among peers.</p> <p>Local authorities should also have a sense of collective responsibility for the performance of the sector and help other authorities to improve.</p> <p>The Chartered Institute of Public Finance and Accountancy (CIPFA) / Society of Local Authority Chief Executives (SOLACE) Delivering Good Governance in Local Government Framework, along with the Centre for Governance and Scrutiny and Localis <a href="#">Governance Risk and Resilience Framework</a> can help authorities to identify, understand, and act on risks to good governance.</p>	<ul style="list-style-type: none"> <li>• There is an organisational-wide approach to continuous improvement, with frequent monitoring, performance reporting and updating of the corporate and improvement plans.</li> <li>• There is some form of established transformation function or programme.</li> <li>• The authority arranges a corporate or finance peer challenge at least every five years, acts promptly on any recommendations given, and publishes the report of that review and progress updates.</li> <li>• The authority is willing to work with the external auditor to proactively identify areas for improvement and responds promptly and effectively to recommendations.</li> <li>• Professional development and appraisal at all staff levels is built into day-to-day work, with poor performance identified, monitored and effectively addressed, and good performance recognised.</li> <li>• The Annual Governance Statement, prepared in accordance with the CIPFA/ SOLACE Good Governance Framework, is the culmination of a meaningful review designed to stress-test both the governance framework and the health of the control environment.</li> <li>• Innovation is encouraged and supported within the context of a mature approach to risk management.</li> <li>• The authority shares a sense of collective responsibility for the performance of the sector and supports other authorities to improve.</li> </ul>	<ul style="list-style-type: none"> <li>• A culture of denial and lack of openness to constructive advice and challenge.</li> <li>• A lack of awareness and reluctance to acknowledge weaknesses and engage with the sector support on offer (such as no corporate peer challenge in the past five years or alternative external assessment).</li> <li>• Evidence that attempts at improvement have not been effective over a sustained period of time.</li> <li>• The Annual Governance Statement is not used as an improvement document, is developed by officers without member oversight, is not kept up to date and/or is generic in tone and content.</li> <li>• Lack of engagement with and/or poor quality or non-existent member and officer training and development offer.</li> </ul>



## 2. Leadership

Description	Characteristics of a well-functioning authority	Indicators of potential failure
<p>Effective political and administrative leaders who have a clear vision and set of priorities for their area, are key to building local economic growth, social cohesion and a healthy local democracy.</p> <p>When they model positive and effective leadership behaviours at all levels, this can be beneficial to a local authority's overall culture and governance.</p> <p>It is essential that all officers with statutory responsibility, including the Section 151 and Monitoring Officers, uphold their duties, both individually and collectively and, in accordance with good practice, report directly to the Chief Executive and, as necessary, to full Council. Statutory officers must work effectively together and all must have a voice for key decisions.</p> <p>An authority that either fails to recruit to its statutory officer posts on a permanent basis over an extended period of time or has a high turnover in these roles indicates instability and potential wider cultural concerns.</p> <p>When this is compounded by many senior positions being appointed to on an interim basis over an extended period, this can signal a problem.</p>	<ul style="list-style-type: none"> <li>Members provide quality leadership by setting a clearly articulated, achievable and prioritised vision for officers to follow that puts place and local people at its heart. Senior officers have the capacity and capability to provide the authority with effective strategic direction.</li> <li>The authority's corporate plan is evidence based, current, realistic and enables the whole organisation's performance to be measured and held to account. Strategic priorities are aligned with the authority's financial strategy and delivery arrangements, and respond appropriately to local need, including the plans of partners and stakeholders.</li> <li>Members and officers, particularly those with statutory responsibility, including the Section 151 and Monitoring Officers, uphold their duties and speak truth to power.</li> <li>Strong financial management and reporting runs throughout the whole organisation.</li> <li>Robust systems are in place and "owned" by members for identifying, reporting, mitigating and regularly reviewing risk.</li> <li>Effective succession planning, with the recruitment and nurturing of officers with the necessary skills, ensures organisational resilience.</li> <li>Members and senior officers maintain constructive relationships and engage effectively with external stakeholders and the wider local community.</li> <li>A demonstrable commitment to leadership development.</li> <li>The authority has moved from multiple to all-out elections within the four-year cycle, which has enhanced stability and reduced ongoing campaigning that can hinder improvement.</li> </ul>	<ul style="list-style-type: none"> <li>A lack of corporate capacity or capability, resulting in a lack of strategic direction, oversight and sense of accountability.</li> <li>Leadership losing sight of the authority's role and function as a leader of place and provider or enabler of services to local residents and businesses.</li> <li>A lack of understanding of public sector standards, the Nolan Principles and appropriate behaviour.</li> <li>Corporate plan is out of date, unrealistic and unaffordable and/or has too many priorities.</li> <li>Poor ownership and accountability by the Section 151 Officer, leading to poor quality financial management.</li> <li>Section 151 and Monitoring Officers do not report directly to the Chief Executive or are not involved in key decisions.</li> <li>Risk management ownership and discussion is limited to the Audit Committee rather than across the organisation.</li> <li>A lack of political and/or organisational stability, with high leadership turnover, key posts remaining vacant or an overreliance on interim officers, creating a lack of continuity and/or decisions in the long-term interests of the authority.</li> <li>Leadership at both political and managerial levels is distracted and involved to an unhealthy extent on internal battles.</li> <li>The absence of both a fit for purpose and regularly reviewed people plan, procurement strategy and IT strategy.</li> <li>A loss of stakeholder and public confidence.</li> <li>A sense of insularity, a failure to tolerate internal or external challenge, and to recognise the need for improvement.</li> </ul>



### 3. Governance

Description	Characteristics of a well-functioning authority	Indicators of potential failure
<p>A well-run council will have clear and robust governance and scrutiny arrangements in place that are fit for purpose, appropriate to the governance arrangements adopted locally (executive/committee system), understood by politicians and staff alike and reviewed regularly.</p> <p>Decision-making processes, within clear schemes of delegation, should be transparent, regularly reviewed, clearly followed and understood, enabling decision-makers to be held to account effectively. There should also be evidence of the decisions following good public law decision making principles (reasonableness, proportionality, fairness, etc.).</p> <p>Codes of conduct and HR processes should be to sector standard and ensure effective support for whistle-blowers.</p>	<ul style="list-style-type: none"> <li>• Effective procedures are in place and followed to ensure members and officers at all levels comply with the Nolan Principles and relevant codes of conduct and policies. This includes adequate protections and support for whistle-blowers.</li> <li>• The authority's scrutiny function is challenging, robust and contributes to the efficient delivery of public services.</li> <li>• Risk awareness and management informs every decision.</li> <li>• Full Council alongside the Audit Committee takes an effective overview of the systems of control, audit and governance.</li> <li>• Appropriate financial, commercial and legal expertise is obtained, including from external sources, and due diligence completed on any key or novel decision.</li> <li>• Committees and individuals charged with governance have the appropriate experience, skills and expertise to perform their role.</li> <li>• There is proper member oversight (as shareholders) of companies and partnership bodies, in accordance with the <a href="#">Local Authority Company Review Guidance</a> and their existence is regularly and independently reviewed.</li> <li>• Performance management information measures actual outcomes effectively and is frequently interrogated.</li> <li>• Lessons are learned from complaints.</li> </ul>	<ul style="list-style-type: none"> <li>• Significant weaknesses identified in annual audit reports, and/or statutory recommendations or a public interest report issued.</li> <li>• Credible allegations of corruption or maladministration.</li> <li>• Political or ideological activity by council officers visible.</li> <li>• Key decisions are made in informal meetings and are not effectively recorded, leading to a lack of clarity on who is responsible for them.</li> <li>• Decisions made without seeking appropriate advice.</li> <li>• Political indecision, with key decisions not being fully implemented and/or decisions being frequently reversed.</li> <li>• Scrutiny functions are undermined and there is a lack of pre-decision scrutiny.</li> <li>• Internal audit does not meet PSIA standards and fails to consider identified high risks.</li> <li>• Audit Committee's brief is too wide, meets infrequently, and its effectiveness is undermined.</li> <li>• There are no meaningful risk registers at a corporate level and risks are not owned by senior leaders. Risk registers appear to downplay some risks and lack action to mitigate risk.</li> <li>• Performance management information is not consistently used, does not measure outcomes where relevant and underperformance is not effectively addressed.</li> <li>• No independent oversight or members of relevant committees in accordance with good practice.</li> <li>• Excessive secrecy and failure to accept councillors' right to know.</li> <li>• Member/officer codes of conduct and arrangements for reviewing standards complaints, are not regularly reviewed.</li> </ul>

## 4. Culture

Description	Characteristics of a well-functioning authority	Indicators of potential failure
<p>The culture of a local authority is determined by its shared values, ethics and beliefs, how decisions are made, as well as how elected members and officers behave, interact and carry out their roles.</p> <p>Political and administrative leaders that model strong and effective leadership are beneficial to a local authority's overall culture.</p> <p>An agreed set of shared corporate values which are effectively implemented and modelled across the authority are also essential to maintaining positive organisational culture.</p> <p>The existence of an outward facing, transparent and open culture, where challenge is welcome and acted upon are indicators of a modern authority and is also essential for ensuring continuous improvement runs throughout the organisation.</p>	<ul style="list-style-type: none"> <li>• Members and officers promote and demonstrate the highest ethical standards and appropriate working behaviours through established shared values and ways of working.</li> <li>• A culture of cooperation, respect and trust between and within members and officers exists, along with a commitment to transparent decision-making.</li> <li>• Civil working relationships (and communication) between Group Leaders despite political disagreements.</li> <li>• A commitment to promoting transparency and sharing information with the public.</li> <li>• Respect for a councillor's right to know and enquire.</li> <li>• The existence of a proactive and welcoming attitude to external challenge and scrutiny.</li> <li>• Appropriate processes are in place to address issues such as harassment and bullying.</li> <li>• An accessible whistleblowing policy, of which there is wide awareness and confidence that it will work.</li> <li>• Demonstrable steps to engage openly and honestly with staff.</li> </ul>	<ul style="list-style-type: none"> <li>• A widespread failure to follow due process, the constitution and codes of conduct.</li> <li>• Risks are covered up rather than identified to protect reputations.</li> <li>• Credible allegations of corruption or maladministration.</li> <li>• The respective roles of members and officers, and the interface between them, are rejected or misunderstood, and over-involvement of members in operational decisions or of officers in setting strategic political vision.</li> <li>• A culture of bullying, distrust and broken relationships exists.</li> <li>• The organisation is paralysed by a large number of procedural issues.</li> <li>• Under- or non-engagement of the standards regime, with doubt cast on its credibility and legitimacy.</li> <li>• Disciplinary and complaints systems are not deployed, leading to a sense that certain individuals can act improperly with impunity.</li> <li>• High numbers of staff grievances and staff turnover due to morale issues.</li> <li>• High numbers of standards complaints by members against members are upheld.</li> <li>• Poor outcomes identified from staff surveys.</li> <li>• A culture of secrecy and overuse of urgency arrangements, confidential or delegated action reports and a failure for such reports to be reported in a form which allows scrutiny.</li> <li>• Members and officers have limited understanding of declarations of interest and of gift and hospitality registers, which are not monitored or regularly updated.</li> <li>• A website that is difficult to navigate, where key documents are either missing or drafted in a way that information is inaccessible to the public.</li> </ul>

## 5. Use of resources

Description	Characteristics of a well-functioning authority	Indicators of potential failure
<p>An authority must have in place and properly deploy an effective internal control environment to safeguard the use of resources, and clear and effective processes to secure value for money.</p> <p>It must have appropriate financial management, reporting and regulation arrangements in place, in accordance with CIPFA's Financial Management Code, to govern the strategic and operational management of its investments, funding, assets and companies.</p> <p>This includes ensuring it has the appropriate skills and capacity in place, commensurate with the complexity of its finances, using specialist expertise when needed.</p> <p>Authorities must appropriately comply with the Prudential Framework in making investment and borrowing decisions and not take on excessive risk. They should have effective systems for identifying, reporting, addressing and reviewing financial risk and have consideration of CIPFA's Financial Resilience Index.</p> <p>Investment decisions must have a commensurate level of scrutiny, transparency and approval to make sure that officers and members fully understand the risks.</p> <p>Financial management and reporting should be supported by robust financial systems, record keeping and quality assurance, with appropriate use of specialist expertise when needed.</p> <p>Authorities should respond to audit recommendations and address issues identified in a timely way.</p> <p>Capacity constraints should be identified and recruitment to fill key posts prioritised. Succession planning needs should be considered, with a longer-term view as to when there might be a gap in senior, experienced officers.</p>	<ul style="list-style-type: none"> <li>• The financial strategy and budgets are clearly aligned with strategic priorities and there is a robust process for reviewing and setting the budget.</li> <li>• Human resources and fixed assets are managed efficiently and effectively.</li> <li>• A robust system of financial controls and reporting exists, which provide clear accountability and ensure compliance with statutory requirements and accounting standards.</li> <li>• Compliance with the Prudential Framework, a clearly presented Investment Strategy, Capital Strategy and Minimum Revenue Provision (MRP) policy exists.</li> <li>• A clear strategy exists to maintain adequate reserves.</li> <li>• There is collective accountability for the budget and medium-term financial plan, rather than a siloed approach to management.</li> <li>• There are regular financial reports to Cabinet and training for all members on finance.</li> <li>• Robust systems are in place to identify, report, address and regularly review financial risk.</li> <li>• Sustainable, competitive corporate functions including procurement and IT which deliver value for money.</li> <li>• The Audit Committee has the knowledge, skills and independent expertise to provide robust challenge and ensures effective controls are in place and issues addressed.</li> <li>• The purposes of companies are carefully considered and regularly reviewed, with effective governance and oversight arrangements in place.</li> <li>• Effective project management of projects to enhance governance and effective use of resources.</li> </ul>	<ul style="list-style-type: none"> <li>• Absence of a deliverable and clear medium-term financial plan, approved by the authority's Cabinet or finance committee (as appropriate) and full council.</li> <li>• Consistent overspends, frequent use of virements, and no credible plan to reduce unaffordable debt and maintain sustainable finances, and recurrent non-delivery of savings plans.</li> <li>• Avoidance of/failure to implement difficult budget decisions.</li> <li>• No evidence of transformation to create efficiency savings.</li> <li>• Inadequate reserves, savings not achieved and poor benefits realisation.</li> <li>• Consistent reliance on reserves to balance an outturn position.</li> <li>• Unlawful or excessively risky borrowing and investment practices with no adequate risk management strategy in place for financial losses.</li> <li>• Failure to manage the risks associated with companies.</li> <li>• An authority that has issued a Section 114 Notice.</li> <li>• Significant weaknesses identified in the annual audit report for financial sustainability, and/or statutory recommendations or a public interest report is issued.</li> <li>• High dependency on high-risk commercial income for service delivery and balancing budgets.</li> <li>• Non-compliance with accounting requirements regarding MRP.</li> <li>• A finance function that is not fit for purpose owing to capacity or capability issues.</li> <li>• Underinvestment in back-office services, which affects capacity and succession planning.</li> <li>• Inefficient or uncompetitive procurement arrangements that do not deliver value for money.</li> <li>• IT that is not capable of doing the job for which it is designed.</li> </ul>

## 6. Service delivery

Description	Characteristics of a well-functioning authority	Indicators of potential failure
<p>Poor individual services can often be an indication of broader governance and financial weaknesses within an authority.</p> <p>Equally, corporate governance failure almost certainly will at some point negatively impact how services are delivered locally, in terms of missed opportunities or silo working and a failure to make strategic connections.</p> <p>Local authority data, the assessments of other government departments and service regulators, such as Oflog, Ofsted, the Care Quality Commission, Planning Inspectorate and the Local Government and Social Care Ombudsman, identify whether services are being delivered efficiently and effectively, and whether authorities are responsive to customer complaints. Authorities should provide services at a comparable level to other authorities of a similar size and location when benchmarked.</p>	<ul style="list-style-type: none"> <li>• Service plans are clearly linked to a local authority's priorities and strategic plans – a golden thread that runs through to individual objectives and accountability.</li> <li>• Service delivery is evidence-based, customer and citizen focused, and meet the needs of different groups within the community.</li> <li>• The authority has an effective and accessible complaints process and provides appropriate redress.</li> <li>• There are clear and effective mechanisms for scrutinising performance across all service areas. Performance is regularly reported to the public to ensure that citizens are informed of the quality of services being delivered.</li> <li>• Procurement processes are economic, efficient and ensure the outcomes of efficient contract procurement and management.</li> <li>• The authority achieves the best balance of cost and quality, considering the resources available, in delivering services, having regard to economy, efficiency and effectiveness.</li> <li>• The local authority takes an innovative approach when considering how services will be designed and delivered in the future.</li> </ul>	<ul style="list-style-type: none"> <li>• Significant weaknesses identified in the annual audit report for economy, efficiency and effectiveness, and/or statutory recommendations or a public interest report issued.</li> <li>• Critical reports from regulator, inspectorate and/or ombudsman show failings which may have resulted in intervention by other government departments.</li> <li>• Intervention from other government departments is not delivering results.</li> <li>• A high level of complaints made to the Local Government and Social Care Ombudsman and/or an annual letter to the authority requesting action to improve with no associated action plan.</li> <li>• Transformation is in name only. Opportunities for efficiency savings and improvements have not assessed in a meaningful way. Exotic or novel solutions are pursued that lack rigor or adequate risk appraisal.</li> <li>• The approach to contracting and contract management is weak, resulting in poor quality public services that do not represent value for money.</li> <li>• Excessive use of contract Standing Order waivers.</li> <li>• Poor tracking of benefits realisation on service improvement.</li> <li>• Services data suggests poor performance and outcomes compared to similar local authorities, e.g. adult social care quality of life score, planning applications completed to time.</li> </ul>

## 7. Partnerships and community engagement

Description	Characteristics	Indicators of potential failure
<p>Driving local economic growth, promoting social cohesion and pride in place is increasingly dependent on the effectiveness of partnerships and collaborative working arrangements with a range of local stakeholders and service users.</p> <p>Authorities should have a clear understanding of and focus on the benefits that can be gained by effective collaborative working with local partners and community engagement in order to achieve its strategic objectives and key outcomes for local people.</p> <p>Appropriate governance structures should also be in place to oversee these arrangements, and the process of consultation and engagement should be inclusive, open and fair. An inclusive approach that accepts challenge is an indicator of a confident organisation.</p>	<ul style="list-style-type: none"> <li>• The authority provides effective leadership of place through its elected members, officers and constructive relationships with external stakeholders.</li> <li>• An organisational culture exists that recognises the value of working with local partners to achieve more efficient and effective policy development, local economic growth and investment, better services, and customer-focused outcomes.</li> <li>• There is early and meaningful engagement and effective collaboration with communities to identify and understand local needs, and in decisions that affect the planning and delivery of services. In some cases, this involves co-design of services.</li> <li>• Evidence of joint planning, funding, investment and use of resources to demonstrate effective service delivery, but transparent and subject to rigorous oversight.</li> <li>• Partners and local residents are involved in developing indicators and targets, and monitoring and managing lack of performance. The authority may be beginning to experiment with more participative forms of decision-making.</li> <li>• The authority drives social and environmental value in their place through mechanisms like procurement and employment.</li> </ul>	<ul style="list-style-type: none"> <li>• Lack of appropriate governance in partnership arrangements.</li> <li>• The authority shows weak ambition (or is overly ambitious) and fails to seize opportunities for building prosperity and opportunity for local people and businesses, promote social cohesion and pride in place.</li> <li>• The authority does not seek and consider feedback from citizens and service users on performance when developing improvement plans.</li> <li>• Poor outcomes identified from resident or partner surveys.</li> <li>• Poor or non-existent communication with partners on issues impacting on their business.</li> <li>• Consultation is perfunctory with a focus on complying with statutory minimums.</li> </ul>



## 6. Assurance and early engagement

29. The department and the local government sector, with others, are responsible for the local government accountability system, with the department's Accounting Officer being responsible for ensuring this system remains robust. A key element of this is ensuring that the public is protected from instances of local authority failure.
30. The department's local government stewardship function continually reviews the health of local authorities' governance, financial management processes, including commercial operations and the sustainability of authorities' medium-term financial outlooks, and delivery of corporate and key services. The information reviewed combines the use of:
- national data metrics,
  - published documents from local authorities (annual governance statement, committee papers, statement of accounts, and locally commissioned reviews),
  - auditors' annual reports and other reporting,
  - reports from inspectorates such as Ofsted and the Care Quality Commission,
  - reports from the Local Government and Social Care Ombudsmen,
  - LGA corporate peer challenge reports and any follow-up reports, and
  - residents' and MPs' letters where they raise concerns under the Best Value Duty.
31. To be assured of local authorities' compliance with the Best Value Duty, the department engages with other government departments who maintain responsibility for their services areas, such as the Department for Education (DfE), the Department of Health and Social Care (DHSC) and the Home Office. It also engages with a range of other non-departmental organisations working with the local government sector. In certain circumstances, the department will also engage with local authority auditors.
32. The department is committed to working in partnership with other government departments to share intelligence on common challenges and ensure a co-ordinated and collaborative approach across Government. Government departments set and monitor performance against their own standards and failure to meet these standards should be first managed by the relevant department directly. However, in these circumstances if concerns continue for two or more years despite local attempts to improve and there is evidence available, the Department for Levelling Up, Housing and Communities will consider whether the lack of improvement constitutes failure to meet the Best Value duty.
33. Close engagement with government departments is particularly important when an authority of concern is already subject to statutory intervention. The Secretary of State for Levelling Up, Housing and Communities will consult with other Secretaries of States prior to using best value powers to start an intervention where another department already has inspection or intervention frameworks to

assess and further understand any wider context. This does not compromise the Secretary of State's independent legal authority to exercise best value powers under the Local Government Act 1999.

34. Collating the information outlined in the paragraphs above enables the department to gain a deeper understanding of those authorities that may be facing challenges and showing some of the indicators of potential best value failure set out in section 5 of this guide. This could mean that those authorities may not be properly complying with the Best Value Duty. In some circumstances, evidence of past failure and conduct concerns may also be taken into account by the Secretary of State in deciding whether to exercise his or her statutory powers.
35. Where the department becomes aware of quantitative or qualitative indicators of potential failure being met, officials from the department may look to engage constructively with the local authority to provide an opportunity to understand their organisational challenges in relation to governance, finances and service delivery, including local partner and market delivery, and to gain assurance of how they are being managed. The purpose of this form of early engagement is to prevent any challenges experienced by the local authority from escalating by seeing how the authority is engaging with, or plans to engage with, sector support and identifying what form of additional support (if any) is needed. Local authorities demonstrating early indications of failure may also be invited to discuss their arrangements for securing continuous improvement with the minister responsible for local government. Where sufficient assurance is not provided, the department may write formally to obtain assurance that the authority is taking steps to manage its challenges. This may include the formal issuance of a Best Value Notice, the models for which are set out below.

#### **(Non-statutory) Best Value Notice**

A senior civil servant writes formally to an authority to state the department's concerns on the available evidence and to set out the department's expectations of the authority in providing assurance of progress. The Notice will request that the authority engages directly with the department to provide assurance of improvement. This engagement could include requesting that the authority provides a timebound improvement plan containing details of the arrangements the authority has made and proposals to secure the improvement needed. Where an improvement plan is already in place, officials may specify the need for further information, ongoing engagement, or greater assurance of that plan. The Notice may also request that the authority reports back to the department at specified junctures.

Officials may challenge an authority's improvement plan if it is considered insufficiently robust, feasible or timely. Officials will also determine progress against the authority's improvement plan, based on the evidence provided by the authority and may draw on sector peer support to do so. Further action may be needed if the requested information is not provided to the department by a specified date or if progress is not satisfactory.

The Notice will normally remain in place for 12 months, after which time, should the department deem it necessary to continue to seek assurance of the authority's improvement progress, it will be reissued. The Notice may be withdrawn or escalated at any point based on the available evidence.

To ensure the authority's improvement work is transparent and open to external scrutiny, the department will publish Best Value Notices on gov.uk and will expect the authority to publish all related documents on its website.

Best Value Notices provide an opportunity for early engagement with an authority that is exhibiting indicators of potential best value failure and where there is confidence that the authority may have the capability and capacity to make its own arrangements to secure continuous improvement. Best Value Notices may also be used to obtain assurance from an authority that has previously been subject to intervention that they will continue to meet their Best Value Duty, or as a form of longer term non-statutory intervention where there is no evidence of best value failure.

**Example:** Best Value Notices were issued to Cambridgeshire and Peterborough Combined Authority and Middlesbrough Council in January 2023, setting out the department's concerns and the importance of pace and rigor in delivery of their locally led improvement frameworks.

### **Best Value Notice issued under section 230 of the Local Government Act 1972**

A Best Value Notice (as described above) is issued on a statutory basis, under the general power in section 230 of the Local Government Act 1972, stating the department's concerns on the available evidence and requiring that the authority engages directly with the department to provide assurance of improvement.

Section 230 of the 1972 Act requires local authorities (including combined authorities) to send the Secretary of State any information with respect to their functions that the Secretary of State may require or may be required by either House of Parliament.

As with non-statutory Best Value Notices, the Notice will remain in place for 12 months, after which time, should the department deem it necessary to continue to seek assurance of the authority's improvement progress, it will be reissued. The Notice may be withdrawn or escalated at any point based on the available evidence.

Failure to properly engage with the department in response to a statutory Best Value Notice could indicate a failure of the authority to make arrangements to secure continuous improvement and may lead to further action.

Statutory requests for improvement information provide an opportunity for the department to engage on a statutory basis with an authority that is exhibiting early indicators of potential best value failure and where there is limited confidence in



the authority's willingness to make arrangements to secure continuous improvement and/or to engage constructively and promptly comply with requests for information from the department.

**Example:** This power has yet to be used.

### **Exceptional financial support**

36. Since 2020 the government has given considerable support to the local government sector to respond to the Covid-19 pandemic. However, as a result of particular local circumstances, a small number of local authorities approached the department for exceptional financial support to help them address financial pressures that they considered unmanageable.
37. The government has agreed to provide additional financial support to these authorities on an exceptional basis and on the condition that each authority is subject to an external assurance review focused on, at a minimum, their financial position and their ability to meet any or all of the identified budget gap without additional borrowing. Authorities are expected to respond effectively to the challenges and recommendations highlighted in their external assurance reviews and provide regular updates to the department on progress.
38. It is a principle of the exceptional financial support process that authorities meet the costs of support over time, as far as possible. The department will work with a relevant authority, and commissioners if appointed, to consider all available options for managing costs locally, including additional cost reductions. Where exceptional financial support is granted, it is usually provided in the form of a capitalisation direction from the Secretary of State. This provides an authority with the temporary flexibility to fund revenue expenditure with capital resources, normally achieved through taking out additional borrowing, or the generation of capital receipts through asset sales. Using capital resource for revenue purposes is outside the normal rules of local authority accounting and, as such, ministers will only consider agreeing to this in exceptional circumstances.
39. The department continues to keep the financial position of local authorities under close review and any authority concerned about its financial position should engage with the department on a confidential basis. The department is clear, however, that any financial support agreed will be provided openly and transparently and any decisions to provide such support will be published on gov.uk.

### **Capital risk assurance**

40. The Levelling Up and Regeneration Bill will introduce measures to provide a flexible range of interventions for the department to investigate and remediate extreme risk in relation to a local authority's investment and borrowing. Intervention in a local authority will be considered when a trigger point is

breached with respect to certain risk metrics, which fall into the following categories:

- Proportionality of debt (e.g., total debt compared to Core Spending Power),
- Proportion of commercial investments,
- Types of debt (e.g., novel credit arrangements and loans), and
- Under-provision of Minimum Revenue Provision (a statutory duty to make sufficient provision to repay debt).

41. The department engages with local authorities who are outliers within these categories of risk so that they can reduce their risk. These discussions are held on a confidential basis, to allow for open and productive discussions on their financial risks and strategies for managing them.
42. The appropriate management of capital risk is a necessary part of adhering to the Best Value Duty, in particular the responsible use of resources (Chapter 4 'Defining Best Value', theme 5 'Use of resources').

## 7. Evidencing failure

43. The Secretary of State must be satisfied that an authority is failing to carry out its functions in compliance with the Best Value Duty before intervening on a statutory basis under section 15 of the 1999 Act. If an authority is exhibiting some characteristics that may indicate best value failure, but there is insufficient evidence available for the Secretary of State to make an informed judgement, the Secretary of State may commission an inspection to determine whether best value failure has occurred.
44. Failure, or the risk of future failure, can also be evidenced in other types of expert independent assessments. These include reports commissioned by local authorities, those from other recognised independent bodies, for example external auditors or inspectorates, or government commissioned reviews, such as an external assurance review of a local authority's financial management and resilience, and/or governance, since financial failure is often a presenting symptom of broader failure. These external assurance reviews have in the past been commissioned by the department following a local authority's request to the department for support via the exceptional financial support framework (see section 6 of this guide). They provide a valuable source of evidence to determine the underlying drivers of the authority's request for financial support and what remedial actions are required by the local authority to achieve financial sustainability. The assessments may also identify whether there is cause for concern in other areas of the local authority which may necessitate further investigation, for example in relation to leadership, governance and service delivery.
45. **Annex A** sets out the process for statutory inspection in more detail.

### Best Value Inspections

Best Value Inspections are statutory reviews which provide the Secretary of State with updated information on how an authority is performing the Best Value Duty.

The powers relating to a statutory Best Value Inspection are contained in sections 10-13 of the Local Government Act 1999. They cover the appointment of an inspector and (if required) an assistant inspector, the powers and duties of an inspector particularly around access to documents, the requirement of the authority being inspected to pay reasonable fees, the submission of the inspector's report to the Secretary of State and its subsequent publication.

An inspector is appointed by the Secretary of State to lead an inspection, based on specific experience and expertise. The scope of the inspection is published, which will focus on specific functions of an authority in relation to its governance, financial management, service delivery or a combination.

Inspections may be appropriate when an authority is exhibiting some characteristics that may indicate best value failure, including taking no steps to acknowledge or address ongoing challenges, but where there is insufficient evidence available for the Secretary of State to make a judgement. However, this is not an exhaustive description of scenarios where an inspection may be appropriate.

**Example:** Following a series of police investigations into corruption and misconduct in public office, a Best Value Inspection of Liverpool City Council was conducted from December 2020 to March 2021. The matters covered by the inspection were the authority's planning, highways, regeneration and property management functions and the strength of associated audit and governance arrangements.

### **Independent reports**

There are a range of independent expert assessments which may satisfy the Secretary of State's standards with regards to scope, independence and quality. These assessments may also provide evidence of best value failure or risk of failure, and the extent of that failure. They include government commissioned reports such as external assurance reviews, reports commissioned by local authorities, or those from other recognised independent bodies, for example auditors and inspectorates. The progress reports of local improvement boards or commissioners working with authorities already under intervention are also very useful sources of independent evidence. The Secretary of State may decide to intervene in an authority based on the evidence contained in these independent reports.

An independent report may be used when an authority is exhibiting some characteristics that may indicate best value failure. The findings of an independent expert analysis can help determine the steps required by an authority to address the concerns or issues identified in that report, either on their own or with the support of external intervention. However, this is not an exhaustive description of scenarios where an independent report may be appropriate.

**Example:** Slough Borough Council requested exceptional financial support in 2020/21 and a condition of that support was an external assurance review of the Council's financial position and wider governance arrangements. The review, which was similar to a Best Value Inspection in terms of scale, scope and quality, identified a range of concerns, including evidence of best value failure, and included recommendations for improvement. Based on this evidence of best value failure, the Secretary of State took the decision to appoint commissioners to Slough.

## 8. Models of intervention

### Non-statutory measures

46. Non-statutory measures aimed at ensuring compliance with the Best Value Duty do not involve the Secretary of State using the powers in the 1999 Act. They are usually appropriate for addressing failure or risk of future failure that does not appear to be systemic in an authority and where that authority has the willingness, capability and capacity to improve. Authorities that can demonstrate how they are addressing failure, and where the department is confident that continuous improvement can be sustained without statutory intervention, are most likely to be subject to non-statutory measures. The Secretary of State retains the option to move to statutory intervention if an authority's improvement progress is not satisfactory.

#### Improvement boards

The establishment of an improvement board, panel or taskforce made up of individuals with relevant experience and skills, who will provide support, advice and challenge to an authority. As the board does not have any statutory powers, its members are involved in an advisory capacity.

Membership of the board and its terms of reference are usually determined by the authority but can also be proposed by the department (in agreement with the authority), depending on the level of assurance required by the Secretary of State. The department will need to be confident the authority will make sensible appointments and set sufficiently robust terms of reference. Where it does not have that confidence, the department may make its own appointments and direct the authority to follow the advice of the improvement board, triggering it to move to a statutory footing (under section 15(5) of the Local Government Act 1999).

Improvement boards may be used when an authority demonstrates failures or risk of future failure which is not systemic and there is confidence that the authority has the willingness, capability and capacity to sustain continuous improvement, but external expertise and challenge would result in more efficient recovery. However, this is not an exhaustive description of scenarios where an improvement board may be appropriate.

**Example:** A condition of Wirral Metropolitan Borough Council's request to the department for exceptional financial support in 2020/21 was completion of an external assurance review. This Review identified a range of concerns, including poor financial governance and management and the need to strengthen oversight and scrutiny. The Council agreed to implement the Review's recommendations and established a locally led improvement panel to provide oversight of its improvements and report regularly to the Council and Secretary of State.

### Sector-led intervention

An authority of concern, identified through a non-statutory Best Value Notice, may be partnered with another authority with a track record of delivering good governance and effective service delivery in the area(s) of concern. This arrangement does not change local lines of accountability, with the host authority maintaining responsibility for the delivery of its functions. A supportive authority will be asked by the Secretary of State to assist, and the success of the local partnership and the authority's improvement is set and monitored by the Secretary of State. The option of alternative forms of intervention remains if progress is insufficient.

Sector-led intervention may be appropriate when an authority demonstrates failures or risk of future failure but is prepared to accept support from a willing and able local partner authority with the capacity to assist its improvement journey. It may be helpful if the two authorities share geography and strategic partners. However, this is not an exhaustive description of scenarios where a sector-led intervention may be appropriate.

**Example:** Evidence of service, governance and leadership failures at West Sussex County Council contributed to the suspension of the Chief Executive (who later left the council) and resignation of the Leader in early autumn 2019. The authority agreed with the Secretary of State to develop a local partnership approach to improvement and accepted a comprehensive support package from neighbouring East Sussex County Council and the Local Government Association. This involved establishing a strong executive leadership team which would report directly to the Secretary of State on progress and a programme of member-to-member support, which played a key role in the authority's improvement. East Sussex's Chief Executive formally became joint Chief Executive of both authorities in January 2020 and the Secretary of State monitored improvement progress until early 2021.

### Statutory intervention

47. Statutory directions under section 15 of the Local Government Act 1999 can be made in relation to authorities where, from the available evidence, the Secretary of State is satisfied that the authority is failing to comply with the Best Value Duty. There are two main models of statutory intervention, and the Secretary of State will determine in each case what is the most appropriate option, based on the evidence of failure.
48. A statutory intervention – either with directions to the authority only or commissioner-led with directions to the authority – will usually be preceded by an announcement that the Secretary of State is 'minded to' intervene. This allows for a period of representations on the reasoning and evidence behind the proposed

intervention and on the proposed package itself. This process can however be bypassed in exceptional situations where there is sufficient urgency.

49. **Annex A** sets out the process for statutory intervention in more detail.

#### **Directions to a best value authority**

Under section 15(5) of the Local Government Act 1999, the Secretary of State may direct an authority to take any action which he or she considers necessary or expedient to secure its compliance with the Best Value Duty. This action may be anything the Secretary of State deems necessary. This might include, for example, the preparation of an improvement plan and the content of that plan, the requirement to report on the delivery of that plan, and the establishment of an improvement panel to provide external support and challenge. Directions can be issued on their own and without the simultaneous appointment of commissioners. They are time-limited and will automatically lapse unless further directions are issued.

The Secretary of State may also direct an authority to carry out a review of how it exercises specific functions (section 15(2) of the 1999 Act) or direct a local inquiry to be held into the exercise by the authority of specified functions (section 15(3) of the 1999 Act). These powers have not been exercised to date.

The decision to direct an authority to take certain actions is based on evidence from an inspection or another comparable source confirming that best value failure has occurred and there is limited confidence in the authority's ability to improve independently. In exceptional circumstances where the Secretary of State is satisfied that the need for action is sufficiently urgent, directions can be issued without a minded-to period.

Directions to a local authority may be appropriate where there is evidence of significant but not widespread best value failure in the authority, and that authority has some capacity but limited commitment to improve on its own. However, this is not an exhaustive description of scenarios where the use of Directions may be appropriate.

**Example:** To ensure the transformational work being undertaken by Nottingham City Council continued at sufficient pace, the Secretary of State issued Directions in September 2022 to amend its improvement plan, to report periodically to the Secretary of State on its delivery and to support the Improvement and Assurance Board, which had the effect of putting that Board on a statutory footing.



### **Directions for a commissioner-led intervention**

Under section 15(6) of the Local Government Act 1999, the Secretary of State may direct that some or all of the functions of an authority be exercised by the Secretary of State or his or her nominee (commissioners) for a specified period until that authority is in a sustainable position to comply with the Best Value Duty. This may include the appointment of a managing director commissioner to provide additional capacity at the senior level, and can be Head of Paid Service where necessary, to aid implementation of an improvement plan and to drive the cultural change required.

Commissioners receive powers to exercise functions to accelerate improvement, including default powers relating to governance and senior appointments. These powers have not been exercised frequently by commissioners as it is the role of commissioners, as far as possible, to guide members and officers to make the right decisions and be accountable locally for those decisions.

Commissioners are appointed by and directly accountable to the Secretary of State. Their fees are set by the Secretary of State and met by the council under intervention, and they must adhere to the Seven Principles of Public Life (the Nolan Principles).

The authority has a statutory requirement to comply with any instructions of the Secretary of State or their nominated commissioner in relation to the exercise of specified functions and provide such assistance as the Secretary of State or the commissioner may require for the purpose of exercising that function.

Commissioners will be expected to establish an exit strategy for returning functions to the authority (see section 9 of this guidance), to create their own governance and operational arrangements, and to set an example to the authority around transparency in decision-making by publishing key decisions and the minutes of any Boards they create. Commissioners provide regular reports to the Secretary of State on the progress made by the authority and any concerns at defined intervals and these reports, along with ministers' responses to them, are published on gov.uk. They receive a fee from the authority for their work and are supported by a Chief of Staff, who provides support from the department.

Concurrently, the authority is usually also directed to take any action which the Secretary of State considers necessary and expedient to secure its compliance with the Best Value Duty (see Directions to the best value authority intervention model above).

Commissioners will be expected to give their views to ministers on the scope of their powers, which may result in an extension in the scope of the directions mid-intervention. The Secretary of State may also direct the authority to take any action that the commissioners reasonably require to avoid incidents of poor



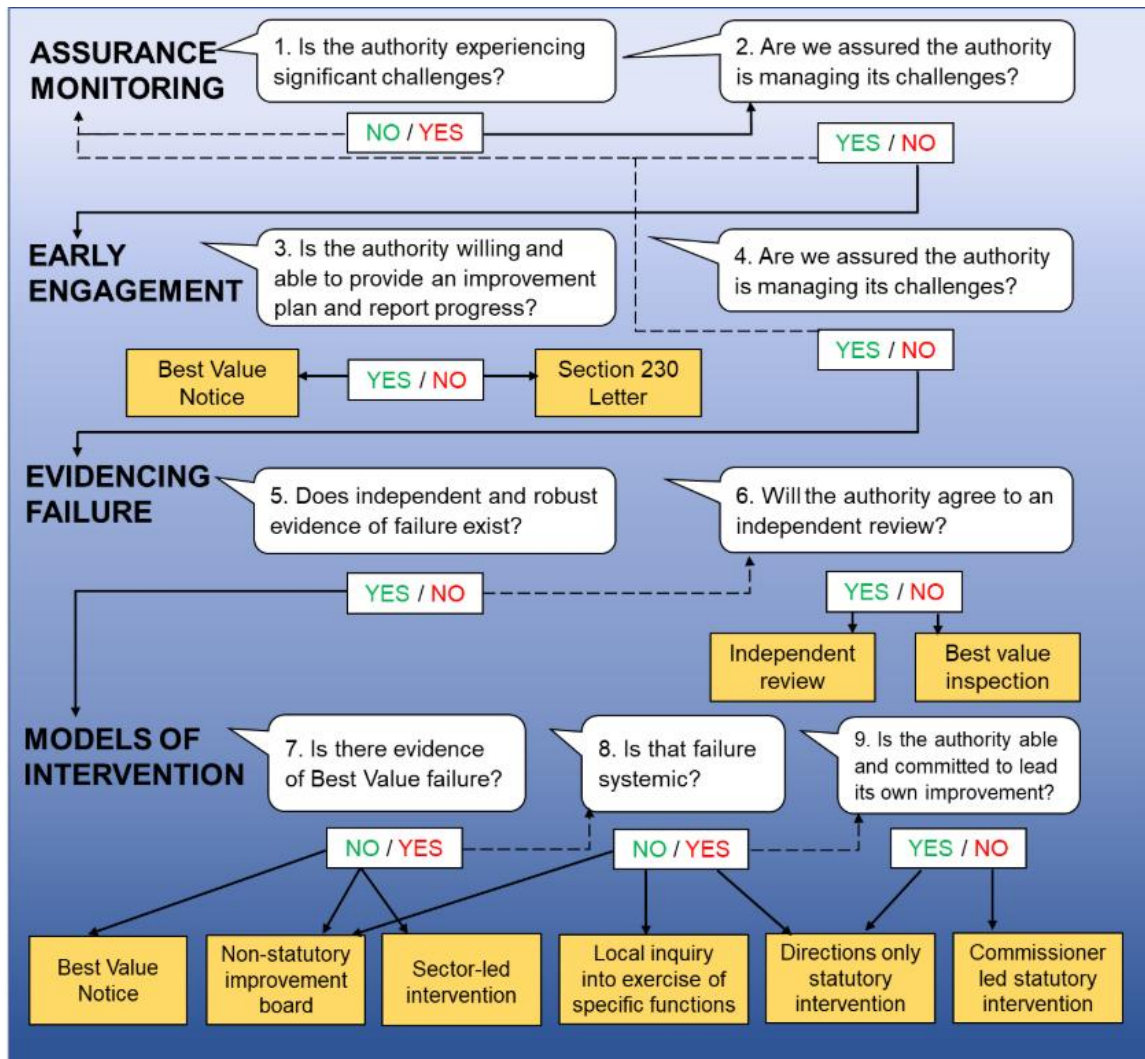
governance or financial mismanagement that may give rise to the risk of further best value failure.

It is also possible for the Secretary of State to appoint an authority as an inspector or commissioner instead of a named individual.

Directions for a commissioner-led intervention may be appropriate where there is evidence of best value failure in an authority, and that authority has limited capacity and commitment to improve on its own. However, this is not an exhaustive description of scenarios where the appointment of commissioners may be appropriate.

**Example:** Following a Best Value Inspection of Northamptonshire County Council, which found evidence of poor financial management and a culture that discouraged challenge, the Secretary of State appointed commissioners in May 2018 to exercise all functions associated with the governance and scrutiny of the authority's strategic decision making, of strategic financial management, and of functions relating to the appointment and dismissal of statutory officers. The commissioners remained in place until March 2021 when the authority and neighbouring authorities were abolished and replaced with the two newly created unitary authorities of North Northamptonshire and West Northamptonshire.

Diagram 2: Models of intervention by scenario

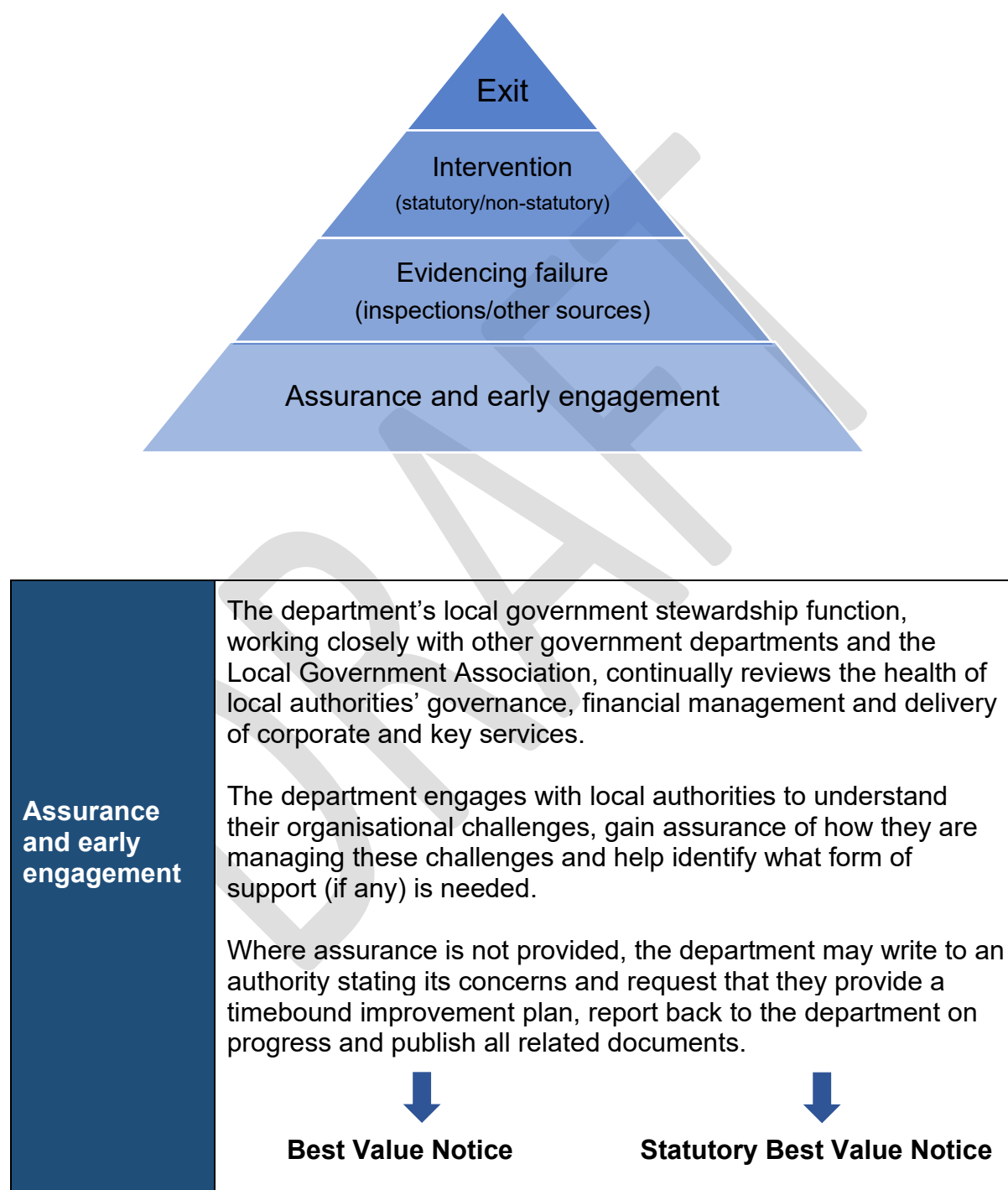


## 9. Exiting intervention

50. No local authority is perfect and in determining whether and when an intervention should end, it is important to ensure that reasonable standards are applied that clearly relate to the nature of failure identified in that particular local authority. Local authorities are not expected to be perfect before an intervention ends. The aim of all interventions is to resolve incidents of failure to the point where the authority can demonstrate that it now has the capacity and capability to sustain its own journey of continuous improvement without the need for further external involvement. Commissioners or, where appropriate, chairs of statutory improvement and assurance boards are responsible for assessing the levels of risk and confidence that the Secretary of State can rely on when determining whether or not to end an intervention.
51. It is essential that commissioners/board chairs and the authority work together from the outset to develop a clear road map which identifies what the intervention intends to achieve and the route the authority should take to exit intervention, noting that this may change over time. This will enable the authority to focus its efforts on improvement, to share a sense of achievement and confidence, and to maintain momentum with progress. The details of that exit strategy will be unique to each authority experiencing intervention; it will depend on the nature of local failings and be sufficiently flexible to reflect the journey that the local authority is making. It will identify measurable criteria – “proxies for success” – in relation to individual functions and service areas which are specific and capable of being evidenced. The characteristics of a well-run authority, included in section 5 of this guide, give an indication of how those criteria may look.
52. When sufficient improvement has been made and the authority can demonstrate it is able to sustain its own journey of continuous improvement, the Secretary of State will consider evidence from the commissioners/board chairs and any other relevant sources such as peer challenges before handing functions back to the authority. Conversely, a turnaround programme that takes too long is likely to result in increased intervention. Functions may be returned when the intervention is due to end or earlier, on a partial basis, depending on the level of progress made by the authority in specific areas. For example, a function may be returned to the authority but with continued commissioner oversight, or a certain function(s) may be returned whilst others are retained by the commissioners until further progress is made. An independent review may be required to give reassurance to the Secretary of State, as well as to the authority and local residents, on the progress made and to set the future improvement agenda for the authority to focus on. If appropriate, the Secretary of State may withdraw commissioners but require the authority to report on progress against an improvement plan for a fixed period before completely ending the intervention.

## Annex A: The end-to-end process of interventions

Diagram 3: Strategic view of the intervention process



## Evidencing failure

If an authority is exhibiting some characteristics that may indicate best value failure, including taking no steps to acknowledge or address ongoing challenges by engaging with sector-led improvement, but there is insufficient evidence available for the Secretary of State to make an informed judgement, the Secretary of State may commission an inspection to determine whether best value failure has occurred.

Failure or the risk of future failure can be evidenced in other types of expert independent assessments, for example local authority-commissioned reports, auditor or inspectorate reports, or government commissioned reviews.





**Best value inspection assessment**



**Another independent assessment**

<b>Best value inspection</b>	<p>Where there are concerns, the Secretary of State can use powers under section 10 of the Local Government Act 1999 to appoint an inspector to carry out an inspection of the authority's compliance with the Best Value Duty in relation to specified functions.</p> <p>Once an inspector has been identified by the Secretary of State, a formal letter of appointment will be sent to them, setting out the evidence leading to the inspection, the deadline for the Inspector's report and guidance on the areas the Inspector should focus on.</p> <p>The Inspector's letter of appointment will be sent to the Chief Executive of the authority under inspection with a covering letter setting out the reasons for the inspection, details of the appointment, the deadline for the Inspector's report and a description of the requirements placed on the authority (access to documents, IT and records, payment of fees and expenses, provision of office space and general cooperation).</p> <p>The Secretary of State will consider the findings and evidence set out in the inspector's report and decide appropriate next steps. This could be to:</p> <ul style="list-style-type: none"> <li>• Continue close monitoring of the local authority by the department and offer appropriate targeted support, if the inspection finds no evidence of Best Value failure.</li> <li>• Non-statutory intervention, if the inspection confirms limited best value failure and the authority has the willingness, capability and capacity to lead its own improvement.</li> <li>• Statutory intervention, where failure is systemic and the Secretary of State has limited confidence in the authority's ability to improve independently.</li> </ul>
<b>Non-statutory intervention</b>	<p>A form of non-statutory intervention may be appropriate if an authority demonstrates failures or risk of future failures that are not systemic and there is confidence that the authority has the willingness, capability and capacity to sustain continuous improvement, but external expertise and challenge would result in more efficient recovery.</p> <p>Membership of an improvement board, panel or taskforce and its terms of reference are usually determined by the authority but can also be proposed by the department (in agreement with the authority), depending on the level of assurance required by the Secretary of State. The department will need to be confident the authority will make sensible appointments and set sufficiently robust terms of reference. Where it does not have that confidence, the department may make its own appointments,</p>

	<p>triggering the improvement board to move to a statutory footing (under section 15(5) of the Local Government Act 1999).</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">   <b>Improvement boards</b> </div> <div style="text-align: center;">   <b>Sector led intervention</b> </div> </div>
<b>Statutory intervention</b>	<p>If an authority does not have the willingness, capability and capacity to improve without external support and, based on the evidence, the Secretary of State is satisfied that the authority is failing to comply with the Best Value Duty, the Secretary of State's decision to intervene pursuant to section 15 of the Local Government Act 1999 will be communicated formally to the authority through a "minded to" letter issued by officials (unless the directions are sufficiently urgent). The decision will also be announced by a Statement (written or oral) to both Houses in Parliament. The "minded to" letter will set out the reasons underlying the proposed intervention package and, if the Secretary of State proposes to appoint commissioners, the likely extent of their powers.</p> <p>The authority and other interested parties, for example, elected members and residents, will have the opportunity to make representations on the Secretary of State's proposals (generally 10 working days). If, after considering any representations received and all the relevant available evidence, the Secretary of State still considers that a statutory intervention is necessary, the Secretary of State will make Directions as set out in the minded to letter (subject to any amendments arising from representations received).</p>

**Statutory  
intervention**

The authority will be informed of the Secretary of State's decision by means of a letter from a senior departmental official to the Chief Executive which will also contain the final Directions and associated Explanatory Memorandum. The decision will also be announced by a Statement (written or oral) to both Houses in Parliament. Where appropriate, the Secretary of State will also appoint commissioners.

During the intervention, regular reports on progress to the Secretary of State will be expected. There may also be some consideration of changes to the original Directions, either to extend the powers or duration, or to hand back functions to the authority.

The statutory intervention will end when the authority can demonstrate that it now has the capacity and capability to sustain its own journey of continuous improvement without the need for further external involvement. The Secretary of State will consider evidence from the commissioners, where appropriate, and any other relevant sources before ending the intervention.

An independent review may also be required to give assurance to the Secretary of State, as well as to the authority and local residents, on the progress made and to set the future improvement agenda for the authority to focus on.



**Directions only intervention,  
incl. local review or inquiry**



**Commissioner-led**



**16<sup>th</sup> October 2023**
**Agenda Item: 9**
**REPORT OF THE CHIEF EXECUTIVE**
**ATTENDANCE AT THE LGA CONFERENCE AND EXHIBITION – JULY 2023**
**Purpose of the Report**

1. The purpose of this report is to provide the key messages from the Local Government Association Conference & Exhibition, which took place in Bournemouth from the 4<sup>th</sup> – 6<sup>th</sup> July 2023.

**Background**

2. At their meeting on 22<sup>nd</sup> February 2023 the Governance and Ethics Committee gave approval for members to attend the LGA Annual Conference and Exhibition. The conference was attended by The Leader, Cabinet Member Finance (substitute for the Deputy Leader), Leader of the Labour Group and a representative from the Ashfield Independents.
3. The LGA Conference and Exhibition is one of the most well-attended political conferences of the year. The event is essentially for Council Leaders, Chief Executives, senior officers, lead members and policy makers across all services provided by local authority. The conference also attracts high numbers from partners across the wider public sector, the private and voluntary sectors.
4. Alongside the annual conference is the General Assembly. The General Assembly is a formal meeting which is part of the LGA's political governance structure. The General Assembly acts as both the 'parliament of Local Government' and as a formal annual meeting (similar to a council AGM). It considers strategic policy issues of national significance to local government in England and Wales, as well as formal business such as appointment of Offices Holders of the Association and the annual accounts.

**Overview of the Conference**

- a) Conference attendees heard from key figures including levelling up secretary Michael Gove, incoming chair of the LGA, Cllr Shaun Davies, Cllr David Fothergill – Chairman, LGA Community Wellbeing Board, Cllr Patricia Bradwell OBE – Vice Chairman, LGA Children and Young People Board, Deborah Glassbrook – SEND Improvement Adviser LGA, Dame Christine Lenehan – Director Council for Disabled Children, Catherine Fances - Director General Local Govt & Public Services DLUHC, Clive Betts MP – Chair Levelling Up, Housing & Communities Committee, Lord Amyas Morse – Interim Chair office for Local Government and Baroness Taylor of Stevenage OBE. Further details of the event can be found on the LGA website. [LGA Annual Conference and Exhibition 2023](#)

5. An overview of key sessions was:

### **Launch of the Office for Local Government**

6. The Office for Local Government (Oflog) officially launched at the LGA conference. The new body has been set up to assess local government performance across England. Oflog will be used to measure local authorities' performance in four key areas: adult social care, skills, reserves and waste management.
7. Oflog will produce an annual report which will be used by central government to improve the understanding in central government of the picture across local government, so that they are aware of what action needs to be taken and where.
8. Crucially, one key focus of the new organisation will be on detecting potential financial problems in local government much earlier than they currently are. Government have acknowledged they need to be able to better respond to early warning signs.

### **Climate Change**

9. This session explored and shared innovative examples from across the country, of councils taking action alongside partners and communities to combat the negative impacts of climate change, deliver net zero carbon by 2050 and achieve wider environmental ambitions.
10. It included:
  - findings from the Centre for Alternative Technology's Innovation Lab
  - Westminster City Council's multiple award winning Environmental Justice Measure
  - Local Partnerships with Cambridgeshire County Council covering their greenhouse gas accounting tool and waste emissions calculator.

### **Long-term outlook for adult social care and support**

11. This presentation gave an opportunity to reflect on another year of developments in adult social care funding and reform, consider the challenges and opportunities facing care and support, and debate what more is needed to deliver a better and brighter future for people who draw on social care and the service itself.

### **Tackling the crisis in children's social care**

12. The Department for Education published its plan for children's social care reform in February 2023. While it indicated a positive direction of travel, it failed to deliver the scale of funding needed or to address the urgency of the crisis facing services. This session considered the role of chief executives and council leaders in delivering the services our vulnerable children and families need, in a continuing context of soaring demand and spiralling costs. It looked at issues all chief executives and council leaders need to be thinking about, as well as discussing the latest updates from Government on its children's social care implementation plan.

## **Improving the SEND system for children, young people and their families**

13. The Government's Special Educational Needs and Disabilities (SEND) and Alternative Provision (AP) improvement plan contains a number of proposals that seek to improve the performance of the systems that support children and young people with Special Educational Needs and Disabilities. This session allowed delegates to discuss the likely impact of those proposals and whether it will be possible to come to a shared understanding of what a 'good' local SEND system and how it can best meet the needs of children with SEND.

## **Devolution deals: what have we learnt, and where next?**

14. The Levelling Up White Paper set the scene for wider and deeper devolution across England. This session looked at the learning from the development of the existing Mayoral Combined Authorities and their plans for the future. It considered the opportunities for towns and rural and coastal areas and the proposed county deals. It also touched on the support that the LGA can give to existing and aspiring devolution areas and the lessons from the first peer review in a combined authority.

## **Working with NHS to Provide Positive Outcomes for Communities**

15. This session looked back over the first year of Integrated Care Systems (ICSs) going live and discussed how effective they have been in forging new partnerships with local authorities to improve the health outcomes for their local communities. National leaders of the NHS and local government gave their insights into the impact of ICSs in leading a new culture of collaboration to address local health challenges. It also identified the future opportunities and challenges for local authorities in working with ICSs.

## **Future of Local Government Workforce**

16. CCN and PwC are collaborating on a new piece of work focussing on workforce and the challenges being faced by local authorities up and down the country, with a particular focus on county and rural areas. Based on extensive engagement with officers at all levels of CCN's member authorities, the work aims to get to the heart of the workforce challenges in the sector now and in the future - and to identify potential solutions. The final research will be published in the early autumn, and this session gave a chance to hear the initial findings and discuss the challenges of recruiting into local government at the current time and the potential solutions that councils could look to implement in the coming years.

## **Skills, Skills, Skills..... for life and work: local government's role in making education, employment and training work for people, places and the economy.**

17. Good education and training is vital to help people realise their potential, whether it's to deal with everyday life and access online services, or to keep up with an ever-changing jobs market. It is crucial to employers too as they consider their skills needs right now and in coming years, and whether they continue to stay in an area or move elsewhere. Local government wants the best for its residents, communities and local economy so good and accessible local services – early years, schools, further and higher education and adult learning centres – are all essential for residents, whatever their age, to learn

new skills. But critically important is how they connect up with one another, meet the needs of employers and can adapt to the needs of local people. This session explored how we enable this to happen and the role of local government in joining all of this together.

## **LGA Summary**

18. In summary the LGA conference was well attended and provided many valuable sessions, welcoming council staff, leaders and members from across the country to hear about the biggest issues they face and how to tackle them. The conference was informative and a great opportunity for members to learn and network with colleagues from other authorities.

## **Other Options Considered**

24. None

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

25. To feedback to Committee on the key messages from the LGA conference and exhibition.

## **Statutory and Policy Implications**

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

## **Financial Implications**

27. The cost of attending the conference was set out in the Governance and Ethics Committee report on the 22<sup>nd</sup> February.

## **RECOMMENDATION**

- 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.

**ADRIAN SMITH,  
CHIEF EXECUTIVE**

**For any enquiries about this report please contact Jane Goodenough, Senior Executive Officer Tel 0115 9772726**

### **Constitutional Comments (LW 05/09/2023)**

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

### **Financial Comments (SES 05.09.2023)**

31. 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.

- Report to Governance and Ethics Committee – 22<sup>nd</sup> February 2023 and minutes of that meeting.
- Report to Governance and Ethics Committee – 28 September 2022 and minutes of that meeting.

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

All



**18 October 2023****Agenda Item: 10****REPORT OF THE SERVICE DIRECTOR, CUSTOMERS, GOVERNANCE AND  
EMPLOYEES****WORK PROGRAMME****Purpose of the Report**

1. To review the Committee's work programme.

**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:**

Kate Morris, Democratic Services Officer

Tel. 0115 804 4530

E-mail: [kate.morris@nottsc.gov.uk](mailto:kate.morris@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 4 October 2023)**

<b><u>Report Title</u></b>	<b><u>Brief Summary of agenda item</u></b>	<b><u>Lead Officer</u></b>	<b><u>Report Author</u></b>
<b>16 October 2023</b>			
Update on Local Government and Social Care Ombudsman Decisions	To consider any recent findings of the Local Government Ombudsman in complaints made against the County Council	Marie Rowney	Richard Elston
EHC Annual Review update report	To update the committee on performance against national targets	Peter McConnochie	Robert Briggs
Financial Regulation Waivers	To report on the number and value of financial waivers granted through 2021/22	Nigel Stevenson	Kaj Ghattaora
Update on use of resources by Councillors	Annual update to the Committee on the use of resources by Councillors	Marjorie Toward	Jo Toomey
Attendance at the LGA conference and exhibition – July 2023	To provide a summary of the conference to the Committee	Adrian Smith	Jane Goodenough
Best Value Standards and Intervention	To provide the committee with the Council's response to Government consultation	Nigel Stevenson	Nigel Stevenson
<b>29 November 2023</b>			
Update on Local Government and Social Care Ombudsman Decisions	To consider any recent findings of the Local Government Ombudsman in complaints made against the County Council	Marie Rowney	Richard Elston
Whistleblowing Policy Review	To consider the outcome of the review	Marjorie Toward	Heather Dickinson/ Catherine Haywood
Internal Audit Term 1 Progress and Term 3 Plan 2023/24	To consider proposed audit coverage for Term 3	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
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
Governance Update	To consider progress against the Governance Action Plan for 2022/23	Nigel Stevenson	Simon Lacey
<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
Review of Arms Length Organisations	To review the governance arrangements of Arms Length Organisations	Nigel Stevenson	Derek Higton
<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
Corporate Governance Update	To receive an update on progress against the Annual Governance Statement action plan for 2022/23	Nigel Stevenson	Simon Lacey
<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
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
Governance and Ethics Committee Annual Report	To consider the draft annual report	Nigel Stevenson	Simon Lacey
<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

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
Internal Auditor's Annual Report	To consider the Head of Internal Audit's annual opinion of the arrangements for governance, risk management and control	Nigel Stevenson	Simon Lacey
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

