

## **Governance and Ethics Committee**

**Monday, 01 February 2021 at 14:00**

Virtual meeting, <https://www.youtube.com/user/nottsc>

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### **AGENDA**

- |   |                                                                                                                                                                    |         |
|---|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|
| 1 | Minutes of last meeting held on 6 January 2021                                                                                                                     | 1 - 4   |
| 2 | Apologies for Absence                                                                                                                                              |         |
| 3 | Declarations of Interests by Members and Officers:- (see note below)<br>(a) Disclosable Pecuniary Interests<br>(b) Private Interests (pecuniary and non-pecuniary) |         |
| 4 | Update on Local Government and Social Care Ombudsman Decisions December 2020                                                                                       | 5 - 30  |
| 5 | Corporate Risk Management Update                                                                                                                                   | 31 - 46 |
| 6 | Quarterly Governance Update                                                                                                                                        | 47 - 60 |
| 7 | Work Programme                                                                                                                                                     | 61 - 64 |

### **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:-

- (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 Sara Allmond (Tel. 0115 977 3794) 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 January 2021 (commencing at 10.30 am)**

**membership**

Persons absent are marked with 'A'

**COUNCILLORS**

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

Nicki Brooks  
Steve Carr **A**  
Kate Foale  
John Handley  
Errol Henry JP

Rachel Madden  
Phil Rostance  
Keith Walker  
Martin Wright

**SUBSTITUTE MEMBERS**

Stephen Garner for Andy Sissons

**OFFICERS IN ATTENDANCE**

Sara Allmond  
Glen Bicknell  
Heather Dickinson  
Rob Disney  
Keith Ford  
Derek Higon  
Emma Hunter  
Jo Kirkby  
Simon Lacey  
Marjorie Toward  
Linda Walker

Chief Executive's Department

**INDEPENDENT PERSONS**

Ian Bayne

**1. MINUTES**

The Minutes of the last meeting held on 25 November 2020, having been previously circulated, were confirmed and signed by the Chairman.

**2. APOLOGIES FOR ABSENCE**

The following apologies for absence were reported:-

Councillor Steve Carr – other County Council business  
Councillor Andy Sissons – medical / illness

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

None

### **4. LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN (LGSCO) DECISIONS – NOVEMBER 2020**

Jo Kirkby, Team Manager, Complaints and Information introduced the report which informed Members of the latest complaint decisions by the LGSCO.

#### **RESOLVED: 2021/001**

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

### **5. COUNTER FRAUD PROGRESS REPORT**

Rob Disney, Group Manager – Assurance, introduced the report which updated the Committee on the counter-fraud work undertaken to date in 2020/21.

It was agreed to receive an update report on Whistleblowing at a future meeting and to include this on the committee work programme.

#### **RESOLVED: 2021/002**

That an update report on whistleblowing be brought to a future meeting and included on the work programme.

### **6. EUROPEAN UNION TRANSITION RISK AND REGISTER**

Rob Disney, Group Manager - Assurance, informed members of the consideration given to risks for the Council arising from the UK's transition from the European Union (EU).

#### **RESOLVED: 2021/003**

To receive a further update on the EU transition risk register as part of the scheduled reports on corporate risk management and the Council's governance action plan.

### **7. REGULATION OF INVESTIGATORY POWERS ACT 2000 – ANNUAL REPORT**

Heather Dickinson, Group Manager – Legal and Democratic Services, introduced the report which provided an update on activity by the Council under the Regulation of Investigatory Powers Act (RIPA) from November 2019 to December 2020 and an update on mandatory training for officers.

Members requested further information about the use of CCTV cameras to be provided to them after the meeting.

#### **RESOLVED: 2021/004**

That officers provide further information about the use of CCTV cameras directly to all committee members.

## **8. APPOINTMENT OF INDEPENDENT REMUNERATION PANEL MEMBERS**

Keith Ford, Team Manager – Democratic Services introduced the report proposing arrangements for the appointment of members to the Independent Remuneration Panel (IRP) to review the Members Allowances Scheme in accordance with statutory requirements.

### **RESOLVED: 2021/005**

That Sir Rodney Brooke CBE DL (Chair), Madi Sharma, Stephen Bray and Charles Daybell be reappointed as the Chair and Members respectively of the Independent Remuneration Panel (IRP) for Nottinghamshire County Council for the period 2021-25.

## **9. LOCAL GOVERNMENT ASSOCIATION FINAL MODEL CODE OF CONDUCT FOR COUNCILLORS**

Heather Dickinson, Group Manager – Legal and Democratic Services, introduced the report which provided an update on progress by the Local Government Association (LGA) with the Model Code of Conduct and proposed the establishment of a member working group to consider the new Code.

Ian Bayne, Independent Person, welcomed the opportunity to be involved in the working group.

### **RESOLVED: 2021/006**

- 1) That the publication by the Local Government Association (LGA) of its final Model Code of Conduct for Councillors be acknowledged.
- 2) That the establishment of a cross party working group be established, as referenced in paragraph 6 of the report, to consider the new Code in detail and whether any local additions are required to reflect best practice recommendations of the Committed on Standards in Public Life (CoSPL) or elements from the Council's current Code of Conduct.
- 3) That the committee receives a report on the issues set out in the report at a future meeting, in light of the work undertaken by the working group.

## **10. WORK PROGRAMME**

### **RESOLVED: 2021/007**

That the work programme be agreed, with the addition of the agreed update report on Whistleblowing being included.

The meeting closed at 11.39 am.

CHAIRMAN



**REPORT OF THE SERVICE DIRECTOR FOR CUSTOMERS, GOVERNANCE  
AND EMPLOYEES****LOCAL GOVERNMENT & SOCIAL CARE OMBUDSMAN DECISIONS  
DECEMBER 2020****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, and up to 31<sup>st</sup> December 2020.

**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 on 6<sup>th</sup> January 2021.
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 five decisions relating to the actions of this Council have been made by the Ombudsman in this period. Appendix A to this report summarises the decisions made in each case for ease of reference, and Appendix B provides the full details of each decision.
6. Following initial enquires about two cases the LGSCO decided not to continue with any further investigation because in one case the complainant has recourse to go to court for the outcome he is seeking, and in the second because the complaint was out of time.
7. Full investigations were undertaken in respect of three complaints. Appendix A provides a summary of the outcome of each 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. (Reference and page numbers refer to the information in Appendix B).

8. All three cases related to Adult Social Care Services. In one case some “relatively minor” faults were identified and a payment of £100 recommended, although no fault was found in relation to the main substance of the complaint which concerned the review of the package of support.
9. In the other two cases no fault was found. It is particularly pleasing to note the good practice noted in one case (20 000657 page 9) in the way the assessment was completed, and the complaint handled. In the other case (19 021240 p 13) the investigator notes the thorough review process. Although the Council acknowledged that historically care packages had been more generous, the Council was entitled to have regard to the budget implications of individual packages. In this case there was no evidence of this being the overriding consideration, and that the documentary evidence showed the complainants needs were properly considered, and his family was appropriately involved in the assessment.

## **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.

## **Data Protection and Information Governance**

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

## **Financial Implications**

12. The total from ASCH budget is £100.

## **Implications for Service Users**

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

## **RECOMMENDATION/S**

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

**Marjorie Toward**

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



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

Jo Kirkby Team Manager – Complaints and Information Team

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

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

**Financial Comments (SES 05/01/2021)**

The financial implications are set out in paragraph 12 of the report. A total of £100 will be funded from existing ASCH budgetary provision.

**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/ANNEX PAGE No.	PROCEDURE	COMPLAINT SUMMARY	REASON FOR DECISION
4.12.2020	20 006469, p1	Childrens	Council failed to tell complainant about an assessment of his child it carried out, and council formed a negative view of him.	Outcome he seeks is one more appropriate for a court and it would be reasonable for him to return there.
17.12.2020	20 008 040, p18	Adults	Council refused to enter into a third party top-up agreement relating to brother-in-law's care.	Late complaint - no good reason complainant did not bring his complaint to the Ombudsman sooner

### FULL INVESTIGATIONS

DATE	LGO REF ANNEX PAGE No	PROCEDURE	COMPLAINT SUMMARY	DECISION	RECOMMENDATION	FINANCIAL REMEDY
11.12.20	19 017 394, p3	Adults	Council reduced care and support hours by four hours a week; although allowed an increase in disability related expenditure did not backdate it to the correct date.	No fault in the reduction in care and support, some other errors, each "relatively minor", but with potential to cause anxiety due to complainants disability.	<ul style="list-style-type: none"> <li>• Backdate DRE</li> <li>• Apologise for faults</li> <li>• Confirm in writing error in direct payments resolved.</li> </ul>	£100 as token recognition of distress
12.12.2020	20 000 657, p9	Adults	Council failed to complete adaptations to mother's property before sending her home with a care package. She is struggling to cope at home and this is affecting her health and wellbeing.	No fault by the Council		
14.12.2020	19 021 240, p13	Adults	Council's decision to reduce his package of care support even though his needs have not changed. He says this has left him struggling to manage and relying more on his parents.	There was no fault in the way the Council reassessed complainants care needs and reduced his support hours.		



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

Summary: The Ombudsman will not investigate Mr X's complaint about what the Council recorded or failed to pass on. The outcome he seeks is one more appropriate for a court and it would be reasonable for him to return there.

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## **The complaint**

1. Mr X says the Council failed to tell him about an assessment of his child it carried out. He says if he had known about his, it would have been easier to demonstrate to a court the poor childcare by his former partner and her new partner. He says the Council also formed a negative view of him and underestimated the issues with the former partner. He says the result has been significant time, trouble, cost, and stress.

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

2. The Local Government Act 1974 sets out our powers but also imposes restrictions on what we can investigate.
3. The law says we cannot normally investigate a complaint when someone could take the matter to court. However, we may decide to investigate if we consider it would be unreasonable to expect the person to go to court. (*Local Government Act 1974, section 26(6)(c), as amended*)
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'. We provide a free service, but must use public money carefully. We may decide not to start or continue with an investigation if we believe:
  - we cannot achieve the outcome someone wants, or
  - there is another body better placed to consider this complaint.(*Local Government Act 1974, section 24A(6), as amended*)
5. We can decide whether to start or discontinue an investigation into a complaint within our jurisdiction. (*Local Government Act 1974, sections 24A(6) and 34B(8), as amended*)

## **How I considered this complaint**

6. I read Mr X's complaint and the complaints correspondence sent by the Council. I gave Mr X the opportunity to comment on a draft decision.

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## **What I found**

7. A court decided the contact and residence arrangements of Mr X's child, following the end of the parental relationship. The Council accepts there were errors in social work, including not sharing an assessment of the child it carried out in 2018 with Mr X. It apologised for these. Mr X wants his legal fees reimbursed and compensation for the stress caused to him.
8. It was open to Mr X to rebut evidence he disagreed with in court. It would be reasonable for him to seek a court order for fresh contact and residence arrangements if he wishes to challenge the current ones.

## **Final decision**

9. The Ombudsman will not investigate this complaint. This is because Mr X has a right to return to court it would be reasonable for him to use.

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

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

Summary: Mr D complains about the Council reducing his support hours after a review of his care needs. And it not carrying out a remedy in line with an earlier Ombudsman decision. We find the decision on the support hours was made without fault, so we cannot question its merits. But we do uphold the complaint, because the Council did not backdate an increase in disability related expenditure to a date it had agreed with the Ombudsman. We also find fault with the way the Council handled Mr D's complaint. And fault in the way it has dealt with Mr D's direct payment. The Council has agreed to our recommendations.

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## **The complaint**

1. The complainant, whom I shall refer to as Mr D, complains the Council has:
  - reduced his care and support hours by four hours a week;
  - allowed an increase in his disability related expenditure. But it did not follow an earlier agreement with the Ombudsman when deciding on how long to backdate the increase.

## **What I have investigated**

2. This complaint follows earlier complaints from Mr D. This investigation has only dealt with matters not considered by our earlier investigations.

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

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

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## How I considered this complaint

6. As part of the investigation, I have:
- considered the complaint from Mr D;
  - considered the agreed action from an earlier decision;
  - made enquiries of the Council and considered its response;
  - spoken to Mr D;
  - sent my draft decision to Mr D and the Council and invited their comments.

## What I found

### Legal and administrative background

#### The Care Act

7. The 2014 Care Act introduced a single framework for assessment and support planning. Sections 9 and 10 of the Care Act 2014 require local authorities to carry out an assessment for any adult with an appearance of need for care and support. The assessment must be of the adult's needs and how they impact on their wellbeing and the results they want to achieve. The Act says the assessment should also seek to promote independence and reduce dependency.
8. A council should revise a care and support plan at least yearly. Where there is a proposal to change how to meet eligible needs, a council should take all reasonable steps to reach agreement with the adult concerned about how to meet those needs. (*Care Act 2014, sections 27(4) and (5)*)
9. The *Care and Support Statutory Guidance* ('the Guidance') has a checklist of broad elements to cover in a review.

#### The Council's Assessment, Eligibility, Support Planning, Reviews & Personal Budgets policy

10. The Council's Adult Social Care Strategy has an aim to support independent living. It has three stages:
1. helping people to help themselves;
  2. helping people when they need it;
  3. maximizing people's independence and keeping their progress under review.
11. It says, in considering what might help, its staff should consider the person's own strengths and capabilities. And what support might be available from their wider support network, or within the community, to help.
12. If there is a disagreement, and the Social Care Worker/their Manager believes all reasonable steps have been taken to resolve any dispute, they should direct the person to its complaints procedure.

#### Charging for non-residential services

13. Councils can make charges for care and support services they provide or arrange. Charges may only cover the cost the council incurs. (*Care Act 2014, section 14*)
14. There are certain items of spending that can be deducted from a person's income, before a council decides whether a person can afford to contribute to social care costs. This is called Disability Related Expenditure, or DRE. Councils



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must take DRE into account when assessing a person's finances. The financial assessment should set out exactly what a council considers to be DRE.

15. The Guidance allows councils to use a standard rate DRE allowance, although this should not work as a blanket allowance, when a service user has DRE above the standard figure.
16. The Council uses a standard DRE allowance of £20 a week.

### **Personal Budgets**

17. Everyone whose needs the local authority meets must receive a personal budget, as part of the care and support plan. The personal budget gives the person clear information about the money allocated to meet the needs identified in the assessment and recorded in the plan. The detail of how the person will use their personal budget will be in the care and support plan. The personal budget must always be an amount enough to meet the person's care and support needs.
18. There are three main ways in which a personal budget can be administered:
  - as a managed account held by the local authority with support provided in line with the person's wishes;
  - as a managed account held by a third party (often called an individual service fund or ISF) with support provided in line with the person's wishes;
  - as a direct payment.

### **Adult Social Care complaints**

19. Councils should have clear procedures for dealing with social care complaints. Regulations and guidance say they should investigate complaints in a way which will resolve them speedily and efficiently. A single stage procedure should be enough. The council should say in its response to the complaint:
  - how it has considered the complaint; and
  - what conclusions it has reached about the complaint, including any matters which may need remedial action; and
  - whether the responsible body is satisfied it has taken or will take necessary action; and
  - details of the complainant's right to complain to the Local Government and Social Care Ombudsman.

*(Local Authority Social Services and National Health Service Complaints (England) Regulations 2009)*

### **What happened**

#### **Background**

20. Mr D has a visual impairment, since an accident in 2003. He had a nervous breakdown then. He still suffers from some mental health problems, including social anxiety. He also has a skin condition that flares up when he is stressed.
21. The Ombudsman has investigated earlier complaints from Mr D. Most recently this was about:
  - his care and support plan review; and
  - a financial assessment of his DRE.

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### **The care and support plan review**

22. While our investigation of Mr D's last complaint was ongoing, the Council carried out a new review of his care and support. It was not the place of that investigation to investigate that review, or its outcomes.
23. The Council says it knew the review process was a concern for Mr D, due to his anxiety and depression. So it completed the review in three meetings over a three month period. The Council says Mr D at first refused referral to an advocate but later did have advocate support.
24. The Council's records of the review:
- noted Mr D advised some changes to his conditions and that he was using, independently, some community resources, such as Dial a Ride transport;
  - noted Mr D's view about his needs;
  - said its view was Mr D had seen some improvements in his life, so a small reduction in his support hours was reasonable;
  - noted '...real potential for increased independence';
  - said an early next review was recommended, to discuss with Mr D whether he had met any of his outcomes and to set new goals;
  - had an action plan around counselling. The Council also wanted to refer Mr D to organisations for enabling/rehabilitation work, although it noted Mr D declined these due to his anxiety levels;
  - reduced Mr D's care package from 25.75 to 21 hours a week;
  - says it provided Mr D with funding to buy internet access, to address his social isolation, by adding it to his support plan costs.

### **The backdating of the DRE**

25. The Council agreed, as part of our last investigation, to accept any information Mr D sent it in support of an increase of his DRE allowance. It also agreed to backdate any increase to January 2019 (the date of the Council's most recent financial assessment, at the time of our decision on that complaint). At that time it was allowing Mr D its standard £20 a week for DRE.
26. The Council says in early 2020 its officer met Mr D to complete an income and expenditure form (the Council had been asking Mr D for some time to complete this, but he was anxious about the implications of completing one). As a result of this meeting, the Council says it increased Mr D's DRE allowance to £59.73 per week. It backdated the start date of the increased allowance to 8 April 2019.
27. It says, at a district team level, it was not aware of the Ombudsman's recommendation of a start date of January 2019 for any change. It advised it was an oversight on its part and was happy to backdate the increased DRE to the earlier date.

### **Complaint handling**

28. In January 2020 Mr D tried to complain to the Council about the outcome of the review reducing his support hours (and another matter about his charges). The Council replied to advise it could not investigate this through its complaint procedure. It noted the Ombudsman had not found fault with the Council expecting him to contribute towards his care and support. It went on to advise a manager had looked at the review records and was satisfied it was of a high

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standard and reflective of Mr D's assessed needs. It gave some details of its reasons for that view. It referred Mr D to the Ombudsman.

### **Mr D's direct payment administration**

29. The Council says that, during its preparation of its response to the Ombudsman, it discovered it had not reduced Mr D's direct payment to reflect the reduction in the eligible hours in his support plan. It says this was a human inputting error.
30. The Council advised that the payment support service that manages Mr D's funds have been following the plan based on the new 21 hours per week of support. This means that Mr D has not had access to, or used, any surplus funds in the account. There is currently a surplus in the account greater than the overpaid amount.
31. The Council advised the best option for adjusting these payments was to wait for its next review and make any adjustments from the new date. Mr D has agreed that that is an acceptable solution.

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

#### **The care and support plan review**

32. The Council's records demonstrate it did consider Mr D's needs when carrying out its review. A key aim, both of the Care Act and the Council's own policy, is to increase independence. My view is the Council's reasoning behind its decision to make the modest reduction in Mr D's support hours fits with its assessment of Mr D's needs and capabilities and its assessed potential for more independence. It also agreed to allow Mr D's online connection costs in its calculation and suggested an action plan.
33. The length of time the Council took to carry out the review demonstrates it was both alert to Mr D's anxiety and its need to work through with him the reasoning behind its view. I am aware Mr D still believes the Council should not have reduced his hours. But the Ombudsman cannot question the merits of the decision, when, as here, there is no evidence of administrative fault.

#### **The DRE**

34. The Council has accepted its team was not aware of the Ombudsman's earlier recommendation and the Council's agreement with it. That was fault.

#### **The complaint response**

35. The Council should have accepted a complaint from Mr D about the review of his support plan. To advise Mr D it would not accept a complaint was fault. This was a new issue and it led to a significant change in his care and support. I note the Council's own policy refers service users who disagree with a decision towards making a complaint.
36. However, in effect, the Council did carry out an investigation. Its manager checked the records and the response provided some reasoning why its view was there was no fault in its decision.

#### **The administrative error with the direct payment**

37. In response to my investigation, the Council advised me of an error with the amount it was paying to Mr D's support service. That was fault.

### **Did the faults cause an injustice?**

38. To summarise, I have found fault with:

[Page 19 of 66](#)

- 
- the Council not fully meeting an earlier Ombudsman recommendation and not backdating a payment to the correct date;
  - advising Mr D it would not take a new complaint from him;
  - an administrative error with Mr D's direct payment.
39. Each of these errors is relatively minor. But each also had the potential to cause Mr D some anxiety, due to his disability, amplifying the potential for distress.

### **Agreed action**

40. The Council has agreed to my recommendations that, within a month of this decision it will:
- send me evidence it has made the agreed payment and paid the additional backdated DRE;
  - apologise to Mr D for the faults I have identified;
  - pay Mr D £100 as a token recognition of the distress the faults will have caused him;
  - confirm in writing to Mr D that it will settle the error with his direct payments after its next care and support review.

### **Final decision**

41. I uphold this complaint. The Council has agreed to my recommendations. So I have completed my investigation.

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

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

Summary: Mr X complains that the Council failed to complete adaptations to his mother's property before sending her home with a care package. We have found no fault by the Council.

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## **The complaint**

1. Mr X complains on behalf of his mother, Mrs Y. He says that the Council failed to complete adaptations to Mrs Y's property before sending her home with a care package. Mr X says his mother is struggling to cope at home and this is affecting her health and wellbeing.

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

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

## **How I considered this complaint**

4. I considered the information provided by Mr X and discussed the complaint with him. I made enquires of the Council and considered the comments and information it provided.
5. I provided Mr X and the Council with a copy of my draft decision and invited their comments.

## **What I found**

### **Legislation**

6. The Care and Support Statutory Guidance says that:
  - Councils must carry out an assessment for any adult with an appearance of need for care and support. The assessment must be of the adult's needs and how they impact on their wellbeing and the outcomes they want to achieve. It must also involve the individual and where appropriate their carer or any other person they might want involved.

- If a person has eligible needs (needs which meet the eligibility criteria), a council can meet these by providing or arranging care and support at home, in a care or nursing home or in other ways.
- A council has to have 'due regard' to an adult's wishes as a starting point, but social workers are entitled to exercise their professional skills and judgement in deciding how to meet eligible needs.

## What happened

7. Mrs Y is 89 years old. She lives alone in a first floor flat in a supported living complex. Mr X visits his mother regularly and provides support. Mr X and his wife hold a lasting power of attorney for Mrs Y.
8. On 29 February 2020 Mrs Y had a fall and broke her wrist. A week later she was discharged from hospital to a care home for rehabilitation. Her case was allocated to the Transfer to Assess Team and Mrs Y was supported by an occupational therapist (OT).
9. Mr X told the Council his mother required long term residential care. He explained Mrs Y had frequent falls, was not managing her personal care and there was a general decline in her health and memory. The Council said it would complete an assessment of Mrs Y's care and support needs and consider all options for her future.
10. On 20 April 2020 a social worker discussed Mrs Y's case with the OT. The OT said Mrs Y had made it very clear that she did not want to return home and wanted to go into residential care, closer to her son. The OT said it was unlikely Mrs Y would meet the criteria as she was quite capable and mentally alert to make her own decisions.
11. The social worker contacted Mr X about arrangements for Mrs Y to return home with a care and support package. Mr X said the Council had not assessed Mrs Y in her own home. He said she was at high risk of falling and her condition of Osteoporosis and brittle bones meant that the smallest of injuries could be fatal. The social worker agreed to an access visit to Mrs Y's home before deciding her care and support needs.
12. The OT carried out the access visit on 11 May 2020. Mr X was also present. The OT said Mrs Y had a spacious flat and the only issue was the height of the kitchen worktops. Mr X said Mrs Y could not reach the worktops or open windows. He said Mrs Y should be in long term care. The OT explained that Mrs Y could return home with a care package as carers could provide meals, drinks, and support with Mrs Y's care needs. The OT said Mrs Y did not have a previous care package and had no nighttime needs.
13. On 21 May 2020 the Council recorded that Mrs Y was *"ready to return home. She is mobile, does not have any cognitive needs and is independent at night."* On the same day Mr X contacted the social worker. He said his mother had been advised by the care home that she would be going home. Mr X questioned the Council's reasoning for its decision. He said due Covid-19 no face to face assessment had been carried out. The social worker explained she had gathered evidence from the Transfer to Assess Team and Mrs Y was managing well, mobilising, and mainly taking herself to the toilet. Mrs Y needed assistance with all aspect of drinks and meals because of her height and being extremely stooped. The social worker said Mrs Y's needs could be met at home with a care package. Mr X's wife said it was Mrs Y's wish to go into a residential care home. Mr X also said he had



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been told the Council would carry out a home visit with Mrs Y before any decision was made. The social worker explained that the Care to Assess Team had been continually assessing Mrs Y but agreed to carrying out a home visit with Mrs Y. Later the same day a conference call was held with the social worker, OT, Mrs Y and Mr X. It was agreed a home visit with Mrs Y would be carried out the next day.

14. A home visit was carried out by the OT. Mrs Y and Mr X were also present. It was noted that Mrs Y mobilised independently with a rollator frame. She also had a four wheeled walker and a three wheeled walker. The OT reported that whilst Mrs Y was at risk of falling due to stoop and curvature she did have tolerance to mobilise safely over increased distance. The OT observed that Mrs Y was fully independent with chair and bed transfers. Mrs Y was able to use the toilet without assistance. The OT recognised Mrs Y would not be able to use the shower without support and Mrs Y confirmed that she had not used the shower for some time.
15. The assessment established Mrs Y's greatest difficulty was in the kitchen. She struggled to lift the kettle to fill it with water due to not being able to lift her head to see what she was doing and with the weight of the kettle with the water in it. For the same reasons, Mrs Y struggled to lift meals in and out of the microwave. Mrs Y could not reach the wall cupboards and there was a risk of falling when bending down to access the base cupboards. Mrs Y was unable to reach switches on the wall that controlled her appliances and heating controls that operated her central heating. Mrs Y could not open the windows in her flat due to the positioning of the handles.
16. The OT recommended Mrs Y could return home with a package of care to support her with personal care to shower and supervision of dressing; prepare meals and hot drinks and prompting with daily medication.
17. Mr X complained to the Council. He said Mrs Y did not want to return home and required long term residential care. The Council delayed Mrs Y's discharge until it had investigated and responded to the complaint. In its complaint response the Council explained how and why it decided Mrs Y could return home with a care and support package. The Council upheld its decision.
18. The Council confirmed the Short Term Assessment and Reablement Team would support Mrs Y on discharge, with four calls a day. It said that it had already contacted the District Council as it was responsible for carrying out the adaptations. It said the District Council would assess the adaptations further once Mrs Y was home.
19. Mrs Y was discharged on 9 July 2020 following liaison with Mr X.

## Analysis

20. It is not the Ombudsman's role to say what a person's needs are or what services they should receive. The Ombudsman's role is to consider if the Council has followed the correct processes to assess a person's needs.
21. I have considered the documents provided by the Council which included Mrs Y's case notes and assessments. I find no fault in the completion of the assessments and the way the Council concluded that Mrs Y's care needs could be met at home. The Council considered all the relevant factors including observations carried out whilst she was in rehabilitation and during the home visit. The Council engaged Mrs Y and Mr X throughout the process and considered their comments

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and the concerns they raised. The Council said the care and support package reflects the independence and confidence Mrs Y had before her fall and following her rehabilitation. This is a decision the Council is entitled to take.

- 22. The Ombudsman cannot question the merits of the decision itself without evidence of fault in the way it was made.
- 23. The Council delayed Mrs Y's discharge until it had responded to the complaint and confirmed the specific details with Mr X. This is good practice.

### **Final decision**

- 24. For the reasons explained above I have found no fault by the Council and I have completed my investigation on this basis.

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



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

Summary: Mr X complained about the Council's decision to reduce his support package following a review of his care needs. We have not found the Council to be at fault.

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## **The complaint**

1. Mr X complains about the Council's decision to reduce his package of care support even though his needs have not changed. He says this has left him struggling to manage and relying more on his parents.
2. Mr X is represented by his mother, Mrs D, in making this complaint.

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

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

## **How I considered this complaint**

5. As part of my investigation I have:
  - considered the complaint and documents provided by Mrs D;
  - made enquiries of the Council and considered its response;
  - considered the relevant legislation (Care Act 2014 and Care and Support Statutory Guidance - "the Guidance");
  - spoken to Mrs D; and
  - sent a draft version of this decision to both parties and invited comments on it. Comments received from Mrs D have been taken into consideration.

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## What I found

### Law and guidance

6. The Care Act 2014 gives local authorities a legal responsibility to provide a care and support plan. The care and support plan should consider what the person has, what they want to achieve, what they can do by themselves or with existing support and what care and support may be available in the local area. The support plan must include a personal budget which is the money the council has worked out it will cost to arrange the necessary care and support for that person. The personal budget can be administered as Direct Payments.
7. In setting this budget the Guidance states, “the local authority should not set arbitrary upper limits on the costs it is willing to pay to meet needs through certain routes – doing so would not deliver an approach that is person-centred or compatible with public law principles. The authority may take decisions on a case-by-case basis which weigh up the total costs of different potential options for meeting needs, and include the cost as a relevant factor in deciding between suitable alternative options for meeting needs. This does not mean choosing the cheapest option; but the one which delivers the outcomes desired for the best value.” **(Paragraph 10.27)**
8. The Care and Support (Eligibility Criteria) Regulations 2014 set out the eligibility threshold for adults with care and support needs and their carers. The threshold is based on identifying how a person’s needs affect their ability to achieve relevant outcomes, and how this impacts on their wellbeing.

### What happened

9. I have set out below a summary of the key events. It is not meant to show everything that happened.
10. Mr X is a young adult with a learning disability and autism. He lives in his own flat with support from a package of care funded by a direct payment. This care is provided by his family and an employed carer. He has a full-time job. He received 40 hours’ worth of paid support for several years. This helped him with tasks such as meal preparation, getting ready for work, shopping, maintaining his home, attending social events and participating in sport.
11. In May 2019, the Council carried out an annual review of Mr X’s care needs. The Council decided his needs could be met with less support, with a view to promoting his independence. It initially reduced his weekly hours down to 17, with an additional 16 “contingency” hours to reflect the fact Mr D was vulnerable because of a recent relationship breakdown. The Council said this would be reviewed again in three months.
12. Mrs D objected to this significant reduction. She explained that Mr X was only able to cope because of the support he received, both by the paid carers and the help he received informally from his family. She told the Council Mr X presented as more able than he was and this had affected the outcome.
13. In response, the Council said an occupational therapist (OT) would carry out a further assessment of Mr X’s skills. This would focus on his ability to perform tasks such as making a sandwich and using the vacuum cleaner. This would inform the Council’s future decision making.
14. It was also proposed and agreed that Mr X should have an advocate. This was due to a potential conflict of interest between Mrs D’s role as her son’s representative and her also being his paid carer.

Page 29 of 69

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15. In November 2019, a review took place. Mr X, Mrs D, the advocate, the OT and two social workers attended. This review confirmed the previous reduction of support. However, some additional contingency hours were available, together with an annual budget of £2400 to fund short breaks for Mr X. The Council explained this would also provide Mrs D and her husband with a break from their caring responsibilities.
  16. In January 2020, Mrs D requested a reassessment. The Council refused because it was felt the hours provided met his assessed needs. The annual review carried out in March 2020, confirmed the reduced hours should continue.

### **Mrs D's complaint**

17. Mrs D first complained in June 2019 and again in July 2019. As her complaint was not upheld she brought her complaint to the Ombudsman in March 2020. Between July 2019 and March 2020, discussions continued between the Council and Mrs D about the reduction in support hours.
18. For brevity, I have not included all Mrs D's comments and objections, but they followed a common thread relating to the following matters:
  - a) Reduction in support hours from 40 to 17. This was informed by a poor assessment process that failed to take into consideration Mr X's views, was carried out by someone without knowledge of Mr X, did not take into account relevant information from other professionals or the impact such a reduction would have on Mr X.
  - b) Being pressured into accepting an advocate, whose views were misinterpreted.
  - c) Poor communication and complaint handling.
19. In response, the Council made the following points:
  - a) From December 2017, care packages were reviewed against the Council's "Adult Social Care Strategy". The focus was in supporting and maximising independence with more involvement from OT's. The Council acknowledged that historically care packages were often more generous.
  - b) The Council was satisfied the assessment process was robust and the revised support plan met his identified eligible needs, while promoting Mr X's opportunities for greater independence in certain areas.
  - c) Some of the areas of support provided by Mrs D were not "eligible care needs" that would normally be funded by the Council. It would be Mrs D's choice to continue to support her son with these activities if she chose to do so.
  - d) The advocate was necessary because of a possible conflict of interest between Mrs D acting as Mr X's representative and her being a paid carer who was adversely affected by the Council's reduced support package.

### **Analysis**

20. It is clear that Mrs D wants the very best for Mr X. It is entirely understandable that she would be anxious that a reduction in Mr X's support package would be challenging for him. However, although Mr X and Mrs D are unhappy with the outcome of the assessment, that is not, in itself, evidence of fault on the part of the Council. The role of the Ombudsman is to investigate complaints that injustice has been caused by an administrative fault, not to question a decision which has been taken properly, however much someone may dislike or disagree with it.

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21. The Council was correct to conduct a review of Mr X's care needs and support package and should do so annually.
  22. I understand the reduction in service has led to a change to arrangements that had worked well for several years, but the Council was permitted to do this as long as it properly considered all the relevant information. Having considered all the available evidence, including the care assessments, support plans, detailed correspondence between Mrs D and the Council, I am satisfied it did.
  23. The review process was thorough. I have seen evidence of Mr X and Mrs D being involved and meaningfully participating. While I understand Mrs D was unhappy about Mr D being involved (where previously she had been able to deal with reviews on his behalf), I do not criticise the Council for insisting Mr X was present. I accept historically reviews may have been carried out differently, but the introduction of the Care Act has encouraged assessments to be more "person centred". Direct involvement of Mr X would be a crucial way of achieving this. It is clear from the social worker's notes from the assessment that she was mindful of Mr X's sensitivity and was careful to make sure he was as comfortable as possible.
  24. The Council had regard to his learning disability and carried out the May assessment at home. When Mrs D challenged the outcome, the Council responded appropriately by making the referral to the OT service. This was the correct approach, particularly as there was a difference of opinion about Mr X's functional abilities. This also addressed Mrs D's concerns about the May review being flawed because the assessor did not have sufficient knowledge of Mr X, having not previously met him. The OT had several one to one sessions with Mr X.
  25. The OT's report was considered by the Council as part of the November 2019 review. The OT acknowledged that Mr X required support with many everyday tasks, including meal preparation and deep cleaning
  26. I do not agree with Mrs D's assertion that the Council did not have regard to this report in its decision making. In response, the Council increased his evening call to one hour, three times a week, by rearranging his care package. It also considered it reasonable for Mr X to privately fund a deep cleaning service if so required.
  27. Mrs D raised a number of other concerns about the Council's proposals being inadequate and inappropriate (for example, Mr D not needing support on a Saturday because he usually ordered a takeaway and was able to do online shopping). It is not necessary for me to respond to each point made by Mrs D, but I am satisfied both the review and resulting support plan followed the Care Act guidance. It considered all the outcomes and how these could be met by the proposed arrangements. Mr X was offered more support with promoting his independence, but this was refused. The Council properly explained its rationale. The Council made a professional judgement about how his needs could be met. It decided they could be met with less support. They were decisions the Council was entitled to make.
  28. Mrs D claims this was a cost cutting exercise. The Council has denied this but has been open about the fact that historically care packages were more generous. There is no evidence to support what Mrs D has said. The Council can have regard to the budget implications of individual care packages (see paragraph 7 above). There is no evidence of this being the overriding consideration.

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29. I appreciate that Mr X and Mrs D disagree with the adequacy of the care package, but the documentary evidence I have seen indicates the Council properly considered his needs, and so it is not for the Ombudsman to question the Council's decision as to what amount of care provision is appropriate.
30. Nor do I criticise the Council for arranging an advocate for Mr X. There could have been a conflict of interest with Mrs D acting as both representative and paid carer. In relation to this, I note Mrs D had concerns about the Council misquoting the advocate's agreement to the reduced care package. A case record from March 2020 confirmed the advocate informed the Council she did not agree with the Council's level of support. I am therefore satisfied the Council was aware of her disagreement at this point. But I have found no evidence the advocate specifically told the Council she did not agree prior to this, and the Council deliberately misrepresented her views. For this reason, I do not find fault here.
31. Nor do I find fault with either the Council's communication with Mrs D or its complaint handling. The main and contentious issue was the decision to reduce the support hours and I am satisfied the frustration felt by Mrs D was in relation to this, rather than the resultant communication about it.

### **Final decision**

32. There was no fault in the way the Council reassessed Mr X's care needs and reduced his support hours. I have therefore completed my investigation.

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

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

Summary: We will not investigate Mr X's late complaint about the Council refusing to enter into a third party top-up agreement relating to his brother-in-law's care. There is not a good reason Mr X did not bring his complaint to the Ombudsman sooner.

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## **The complaint**

1. Mr X complained the Council refused to enter into a third party top-up agreement with him and his wife in May 2019, in relation to his brother in law (Mr Y). The Council said it was unlawful to do so, despite this conflicting with its policy. The Council then did not provide a satisfactory explanation and refused to consider their complaint because the courts had considered the matter. This caused significant stress and nearly prevented Mr Y being able to move accommodation.

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

2. We cannot investigate late complaints unless we decide there are good reasons. Late complaints are when someone takes more than 12 months to complain to us about something a council has done. (*Local Government Act 1974, sections 26B and 34D, as amended*)

## **How I considered this complaint**

3. I considered the information Mr X provided when he complained to us.
4. I considered Mr X's comments on my draft decision.

## **What I found**

5. In May 2019 the Council said it could not enter into a third party top-up agreement with Mr X and his wife in relation to his brother-in-law's (Mr Y's) care. Third party top-ups are paid when a particular preferred placement costs more than the amount a Council is prepared to pay towards a person's care.
6. The Court of Protection was involved in the decision about whether Mr Y should move from a care home to a nursing home, closer to Mr X and his wife. The court process concluded in June 2019. Mr Y did not move to the nursing home Mr X says he and his wife preferred and were willing and able to pay a top-up for.
7. Mr X made two information requests to the Council, and received its second response in December 2019. This confirmed the Council's policy allowed it to enter into third party top-up agreements with family members.

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8. In June 2020, Mr X asked the Council to explain why it had said during court proceedings it could not enter into a top-up agreement.
  9. In October 2020, Mr X made a formal complaint to the Council. It responded to say it could not consider the matter through its complaints procedure because the matter had been considered during court proceedings. Mr X complained to us in November 2020.
  10. The law says we cannot investigate complaints brought to us after more than 12 months unless there are good reasons for the delay. Mr X says the 12 months should begin in December 2019 when he considers he had the information he needed to complain. But the decision Mr X complains about is the Council's assertion in May 2019 that it could not enter into a third party top-up agreement.
  11. I have accounted for Mr X and his wife's poor health in early 2020, as well as the death of Mr Y in February 2020, which accounts for some delay between December 2019 and June 2020. However, these events followed an already significant period during which Mr X could have complained to the Council and then us. We do not require people to have gathered significant evidence before they can bring complaints to us. Mr X knew of the Council's decision, which he and his wife did not agree with, in May 2019. There is not sufficiently good reason Mr X did not complain to the Council, and then the Ombudsman, much sooner. There is not a good reason for us to exercise discretion to investigate this complaint.

### **Final decision**

12. The Ombudsman will not investigate this late complaint. This is because there is not a good reason Mr X did not complain to us sooner.

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





1 February 2021

Agenda Item: 5

**REPORT OF SERVICE DIRECTOR FOR FINANCE, INFRASTRUCTURE &  
IMPROVEMENT****CORPORATE RISK MANAGEMENT UPDATE****Purpose of the Report**

1. To inform members of the updated corporate risk register, along with developments in the Council's arrangements for corporate risk management.

**Information**

2. The previous update on the corporate risk register in September 2020 included an overview of the Council's framework for corporate risk management. This framework remains in place, with the only variable element being the frequency with which the Risk, Safety and Emergency Management Board (RSEMB) and the Risk, Safety and Emergency Management Groups (RSEMGs) meet; this continues to be flexible as demanded by the developing course of the pandemic.

***Corporate Risk Register***

3. RSEMB continues to keep the Council's corporate risk register under regular review. The updated register has been approved by RSEMB and CLT and is attached as **Appendix 1**.
4. The previous report in September 2020 included a brief guide to aid understanding of the terms and format. The guide is repeated here to help cement Members' familiarity with the register. The first page of the appendix sets out the approach to risk scoring, along with some guidance notes and definitions. The corporate risk entries follow, one on each page of the appendix. Each entry in the register is structured to be read from left to right across the page, and the following describes the purpose of each element
  - Sources and triggers – these describe the factors which may give rise to a risk event occurring. These describe how **likely** an event is to happen.
  - Possible consequences – these describe how significant the event would be for the Council. These relate to the **impact** of an event, should it happen.
  - Current controls and mitigations – these summarise the control framework currently in place to protect the Council from the likelihood and impact of each risk. These are set out in terms of the 'three lines of defence', with which Members will be familiar from the previous reports on assurance mapping:
    - 1<sup>st</sup> Line – day-to-day controls operated by management

- 2<sup>nd</sup> Line – controls applied by corporate functions, often located in the Chief Executive's Department
- 3<sup>rd</sup> Line – verifications by independent inspectors, such as Internal Audit, External Audit, etc.

- Agreed current risk – this a score agreed with risk owners, RSEMB and CLT, based around the notional formula of:

$$\text{Current Risk} = \text{Sources \& Triggers} \times \text{Possible Consequences} - \text{Current Controls \& Mitigations}$$

- Additional controls required and new controls being introduced – these set out additional actions planned to be taken to further strengthen the mitigations in place
- Agreed target risk – this is the expected risk score once the additional controls are in place and operating effectively.

5. The following summarises how the risk profile has changed since the previous update in September 2020.

Risk	Sep 2020		Feb 2021		After actions
1.Information governance	VH	↓	H	↓	M
2.Safe premises	VH	↔	VH	↓	H
3.Supply chain	H	↔	H	↔	H
4.Business continuity	VH	↔	VH	↓	H
5.Transformation	H	↔	H	↓	L
6.Safe children	VH	↔	VH	↓	H
7.MTFS	H	↔	H	↔	H
8.ICT	H	↔	H	↓	L
9.Community emergency	M	↔	M	↔	M
10.Safe adults	H	↔	H	↔	H
11.Governance	H	↓	M	↓	L

6. As shown above, no corporate risks have increased since September 2020, but the following two have seen reductions due to improved mitigation:

- a) Information Governance (IG) – alignment with the more detailed, operational IG risk register, managed by the Council's IG Board, identified scope to more accurately reflect current mitigations in the corporate entry.
  - b) Governance – some of the planned mitigations identified in September 2020 are now in place and this has reduced the 'likelihood' element of the risk assessment. Further mitigations, once in place, should see a fall in risk level to 'Low'.
7. As reported to Committee in January 2021, the Council has maintained a separate risk register for Brexit and EU Transition since the referendum in 2016. The Committee decision to incorporate the impacts of Brexit across the other entries in the corporate risk register is currently being applied.
8. The Risk, Safety & Emergency Management Board continues to keep the corporate risk register under active review, to consider the need for new entries to be brought on to the register for close monitoring.

### ***Further development***

9. The previous update in September 2020 advised of work being progressed by the Assurance Group to review the corporate risk management process in the Council. This work continues to advance and has now included input available to the Council from risk experts working within its insurer, ZM Municipal. Central to the development is an approach to capturing the Council's risk appetite, and this is currently being trialled through engagement with each RSEMG. Once the pilot has been assessed and finalised, proposals will be presented to the RSEMB and CLT for consideration and brought to Committee for approval, hopefully in March 2021.
10. The other development highlighted at the previous update in September 2020 concerned provision of training for Members on risk management. A first, brief slot was delivered at the close of the Committee's meeting in January 2021, introducing some key concepts in the risk management process. Members feedback on that slot, and ideas for future training content on this aspect of the Committee's remit, will be welcome; this will help shape a suitable programme for the Committee in the period after the Council elections this year.

### **Other Options Considered**

11. The report presents members with an updated position on the principal, corporate risks for the Council. No other options were considered.

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

12. To present members with the opportunity to consider, and influence, the content of the Council's corporate risk register and its proposed actions to refresh the approach to corporate risk management.

## **Statutory and Policy Implications**

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

## **RECOMMENDATION/S**

- 1) Members approve the updated corporate risk register.
- 2) Members agree to receive further proposals for a refresh of the Council's approach to risk management, along with suggested training for the Committee.

**Nigel Stevenson**

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

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

Rob Disney

Group Manager - Assurance

### **Constitutional Comments (LW 05/01/2021)**

14. Governance & Ethics Committee is the appropriate body to consider the content of the report.

### **Financial Comments (SES 05/01/2021)**

15. 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

# NCC CORPORATE RISK REGISTER – 29 DECEMBER 2020

Relative Impact	Catastrophic	(5)	M	H	VH	VH	VH
	Significant	(4)	M	H	VH	VH	VH
	Moderate	(3)	M	M	H	H	H
	Minor	(2)	L	L	M	M	M
	Insignificant	(1)	L	L	L	L	L
			Rare (1)	Unlikely (2)	Possible (3)	Likely (4)	Almost certain (5)
Relative Likelihood							

LIKELIHOOD		
1	Rare	0 to 5% chance
2	Unlikely	6 to 20% chance
3	Possible	21 to 50% chance
4	Likely	51 to 80% chance
5	Almost certain	81%+ chance
IMPACT		
1	Insignificant	0 to 5% effect
2	Minor	6 to 20% effect
3	Moderate	21 to 50% effect
4	Significant	51 to 80% effect
5	Catastrophic	81%+ effect

## Guidance Notes and definitions

- The term “risk” used in this register is defined by the Institute of Risk Management as the “combination of probability of an event and its consequences” (ISO/EC Guide 73)
- This Corporate Risk Register sets out the key risks to NCC that have been identified by Risk Owners.
- Risk Owners are officers who are responsible for identifying the key risks to the organisation and for implementing and managing the controls to mitigate those risks.
- Sources and triggers for each risk have been identified and the possible consequences of failure to address each risk have been determined.
- Current controls and mitigations have been listed for each risk and these identify the controls presently in place that are designed to address the risks.
- Additional controls required and new controls that are being introduced are also recorded in the register. This identifies any gaps in controls and provides details of new controls that management are intending to introduce, to address these gaps, or are implementing to strengthen existing controls.
- For each of the identified risks, inherent, current and residual risk scores have then been determined.
- Inherent risk is defined as the amount of risk that would exist in the absence of any controls.
- Current risk is defined as the amount of risk assuming the current mitigations are being applied.
- Residual risk is the amount of risk that will remain after proposed actions are put in place.
- In conjunction with this Risk Register, Internal Audit has completed a number of assurance maps, which categorise the mitigating controls for each risk under one of three “lines of defence”. These are:
  1. Controls established by management to provide oversight of identified risks (for example, the implementation of policies and Committee reviews)
  2. On-going Internal controls applied by management applied to manage and control day to day operations (for example, reconciliations and performance reports)
  3. Third party assurance (independent oversight of risk management by auditors and other independent bodies such as the CQC and Ofsted)

The current controls and mitigations listed on this register to address the identified risks have been categorised on this basis.

## 1. Major failure of Information Governance

Risk Owner: Marjorie Toward

### Sources & Triggers:

- Failure to put in place appropriate, risk-based technical measures to secure and protect data (e.g. encryption, identity-based access controls, password controls etc).
- Failure to put in place appropriate risk-based organisational measures to secure and protect data (e.g. information governance and IT training; data protection procedures, guidance; data protection impact assessments; information sharing agreements etc).
- Failure to manage corporate, service user, staff and corporate records appropriately (e.g. not organising, retaining and disposing of information properly).
- Failure to assure that third party suppliers manage information appropriately
- Information security breaches, including those due to cyber-attacks (e.g. ransomware)
- Personal data breaches (e.g. personal data being sent to incorrect recipients etc)
- Individual's rights over their data infringed (e.g. excessive personal information collection; failure to provide privacy notices etc).
- Council's Information Governance framework incapable of responding to emergency situations to enable quick risk-based decisions to be made.
- Receipt of regular, large data files relating to vulnerable people in Notts
- Temporary data processing measures put in place during pandemic become permanent without satisfactory data protection due diligence

### Possible consequences:

- Physical, emotional or financial harm to member of the public or staff
- Failure to meet a statutory obligation / Impact on service delivery / inefficient service delivery and associated costs
- Litigation against the Council
- Loss of reputation
- Financial cost to authority (e.g. loss of revenue through fraud, compensation payments or fines levied by the Information Commissioner)
- Failure to deliver essential services due to lack of responsiveness

### Current controls & Mitigations:

#### LINE 1

- Information Governance Board (IG) chaired by Senior Information Risk Owner (SIRO) reviews IG risks quarterly
- ICT Risk Management Team has a specific information security risk register
- Dedicated and separate IG and IS teams.
- Annual cyber security strategy written by IT security architect
- IG in the remit of Risk, Safety and Emergency Management Board / Groups.
- IG / IS Framework of policies, standards, procedures and guidance

#### LINE 2

- Significant and diverse technical security controls (e.g. secure e-mail facilities)
- Mandatory IG training for all staff at induction and refreshed biennially; IG intranet hub
- Information Asset Register and other records of data processing activity in place
- Data Protection Impact Assessment process for new / changed personal data processing.
- Data breach management process, including management notification of breaches
- Short-form DPIA / Information Sharing request form introduced to hasten risk-based decision-making during Covid-19 pandemic

#### LINE 3

- Cyber security and information governance compliance regimes (e.g. PSN Code of Connection Compliance and Data Security and Protection Toolkit, Cyber Essentials)

### Additional controls required & new controls being introduced:

Action	Timescale	Action owner
Revise IG and IS training offer and approach	Spring 2021	Caroline Agnew
Assess NCC performance against national / local IG framework(s)	Spring 2021	Caroline Agnew
Review and determine next steps for approach to electronic document and records management	Winter 2020	Heather Dickinson / Caroline Agnew
Clarify the Council's exposure to risks from its cloud service provider's operations post EU exit.	To be confirmed	Caroline Agnew

**Agreed**  
**Current Risk**

L I

2	4
<b>H</b>	

**Agreed**  
**Target Risk**

L I

2	3
<b>M</b>	



## 2. Failure to provide safe and secure premises

Risk Owner: Adrian Smith

### Sources & triggers:

- Changed working locations for large numbers of staff who are working from home or in sparsely used premises
- Management of vacant properties – lack of site monitoring visits during lockdown period, for both vacant and temporarily closed buildings
- Uncontrolled hazards (asbestos / legionella / other hazards)
- Uncontrolled fire safety issues, including those in schools and care homes
- Serious injury to NCC staff arising from work activities
- Failure to exercise duty of care
- Lack of clarity / awareness regarding staff responsibilities / NPO role
- Reduced expenditure on building maintenance and inability to carry out repairs, maintenance and servicing during lockdown period
- Ineffective Implementation of NCC Smarter Working initiatives
- Failure to supply and inspect appropriate and safe equipment
- Inappropriate contracting arrangements and management
- Failure to design safety
- Failure to inspect and maintain grounds / outdoor environment (including at schools) – potentially reduced during lockdown period?
- Re-purposing the use of NCC premises during the emergency response
- Inability to carry out essential tasks due to high staff absence levels
- Inability to safely secure stored supplies of PPE

### Current controls & Mitigations:

#### LINE 1

- a) Corporate Property Strategy
- b) H&S Policies

#### LINE 2

- c) Communication with sites to ensure statutory inspections and emergency repairs remain in place throughout periods of building closure. Property closure checklists issued to all sites and available on NCC intranet and schools' portal.
- d) Management of vacant sites by Estates Practice Team and ARC Partnership with record of services isolated and those remaining live, locations of keys and security provisions).
- e) Close down instructions and a checklist have been issued to Nominated Property Officers to maintain safety and security at NNC sites and security patrols are being maintained.
- f) Remedial actions following inspections and risk assessments recorded on P2 with target completion dates.
- g) Full Programmes of statutory inspections and risk assessments (fire, asbestos, legionella, gas, electrical mechanical and lifts) recorded and documented on asset management system P2.
- h) Planned maintenance programme including larger scale remedial actions
- i) Dynamic risk assessments produce by service if buildings temporarily change use
- j) Management of asbestos including E-Learning awareness training, management and refurbishment surveys, annual register updates and local asbestos management plans. Process to report and respond to incidents.
- k) Property Strategy, Service Asset Management Plans and stock condition surveys produced and analysed to assess maintenance and usage requirements of all assets
- l) Contractor management by Commissioning Team. Partnership arrangements with Arc Partnership consisting of joint working, SLA's and monitored KPIs
- m) Property Compliance Action Plan including actions identified during audit review of all policies and procedures, training needs analysis, communication strategy and P2 improvements.
- n) Collaborative working between NCC H&S Team and Property Compliance including Compliance Board and progress to ISO 45001)
- o) Insurance

#### LINE 3

- p) Independent Review and certification on property compliance by BSI

### Additional controls & actions required:

Action	Timescale	Action owner
Continuous Review of Property Compliance with areas for improvement added to Property Compliance Action Plan	Continuous	Matt Neal & Neil Gamble
Implement Corporate Landlord Model to create centralised and standardised approach to property management and safety	2020/21	Matt Neal & Neil Gamble

### Possible consequences:

- Death, injury or illness of members of staff, service users or the public (including unauthorised users)
- Judicial review
- Litigation against the Council, for example claims arising from changed working conditions
- Enforcement action e.g. HSE, Fire Environment Agency
- Loss of reputation
- Inability to deliver services
- Increased costs

### Agreed

### Current Risk

L	I
3	5
VH	

### Agreed

### Target Risk

L	I
2	5
H	

### 3. Major Supplier or Supply Chain Failure (including Contract Management failure)

Risk Owner: Nigel Stevenson

#### Sources & triggers:

- Inadequate supply and distribution of PPE to meet up-to-date PHE guidance for use in all service provision settings
- Inadequate availability, supply and distribution chains to provide essential items and services, due to the loss of normal supply chains and demand for new emergency goods and services.
- New / emergency suppliers insisting upon payment arrangements and terms which do not comply with NCC standards terms
- Commissioning Model (including partners)
- Poor contract specifications
- Compliance failure
- Supplier / Quality / cost fraud - risk is heightened where there is increased demand for items in short supply and where normal controls have had to be relaxed to meet emergency demands (e.g. in relation to PPE)
- Major supplier of critical services goes out of business
- Accumulated closures of '2nd tier' key suppliers create significant delay in the supply chain for critical services
- Poor provider performance
- Market volatility
- Energy dispute / disruption of supply
- Breach of contract or breach of procurement guidelines
- Lack of expert guidance due to high staff absence levels
- Unreliability of ICT systems hinders supply chain management
- Services moving to alternative delivery settings (changed premises, hub and spoke arrangements, staff based from home, etc)
- Devolved purchasing arrangements leading to rogue purchases from unapproved suppliers
- Issues with supplies and suppliers in relation to Brexit

#### Possible consequences:

- Increased costs
- Loss of reputation
- Inability to deliver key services or staff carry on working in unsafe condition
- Litigation, for example from individual members of staff or as part of class actions relating to inadequate supply of PPE
- The acquisition of poor-quality items that do not meet safety standards at inflated prices due to purchasing from unapproved suppliers

#### Current controls & Mitigations:

##### LINE 1

- a) Business Continuity Plans
- b) Devolved contract management with support and guidance from Procurement Centre with corporate contract management framework
- c) Councillors' oversight via the F&MCM Committee

##### LINE 2

- d) New emergency payment terms and systems introduced
- e) PPE contracts have been agreed with suppliers and logistical processes embedded
- f) Category Managers
- g) Market management
- h) Active Contract Management
- i) Departmental Procurement Groups
- j) Risk assessment of possible failure
- k) Supply chain management
- l) Category managers working closer with suppliers, market and commissioners
- m) Contracts database
- n) Brexit concerns are being discussed with suppliers in contract review meetings and at Heads of Procurement meetings

##### LINE 3

- o) Local and national guidance has been issued in relation to PPE standards and purchasing
- p) Trading standards have been involved in procurement process to ensure supplier compliance
- q) Local Fair Price for Care Implemented (?)
- r) East Mids. Property Alliance
- s) LRF/Category 2 critical infrastructure plans
- t) Dunn and Bradstreet checks on suppliers
- u) Consultation meeting in February 2020 between government and East Midlands Heads of Procurement Group.

#### Additional controls & actions required:

Action	Timescale	Action owner
Overview of managers work to review and refresh existing contract	Continuous (monthly)	Kaj Ghattaora
Implement outcomes of Internal Audit of Contract Management	Autumn 2020	Kaj Ghattaora

#### Agreed Current Risk

L	I
3	3
H	

#### Agreed Target Risk

L	I
3	3
H	



## 4. Inability to deliver critical services due to a sustained business interruption

Risk Owner: Derek Higton

### Sources & triggers:

- Loss of premises / staff / ICT (heightened due to extent of homeworking, including reliable access to wifi connectivity) / telecoms / utilities (gas/electricity/water) / key suppliers and / or key resources (e.g. fuel)
- Unavailability of senior officers and key staff essential to the Council's structures for business continuity
- Breakdown of industrial relations locally or nationally – potentially heightened in relation to adequate supply of PPE
- Lack of understanding of what is critical / Failure to prioritise Council services correctly
- Inadequate Business Continuity Planning and Preparations (e.g. for relocation of critical services)
- Sustained response to significant civil emergency or other external challenge
- Failure of maintained schools, external providers, and suppliers to have adequate insurance and business continuity arrangements
- Breaches of contract leading to legal action
- Risk to staff Health and Wellbeing by contracting COVID-19 at work and impact of trauma on workforce
- Mental Health of staff adversely affected by prolonged home-working
- Reduced capacity in core, support services due to staff absence levels and redeployment to critical services

### Possible consequences:

- Inability to deliver critical services / business as usual
- Harm to staff, service users and the public
- Failure to protect and safeguard people at risk
- Failure to protect health and safety of people and building
- Failure to maintain the transport network
- Failure to maintain ability to pay employees and suppliers
- Reduced ability to deliver the aspirations in the Strategic Plan
- Loss of reputation
- Reduced confidence in the ability of the Council to deliver services

### Current controls & Mitigations:

#### LINE 1

- Corporate business continuity plan, and emergency plans
- List of critical services
- H&S at work policies including updates re: COVID-19
- Monitoring by Corporate Leadership Team, Risk, Safety and Emergency Management Board and RSEM Groups.
- HR Guidance - managing industrial action
- Business Continuity Plans for Critical Services
- Monitoring by Risk, Safety and Emergency Management Board and RSEM Groups
- Capacity in frontline services secured through deployment within departments and recruitment of additional staff
- Ongoing dashboard reporting for senior managers of frontline services to monitor capacity within critical services

#### LINE 2

- Staff Re-Deployment Measures (e.g. Mandatory Skills Audit, staff re-deployment training package).
- Remote working guidance and tools (e.g. 'Occupational Health 'Virtual Work Station Assessments', 'Physiotherapy Service Referrals', 'Home Working Risk Assessment Form', 'Lone Working Health and Safety Guidance'.)
- Business Impact Analyses
- Control of contractors / contract management
- HR Guidance - managing industrial action
- Smarter Working Programme
- Insurance (including contingencies for Academy Schools)

#### LINE 3

- ICT Business Continuity Plans / Disaster Recovery Plans
- Well-being provision (e.g. Remote Chaplaincy)
- Corporate Business Continuity Exercise Zepto (March 201

### Additional controls & actions required:

Action	Timescale	Action owner
Further development of BC Plans and Business Impact Analyses	Continuous	Critical Services Plan authors
Continual review of Business Continuity Plans for all critical services by plan authors (including exercises)	Continuous	Critical Services Plan Authors
Assessment of capacity to deal with multiple emergencies concurrently		Rob Fisher

**Agreed**  
**Current Risk**

L I

4	4
VH	

**Agreed**  
**Target Risk**

L I

3	3
H	

## 5. Failure to deliver the transformation programme and maintain critical services

Risk Owner: Sue Milburn

### Sources & triggers:

- Lack of funding to support delivery of the business cases
- Failure to comply with legislative requirements and changing demands placed on the Council by Government
- Short-term planning / inadequate horizon scanning - Uncertainty whether the transformation goals the organisation is aiming for need to be reconsidered as a result of Covid19
- Re-Direction of staffing resources to support delivery of critical services during the COVID-19 Emergency
- Undue pace of change
- Insufficient cultural change within the organisation
- Unanticipated major increase in organisational costs
- Unanticipated external costs
- Reduction in number and value of funding streams
- Suitability of ICT systems
- Insufficient staff capacity - Re-direction of staffing sources to support delivery of critical services during the Covid-19 emergency, potentially flat recruitment market during the pandemic, adapting to virtual approach to staff recruitment, induction and training
- Failure to identify interdependencies and unintended consequences

### Possible consequences:

- The pace of transformation is slowed while the Council deals with the emergency situation
- Transformation goals are out of step with what is needed in the post-Covid19 environment
- Poor performance
- Overspending
- Lack of robustness in budget monitoring systems
- Inability of the organisation to sustain critical services in the long term
- Loss of reputation
- Failure to recover capital receipts
- Failure to achieve savings expected to be delivered by transformation programme prior to COVID-19
- Failure to realise anticipated benefits of planned transformation programmes i.e. improvements to processes and other efficiencies.

### Current controls & Mitigations:

#### LINE 1

- Established Transformation & Change Programme, incorporating KPIs, metrics, programme governance, reporting arrangements and reviews
- Medium-term financial strategy
- Appropriate project governance
- Regular reports to and monitoring by CLT, Transformation and Change Governance Group, Improvement & Change Sub-Committee and Finance & Major Contracts Management Committee

#### LINE 2

- Transformation & Change Team
- Project risk management processes
- Budget planning and control arrangements
- Effective, ongoing learning, contract management and rigorous management of pressures

#### LINE 3

Internal Audit Review

### Additional controls & actions required:

Action	Timescale	Action owner
Review the current transformation & change programme for the post-Covid19 Council	July 2020	CLT, with support of Sue Milburn
Agree the organisation's response to Transformation and Change – October CLT, with Support of Sue Milburn.	October 2020	Sue Milburn
Review the objectives and timescales for the current engagement with the Council's external transformation partner	July 2020	CLT, with support of Sue Milburn

### Agreed Current Risk

L I

3 3

H

### Agreed Target Risk

L I

2 2

L

## 6. Failure to protect vulnerable children and young people

Risk Owner: Colin Pettigrew

### Sources & triggers:

- Child death
- Allegations of historic abuse
- Child Sexual Exploitation
- Increasing demand for Children's Social Care and resulting in budget pressures
- Inappropriate case management/insufficient management control
- Failure to recruit and retain experienced / qualified staff and inability to redeploy non-critical staff and volunteer resources into critical service roles
- High levels of sickness absence – heightened due to Covid-19 Partners not working together effectively / lack of clarity between partners
- Insufficiently robust contract monitoring
- Poor data quality
- Data loss/leakage
- Social worker caseloads become too high
- Unreliable connectivity to ICT systems
- Lockdown period leads to reduced referrals of child safeguarding concerns which may be continuing – reduced visibility and reduced opportunity for children to self-refer
- Lack of care provision in schools for children of key workers
- Services moving to alternative delivery settings (changed premises, hub and spoke arrangements, staff based from home, etc)
- Changing threshold of service provision (e.g. MASH)
- Shortages of PPE
- Increased risk of domestic violence and risk to children
- Mental health and drug misuse
- Post-lockdown hidden harm and unmet need
- Impact of economic downturn
- Impact of Brexit on availability of care staff

### Possible consequences:

- Harm to children, young people and families
- Serious Case & Domestic Homicide reviews
- Harm (including possible transmission of illness or disease to/from staff)
- Cost to the authority
- Cost to society
- Reputational damage to the authority
- Increased and / or inappropriate referrals into Children's Social Care
- Judicial review
- Litigation
- Failed inspections under regulatory framework

### Current controls & Mitigations:

#### LINE 1

- Safeguarding policies / procedures / training (updated to reflect COVID-19 issues – includes details of latest guidelines and advice from Govt and professional bodies)

#### LINE 2

- Sufficient SW capacity, use of workload management tools. SW capacity also increased by return of Social Workers who have recently left the profession (including fast track DBS checking)
- Safer recruitment policy, tracking DBS renewals & HCPC regs
- Use of agency social workers - vacancies and long-term absences
- Development of recruitment and retention incentives - MFS and SWSO posts
- Advanced practitioner support
- Continued development of early help services to work alongside core child protection arrangements
- Robust QA Framework and review of performance data
- Emergency Residential Care arrangements have been applied to cover the COVID-19 period
- All cases have been risk assessed for COVID-19 implications
- Risk assessments have been completed in relation to COVID-19 as it affects staff and staffing
- HR working with agency managed service provider to maintain coverage if it is affected by Brexit .

#### LINE 3

- Most recent Ofsted inspection in 2020 was "Good"
- Introduction of new legislation relaxing administrative requirements in relation to adoption, in response to COVID-19.
- DfE introduction of helpline relating to education and social care
- Co-operation with, and participation in, the Independent Inquiry into Child Sexual Abuse
- Effective safeguarding arrangements and challenge via Local Safeguarding Children Board
- Well-established Pathway to Provision and Children's Trust

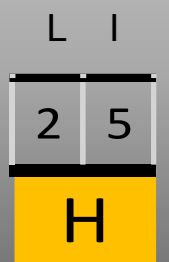
### Additional controls & actions required:

Action	Timescale	Action owner
Closer alignment of the MASH (Multi Agency Safeguarding Hub) and the Early Help Unit	Monthly review	Steve Edwards
Ongoing work to manage caseloads and keep them at a manageable level	Monthly review	Steve Edwards
Continue to develop the integrated assessment framework and toolkit across children's services	Monthly review	Steve Edwards
Ofsted inspection action plan		

**Agreed**  
**Current Risk**



**Agreed**  
**Target Risk**





## 7. Failure to deliver an effective Medium-Term Financial Strategy

Risk Owner: Nigel Stevenson

### Sources & triggers:

- Failure to create strategy - insufficient savings proposals identified
- Unbudgeted expenditure on emergency activities
- Reduced delivery of services to paying service users and customers
- Non-payment for services received by service users and suspension of debt recovery procedures
- Delay and/or suspension of transformation programmes
- Failure to approve budget proposals at Full Council meeting
- Failure to identify pressures / funding cuts in time to react
- Failure to monitor in-year budget effectively / understand cost drivers
- Failure to react to changes in Central Government Policy
- Failure to obtain necessary information from District Councils (tax base, NNDR)
- Significant levels of Council Tax non-payment, and business closures reducing NNDR payments
- Failure to complete Equality Impact Assessments
- Failure to consult on Budget proposals
- Key resources not being available
- Unreliable connectivity to ICT systems
- Lack of expert guidance due to high staff absence levels
- Government policy and requirements issued at short notice
- Failure to deliver capital receipts
- Accuracy of financial planning and budget monitoring
- Cash Flow Balances Fall below acceptable balances
- Financial policies plans, budgets, estimates and predictions based upon economic and financial situation prior to COVID-19 (including investment and pensions planning), with no consideration of the effects of post-COVID "new normal"
- New legislation - However, the enabling legislation 'fell away' in the run up to the June 2017 General Election and no new legislation is in the current Parliamentary timetable
- Failure to understand implications of proposed changes in needs assessment, mechanics of allocations and impact of additional responsibilities
- Government policy and requirements issued at short notice
- Failure to appropriately prepare for Brexit

### Possible consequences:

- County Council General Fund balance falls below acceptable level
- Renegotiation of debt at higher rates
- Risk to services if sudden termination of services made without due planning (issues on meeting minimum statutory requirements)
- Risk of legal action if Council fails to deliver services or give due regard to impact
- Reputational issues / credibility of officers
- Short term decision making resulting in lack of investment in key areas
- Failure to meet statutory requirement in setting a balanced budget
- Financial policies could fail to meet the requirements of post-COVID-19 world.
- Adverse impact on structure of the Council
- Adverse impact on the MTFS

### Current controls & Mitigations:

#### LINE 1

- CLT oversight of budget process, CLT briefings and peer challenge
- Regular Member briefings (Majority and opposition groups)
- Attendance at SCT and other confs / SCT Briefings / environmental analysis and other events
- Continual budget process with Elected Members
  - Regular Updates to Members and CLT

#### LINE 2

- Continual review of budget monitoring process and the effectiveness of the finance function
- Review of appropriate reserves levels
- Quality information for effective decision making at short notice
- Budget timetable with identified responsibilities
- Budget Consultation in progress
- Regular contact with District Councils
- Continual improvements in financial management across NCC
- Systems to ensure that the Council is fully aware of all the implications of the new financial arrangements for Local Government and takes appropriate action to plan for them, both politically and managerially
- Attendance at various MHCLG, LGA, CCN and relevant events
- Attendance at ACCE and SCT
- Keeping up to date on impact of other announcements on other changes to Business Rates. Anthony May and Nigel Stevenson continue to be involved in working groups and conversations with MHCLG on this matter
- Brexit Risk Log in place and updated
- NCC officers chair LRF Finance Cell, ensuring clear lines of sight on all financial implications of the pandemic across Nottinghamshire

#### LINE 3

- Obtain external support where necessary
- Peer review has been completed
- CIPFA Financial Management Code
- Review by Internal Audit
- EU Exit Local Government Delivery Board
- East Midlands Chamber has established Brexit advisory group

### Additional controls & actions required:

Action	Timescale	Action owner
Member of MHCLG/LGA led working groups	continuous	Nigel Stevenson
Active participation in consultations	Continuous	Nigel Stevenson

### Agreed Current Risk

L	I
4	3
H	

### Agreed Target Risk

L	I
4	3
H	

## 8. Prolonged loss of ICT

Risk Owner: Nigel Stevenson

### Sources & triggers:

- Data Integrity Issues
- Security breaches - Systems attack (hacks, malware and viruses)
- Infrastructure failure (hardware or software)
- Inadequate ICT resilience
- Inadequate safeguards in respect of theft and unauthorised removal of ICT equipment
- Lack of resources due to high staff absence levels

### Possible consequences:

- Loss of ICT:
  - i) systems
  - ii) data
  - iii) access/connectivity
- Inability to provide critical services systems
- Loss of reputation
- Loss of productivity

### Current controls & Mitigations:

#### LINE 1

- a) ICT Security Strategy & info Sec Policies
- b) Corporate sign-off of critical systems
- c) Failover testing of power and infrastructure

#### LINE 2

- d) Business continuity arrangements for services
- e) Maintain fit for purpose ICT provision
- f) Ongoing infrastructure upgrade programme
- g) SLA for 99.8% availability for priority ICT systems
- h) Insurance
- i) Formal ICT change management process

#### LINE 3

- j) Annual network penetration testing and PSN audit
- k) Internal audit assessments and reviews
- l) Third party support contracts

### Additional controls & actions required:

Action	Timescale	Action owner
Testing response to loss of ICT	Continual	RSEMB
Annual infrastructure refresh programme	Continual	Mark Davies
Annual PSN compliance checks and mitigating actions	Annual	Mark Davies

### Agreed Current Risk

L I

2 4

H

### Agreed Target Risk

L I

2 2

L

## 9. Failure to respond effectively to a prolonged major emergency in the Community

Risk Owner: Derek Highton

### Sources & triggers:

- Lack of care provision in schools for children of key workers
- Ineffective co-ordination with local, regional and national partner organisations
- Knock-on impact of capacity issues in other public services, such as NHS, prison service, probation, police, NFRS, etc
- Staff absence levels in critical service areas (such as the Customer Services Centre)
- Failure to plan for, support and stimulate recovery during and after the emergency
- Unreliable connectivity to ICT systems
- Lack of expert guidance due to high staff absence levels
- Government policy and requirements issued at short notice
- Major and prolonged flooding

### Possible consequences:

- Illness / death of residents and visitors
- Loss of staff
- Diversion of resources to emergency response and recovery
- Infrastructure compromised
- Financial costs
- The emergency is prolonged in Nottinghamshire compared with swifter recovery in other areas of the country
- Loss of reputation
- Public inquiry
- Inability to respond and deliver business as usual

### Current controls & Mitigations:

#### LINE 1

- a) Covid-19 Pandemic Plan
- b) Risk, Safety and Emergency Mgmt. Board and Groups
- c) Emergency Plans and the planning process
- d) Business Continuity Plans

#### LINE 2

- e) Business Plans
- f) Staff training at Strategic, Tactical and Operational levels
- g) Exercising of emergency plans
- h) County Emergency Centre / Comms systems

#### LINE 3

- i) Partnership working through the Local Resilience Forum
- j) LRF Community Risk Register
- k) Debriefing following significant emergency events
- l) Safety of Sports Grounds and Events Safety structures

### Additional controls & actions required:

Action	Timescale	Action owner
Increase resilience through wider engagement with managers in all departments and ASDM	Review at RSEMB meetings	Rob Fisher
Maintenance of plans and preparations	Continual review	Rob Fisher
Emergency Planning training event for NCC Extended Leadership Team	To be advised	Rob Fisher

### Agreed Current Risk

L	I
2	3
M	

### Agreed Target Risk

L	I
2	3
M	

## 10. Failure to protect vulnerable adults at risk of harm

Risk Owner: Melanie Brooks

### Sources & triggers:

- Inability to redeploy non-critical staff and volunteer resources into critical service roles, and lack of staffing capacity in the CSC to maintain a responsive 'front door' service for vulnerable adults
- Lack of sufficient PPE for staff working in frontline service roles
- Impact on population health of economic downturn, including worsening of health inequalities and the impact of self-isolation and social distancing on physical and mental health and wellbeing – smoking, alcohol, domestic violence, lack of physical activity
- Cashflow issues for external care providers struggling to meet additional funding requirements due to COVID-19, resulting in loss of providers and safeguarding issues
- Waiting list for DoLS assessments
- CQC instigated actions
- Inadequate funding arising from legislative changes
- Insufficiently robust quality monitoring of externally provided services
- Poor data quality
- Inability to protect residents against scams
- Coroners Enquiries
- Safeguarding Adults Reviews
- Failure of care providers to operate during the pandemic – due to absence of staff, lack of PPE, additional costs
- Public demand and expectations greater than NCC is able to deliver
- National Surveys
- Unreliable connectivity to ICT systems
- Lockdown period leads to reduced referrals of safeguarding concerns which may be continuing – reduced visibility and reduced opportunity for vulnerable adults to self-refer
- Lack of care provision in schools for children of key workers
- Services moving to alternative delivery settings (changed premises, hub and spoke arrangements, staff based from home, etc)
- Health and well-being of social care staff – social care staff found to be at greater risk of death involving coronavirus
- Changing threshold and focus of service provision
- Insufficiency of contract monitoring – management of the market
- Adult mental health and drug mis-use
- Post-lockdown hidden harm and unmet need
- Impact of economic downturn
- Carer absences
- Human Rights Breaches
- Failure to prepare appropriately for Brexit

### Possible consequences:

- Death or harm to service user
- Inability to provide care services due to external service providers having insufficient funds to meet additional costs which could lead to safety and safeguarding concerns for both those in receipt of care and those providing it.
- Harm to staff
- Judicial review
- Litigation
- Loss of reputation
- Failed inspections
- Inability to deliver safeguarding services
- Risk to staff health and wellbeing

### Current Controls & Mitigations:

#### LINE 1

- Safeguarding policies and procedures
- Scrutiny through Chairman's meetings and monthly ASC&PH Committee

#### LINE 2

- Additional Government funding to external providers, administered by the Council and LRF.
- Tracking, monitoring and distributing PPE where need identified
- Regularly reviewed and updated local guidance on the use of PPE
- Re-deployment pool, emergency training, daily capacity tracking introduced to address staffing issues
- Additional support and training for staff and independent sector providers
- Intranet updated to provide guidance for staff in relation to COVID-19, operating models and processes
- Quality Assurance
- Infection Prevention control training given
- Safeguarding partnership working
- Work to manage outbreaks in care homes
- Plan implemented to manage discharge from NHS settings
- HR working with agency managed service provider to ensure staff coverage if this is affected by Brexit
- New processes introduced to address domestic violence and substance abuse
- Capacity and flow meetings
- department has also responded to concerns regarding the impact of the pandemic on unpaid carers. Assessments and reviews have been prioritised and the department is working to develop interim C-19 secure models for short breaks and day opportunities in order to provide support.

#### LINE 3

- A system wide taskforce meeting has also been arranged which includes representatives from public health and the infection control service to help manage outbreaks and delivery of good quality outcomes in the care sector. This links to the Care Home and Home Care strategic cell that supports the care home sector across the system
- Reporting to Department of Health and Social Care
- Trading Standards operations against criminality (managed via Place Dept)
- Safeguarding Board and partnership working
- Contract monitoring and market development
- Relationship with CQC/CCG quality monitoring of staff
- Register of Social Care Workers
- Multi-agency safeguarding Hub (MASH)
- Learning from Safeguarding Adults Reviews
- Vulnerable Persons Panels
- Performance Board
- DoLS Team

### Additional controls & actions required:

Action	Timescale	Action owner
Oversight of COVID-19 response across the social care in care homes	Subject to regular review	Melanie Brooks/ Jonathan Gribbin
Implementation of actions identified in Adult Social Care and Health Winter Plan	Regular review to end of March 2020-21	Melanie Brooks/ Jonathon Gribbin

### Agreed Current Risk

L	I
2	5
H	

### Agreed Target Risk

L	I
2	5
H	



## 11. Failure to maintain effective governance

Risk Owner: Marjorie Toward

### Sources & triggers:

- Disruption to the effective operation of the Corporate Leadership Team
- Disruption to the effective operation of the Risk, Safety & Emergency Management Board (RSEMB) and the Risk, Safety & Emergency Management Groups (RSEMGs)
- Suspension of, or significant change in functioning of, senior management team meetings (e.g. Senior Leadership Teams, Extended Leadership Team)
- Disconnect or conflict between the priorities and objectives of Councillors and Senior Officers
- Ineffective communications with Nottinghamshire residents and businesses
- Lack of openness and accountability for decision making
- Inability to make lawful and effective decisions and comply with Standing Orders and Standing Orders and Financial Regulations
- Failure to abide by legislation and best practice guidelines
- Inability to address FOI and DPA records and produce Data Subject Access Requests

### Possible consequences:

- The operations and activities of the Council become unlawful
- Lack of effective strategic and operational direction
- Reputational damage
- Loss of confidence in the ability of the Council to maintain effective services
- Increased risk of unlawful expenditure and waste
- Reduced decision-making transparency (Note: Principle 10 of the COVID-19 Pandemic Plan is: 'The Council's democratic mandate must be exercised', 4.1, p. 9).

### Current controls & Mitigations:

#### Line 1

- Five programmes of work established to manage the response to the emergency
- Committee are in place and meeting using virtual technology
- RSEMGs meeting regularly to manage continuity of critical services in line with business continuity plans. Frequency of meetings is stepped up/down as circumstances demand.
- Regular briefings by senior officers with the Council Leader and Committee Chairs
- Regular briefings to staff by the Chief Executive
- CLT and RSEMB meeting regularly and frequency of meetings is stepped up/down as circumstances demand
- Communications strategy in place for the Council's stakeholders
- Urgent Decision procedures contained within the NCC Constitution set the parameters for the use of urgent decision-making powers and require record-keeping and reporting to relevant committees

#### Line 2

- CLT receiving situation reports from 2nd line assurers around governance
- Quarterly updates to CLT of the Annual Governance Statement's Action Plan continue
- Daily dashboard in place for CLT to monitor staff capacity in critical services and across the Council
- Assurance mapping process in place, covering some key aspects of governance
- RSEMB reviews the corporate risk register regularly.

### Additional controls & actions required:

Action	Timescale	Action owner
Establish continuous assurance feed for key corporate systems and activities	March 2021	Rob Disney, Group Manager Assurance
Review departmental risk registers to mesh with the revised corporate approach	March 2021	Rob Disney, Group Manager Assurance
Align assurance mapping with Corporate Risk Register	March 2021	Rob Disney, Group Manager Assurance
Review and update the Local Code of Corporate Governance	June 2021	Rob Disney, Group Manager Assurance

### Agreed Current Risk

L	I
1	4
M	

### Agreed Target Risk

L	I
1	2
L	



**1 February 2021**

**Agenda Item: 6**

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

### **QUARTERLY GOVERNANCE UPDATE**

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

1. To inform Committee of the progress being made with the Governance Action Plan for 2020/21, and to request Members' feedback regarding the most significant governance issues currently facing the Council and whether revised actions are needed to address emerging risks.

#### **Information**

2. The Accounts and Audit (England) Regulations 2011 require the Authority to publish an Annual Governance Statement (AGS) along with its Statement of Accounts. The focus of the AGS is to assess the extent to which the Council's Local Code of Corporate Governance has been complied with over the course of a financial year, along with an assessment of the most significant governance issues the Council is dealing with. This gives rise to an annual Governance Action Plan.
3. The Council continues to review progress against the action plan on a quarterly basis. This ensures the AGS is used as a live document throughout the year, contributing towards maintaining an appropriate, strategic focus on the Council's ongoing governance arrangements.
4. The latest quarterly update identifies the following as the most significant governance issues for the Council. The Authority remains on an emergency response footing, as the global pandemic continues to dominate its priorities. The impact of Covid19 pervades all aspects of the Council's activities, including how it is currently applying its Local Code of Corporate Governance. This will remain the case for some time yet, through the remaining stages of the national emergency and into the recovery stage that lies ahead. Rather than include the impact of Covid19 as its own entry on the list of significant governance issues, it is referenced throughout this update wherever its influence is especially pertinent.

Issue	Comment
<b>The transformation agenda</b>	The Council has brought the engagement with its external partner to a conclusion. An Interim Service Director is in post and is working to implement the outputs from the review. Proposals were approved by the Improvement & Change Sub-Committee in November 2020 to establish four cross-cutting

Issue	Comment
	<p>transformation programmes, with two underpinning strands of work. A high-level staffing structure for corporate transformation and change was also approved by the Sub-Committee; enabling into this structure and the development of all other staffing tiers are currently in progress. This features the establishment of a Strategic Insight Unit, along with revised business processes, governance arrangements and co-ordination with departmental service improvement activity.</p> <p>The importance of this work has been compounded by the impact of the pandemic on the County's residents and businesses, alongside the impact on the Council's finances. The scope and focus for Transformation and Change is being reshaped around the Council's emerging resilience, recovery and renewal objectives.</p>
<b>Financial resilience and sustainability</b>	<p>The COVID-19 pandemic has placed significant, unforeseen and additional financial burdens on the Council. The importance of effective management of the most volatile elements of the annual budget is heightened and remains a key area of focus. The Financial Resilience Group reviewed all aspects of the financial impacts over the summer and an updated Medium Term Financial Strategy (MTFS) has been presented to the Finance &amp; Major Contracts Management Committee. The regular review of the financial impacts and the regular Government returns are now established as business as usual and the Financial Resilience Group has been wound down. Maintaining the flow of transparent, financial data for Councillors remains a key priority. The Council will still have a financial gap over the MTFS and Policy Committee in October 2019 set out a new model for transformation (Achieve/Transform/Save) and since then identified a number of key transformation programmes to enable the Council to address this gap leading to future financial sustainability.</p>
<b>Fair Funding &amp; Business Rates Retention</b>	<p>Progress has been delayed again due to the pandemic, and the Council continues to campaign for the promised Fair Funding Review to occur. It is hoped that this work will be undertaken in 2021.</p>
<b>Pressure on core systems of internal control</b>	<p>The findings of Internal Audit over recent Termly Audit Plans are not identifying a concerning number of areas in which only limited assurance can be provided over the effectiveness of internal controls. However, the Group Manager – Assurance has reported to the Governance &amp; Ethics Committee a decline in implementation rates for agreed actions following audits. Understanding the impact of the pandemic on the internal control framework in the Council is key to achieving an appropriate balance between probity and speed of response.</p>
<b>Vulnerability to fraud</b>	<p>The half-yearly update on counter-fraud activity was presented to the Governance &amp; Ethics Committee in January 2021. The incidence of internal fraud remains low, but the Council continues to be the target of attacks from external sources, notably in relation to its suppliers' bank details. The Council is also alert to the opportunities that fraudsters seek to exploit from the pandemic situation and is conducting targeted internal audit work in this area.</p>
<b>Controversial/sensitive decisions</b>	<p>The risk of challenge and demonstrations at Council meetings, at which potentially controversial and sensitive decisions are to be taken, is recognised. As the Administration Body for the Nottinghamshire Local Government Pension Scheme, the Council continues to be a focus of attention by the Nottingham Extinction Rebellion group on its stance on investments. The Council's stance and approach on this issue remains under active management.</p>
<b>UK General Data Protection Regulation</b>	<p>The Information Governance Improvement Programme closed in March 2020, having helped the Council make significant improvements in its exposure to reputational and financial risks of breaches in data protection.</p>

Issue	Comment
<b>(GDPR) / Data Protection Act 2018</b>	Ongoing Information Governance risks, their severity and mitigations are regularly considered by the Information Governance Board (IGB). Risks associated with data flows at the end of the UK EU transition period (end Dec 2020) are being actively managed. Incremental improvements will be made to enhance electronic document and records management, exploiting new technologies and progress in this will also be considered by the IGB. The Council submits an annual Data Security and Protection Toolkit self-assessment to NHS Digital (next submission due June 2021).
<b>Move to the Cloud and ICT resilience</b>	<p>The County Council currently stores its software and data within the ICT Data Centre on the County Hall campus. Work continues to provide these services using a 'cloud' based online approach, as part of the plans to use the latest technology to provide more cost-effective ICT Services. The most appropriate ICT systems and applications remain under review, both in light of the response to the pandemic and with a view to the Council's emerging plans for recovery and renewal.</p> <p>The impact of new ways of working for the vast majority of the Council's staff has required an increase in ICT resilience to enable Council staff to work more effectively at home and with the right technology in place. A range of actions have been taken to achieve a stable service, and this will receive continual monitoring and further update reporting to the Improvement &amp; Change Sub-Committee.</p>
<b>Post-EU transition implications for the Council</b>	The Council has maintained a risk register, since the referendum in 2016, to assess the implications for its continued delivery of local services. This will be retained, and continue to be updated, to ensure the need for additional mitigations is swiftly identified as the UK's revised relationship with the EU settles in.
<b>Local Government Association Peer Challenge</b>	The LGA Peer Challenge was conducted in June 2019 and its subsequent report recognised a number of the Council's key attributes that underpin the positive findings of the Review Team. A report to Policy Committee in October 2019 agreed an action plan in response to the report's five recommendations. Progress is being monitored by the appropriate committee for each action.
<b>Ofsted inspection of Children's Services</b>	The inspection endorsed the actions set in train to deliver improvements in discrete aspects of the service, and the Children & Young People's Committee is overseeing implementation. An annual conversation took place between Ofsted and the Children and Families Leadership Team as part of the Ofsted inspection framework in November 2020, at which the Council's safeguarding response to Covid was considered, alongside a review of the department's self-evaluation of practice and progress against the areas for improvement identified during the inspection in October 2019. This was a constructive conversation which recognised the commitment that the Council has displayed to continuing to improve services for vulnerable children and young people. A full report will be scrutinised by Children and Young People's Committee in February 2021.

5. The entries on the list of significant governance issues have been refreshed since the previous update in October 2020, as follows:
  - a) Local Government re-organisation - the September 2020 meeting of the Policy Committee approved a proposal to revisit the issue of local government re-organisation in the County. Subsequent to this and in view of the ongoing pandemic, the Government has decided to defer the publication of the 'Devolution and Local Recovery' White Paper until mid-2021.

The Council has therefore paused its work on local government reorganisation, and will review its position following the White Paper's publication.

- b) Independent Inquiry into Child Sexual Abuse (IICSA) – Children & Young People's Committee continues to scrutinise the good progress being made against the Council's comprehensive action plan. A second phase of public hearings took place in November 2019 for the Accountability & Reparations investigation, and an additional, special sitting-day was held on 5 February 2020. The recommendations from this phase of the inquiry are directed primarily to the Ministry of Justice to progress, and the Council will keep its action plan under review to take account of developments from Government.
  - c) Restoration the committee schedule – following suspension of the normal schedule during the first wave of the pandemic, all committees have now been meeting on a virtual basis for some time.
6. The thoughts and insight of Corporate Leadership Team colleagues are sought on a quarterly basis to assess whether the above list continues to represent the most significant governance issues on which the Council needs to focus. To assist with this, CLT colleagues are asked to consider the following:
- Colleagues' awareness of significant governance issues being dealt with by senior managers in their departments – to identify whether some issues should be added to, or removed from, the list. Alternatively, colleagues may be aware of a more specific or emerging development within one of the areas listed, which should require a refocus of the Council's response.
  - Reference to the Council's [Local Code of Corporate Governance](#), as an aid to considering whether colleagues are aware of any emerging issues within the areas the Code covers.
7. An important part of the AGS is its Action Plan, and this should also be refreshed following each quarterly update. The Action Plan for 2020/21 is set out in **Appendix 1**, along with an update on progress that has been identified through consultation with relevant managers.

### **Other Options Considered**

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

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

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

### **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.

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

## **RECOMMENDATION/S**

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

**Nigel Stevenson**

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

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

Rob Disney, Group Manager – Assurance

### **Constitutional Comments (EKH 12/01/2021)**

12. This report is appropriate to be considered by Governance and Ethics Committee and they have the power to make any resolution resultant upon the recommendation.

### **Financial Comments (SES 05/01/2021)**

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

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


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

- None



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

- All











Planned Action	Officer responsible	Target date for completion	Progress status
<b>1. Progress reporting against key governance action plans:</b> compliance with agreed progress reporting against key action plans for significant aspects of the governance framework.	Group Manager Assurance to monitor and report compliance with agreed progress reporting	Continuous in 2020/21	 In progress
<b>1a. LGA Peer Review</b> <b><i>Recommendations 1 &amp; 2 – developing an inclusive vision for Notts and showing leadership of place</i></b> The September 2020 meeting of the Policy Committee approved a proposal to revisit the issue of local government re-organisation in the County. Subsequent to this and in view of the ongoing pandemic, the Government has decided to defer the publication of the 'Devolution and Local Recovery' White Paper until mid-2021. The Council has therefore paused its work on local government reorganisation, and will review its position following the White Paper's publication. Work will commence to prepare for the new Council Plan and the opportunities that presents to engage fully with all our partners and stakeholders. The current Council Plan is due to run until the spring of 2021. Senior members and directors continue to play an active role in the Nottingham & Nottinghamshire Economic Prosperity Committee.			
<b><i>Recommendation 3 – reviewing the constitution and operating model</i></b> Updated procedure rules were agreed by Full Council in December 2019, following consideration by the Governance & Ethics Committee in November 2019. Further progress has been hampered by the impact of the Covid 19 pandemic, although the response to the emergency has seen the Council establish its arrangements for broadcasting virtual committee meetings. With regard to the review of the functioning of committees, some initial work has commenced in relation to the Pensions Committee.			
<b><i>Recommendation 4 – modelling sustainable savings plans</i></b> A significant plank of the Council's response is the implementation of an improved transformation model, and our priority, strategic programmes for the next phase of our improvement through recovery and renewal from the pandemic. The Improvement & Change Sub-Committee approved proposals in November 2020, a feature of which is the establishment of a Strategic insight Unit to identify continuous opportunity for sustainable transformation and change. The Sub-Committee will continue to monitor progress.			
<b><i>Recommendation 5 – developing a corporate and agile approach to change and digital</i></b> The Improvement & Change Sub-Committee approved the 'Improving Customer Experience through Digital Developments' cross-council programme in September 2019, incorporating five key themes for deliverables. Under this programme, the MyNotts App was successfully launched and continues to be developed further. Significant progress has also been made with the adoption of Microsoft Office 365.			
<b>1b. IICSA</b> An update report to the Children & Young People's Committee in September 2020 reported good progress against the action plan.			
<b>1c. Ofsted inspection of children's services</b>			











Planned Action	Officer responsible	Target date for completion	Progress status
Following the annual conversation that took place between Ofsted and the Children and Families Leadership Team as part of the Ofsted inspection framework in November 2020, a full report of the meeting will be scrutinised by Children and Young People's Committee in February 2021. This will detail the constructive conversation around the Council's safeguarding response to Covid, alongside a review of the department's self-evaluation of practice and progress against the areas for improvement identified during the inspection in October 2019.			
<b>1d. Counter-fraud</b> The Annual Fraud Report 2019/20 was presented to the Governance & Ethics Committee in September 2020, incorporating a refresh of the counter-fraud action plan. A further update to Governance & Ethics Committee will be prepared for January 2021.			
<b>1e. Information Governance risks</b> The Information Governance Board, chaired by the Council's Senior Information Risk Owner (SIRO) and comprising senior representation from each Council Department along with the Data Protection Officer and Caldicott Guardian, meets regularly to keep IG risks under active management.			
<b>2. Post-pandemic review:</b> formally review the Council's response to capture and apply learning for the future. This will build on two reports to date to Policy Committee on the impact of COVID-19.	Chief Executive	March 2021	 In progress
Internal Audit completed its initial review of the organisational response to the emergency, which delivered positive assurance. A follow-up review on the secondary phase of the Council's response is currently in progress. Since the October meeting of the Committee, the Emergency Planning Team has reported the outcome of their debriefing survey to the Council's Risk, Safety and Emergency Management Board. This considered the Council's management of the emergency through its emergency response framework and through its significant role within the Local Resilience Forum (LRF). Board Members agreed to absorb and reflect on the survey results.			
<b>3. Local Code of Corporate Governance:</b> review the Local Code to ensure it remains up-to-date with the Council's revised governance practices and arrangements to support ongoing recovery and renewal from the pandemic	Group Manager Assurance	March 2021	 Completed






Planned Action	Officer responsible	Target date for completion	Progress status
The Local Code was updated and approved by the Governance & Ethics Committee at its meeting in July 2020. The Local Code is reviewed annually, as part of the preparation of the Annual Governance Statement. This year's review will have an emphasis on reflecting any lasting impacts arising from the Council's response and ongoing recovery from the pandemic.			
<b>4. Equality Impact Assessments (EIA)</b> – review the approach with key stakeholders and deliver refresher training workshops for completion of EIAs, along with an online e-learning package.	Service Director – Customers, Governance and Employees	March 2021	 In progress
Following a review during 2019/20, a programme of management training, comprising a blend of workshops and online e-learning, was due to commence roll-out towards the end of the year and into 2020/21. Work is being commissioned through Corporate Equalities Group, working with the self-managed staff support groups, to review and progress this particularly in the light of issues such as Black Lives Matter. A first deliverable has seen CLT undergo unconscious bias training in September 2020. It is now planned to review the entire equalities training offer, including EIAs, to ensure it remains current with recent developments. The HR Team continues to give advice on EIAs on an ad hoc basis.			
<b>5. Constitution review:</b> completion of the review of the Constitution, incorporating financial regulations for property transactions.	Group Manager – Legal, Democratic & Complaints	March 2021	 In progress
As above under 1a. <b>LGA Peer Review</b>			
<b>6. Register of Interests</b> – completion of the current review by Legal Services, followed by approval of proposed changes and awareness raising.	Group Manager – Legal, Democratic & Complaints	March 2021	 In progress
Progress has been restricted by demands on the team during the pandemic response.			
<b>7. CIPFA Financial Management Code</b> – shadow implementation during 2020/21, with periodic progress updates to the Governance & Ethics Committee	Group Manager – Finance Strategy & Compliance	The code is applicable from 1/4/2020, with the planned first full year of compliance being 2021/22	 In progress

Planned Action	Officer responsible	Target date for completion	Progress status
It is proposed to take a report to Finance & Major Contracts Management Committee to provide an update on progress early in 2021.			
<b>8. Planning &amp; Performance Management Framework:</b> implement co-ordinated reporting of finance, performance and transformation to the Corporate Leadership Team	Group Manager – Assurance	October 2020	 In progress
Progress with this had to be suspended to direct resources to delivery of the data and intelligence products needed to inform the Council's response to the pandemic. Significant progress has now been made, with implementation of the first iteration of the revised dashboard for the Place and Children & Families Departments.			
<b>9. Performance reporting in specific departments:</b> revised arrangements for monthly performance board reporting in the Place and Chief Executive's Departments, incorporating the introduction of continuous assurance feeds for key corporate processes.	Group Manager – Assurance	October 2020	 In progress
Good progress is being made with the development of continuous assurance feeds on corporate processes. A first draft format was presented to CLT and to the Chief Executive's Department Extended Leadership Team in October 2020. The assurance feeds will now be updated regularly, and they will become a key source of intelligence for the 2020/21 year-end assurance reports, notably the Head of internal Audit's Annual Opinion, the Annual Assurance Mapping report and the Annual Governance Statement.			
<b>10. Benchmarking:</b> co-ordinate CIPFA benchmarking reports and consider its use within the performance management framework, along with other benchmarking tools (eg CFO Insights).	Group Manager – Assurance	December 2020	 In progress
Work has commenced to assess the value the Council derives from its participation in CIPFA benchmarking clubs and from its access to the CFO Insights product.			
<b>11. Audit of performance management:</b> carry out an internal audit review of service planning.	Group Manager – Assurance to arrange for completion of an independent review	October 2020	 Yet to start

Planned Action	Officer responsible	Target date for completion	Progress status
Initial scoping work had commenced prior to the pandemic for a review of service planning, to be conducted by Assurance Lincolnshire through the Council's internal audit collaboration. This was suspended due to the pandemic. Internal Audit's Term 3 Plan for 2020/21 includes a review of 'Post-Covid19 recovery and renewal plans (previously Service Planning)'.			
<b>12. Transformation Operating Model:</b> agree and implement a revised operating model for transformation in the Council.	Corporate Leadership Team	July 2020 - approval of new model  January 2021 – New transformation model fully operational	 In progress
Having agreed a new model for transformation, improvement and change at its meeting in July 2020, the Improvement & Change Sub-Committee approved further proposals over the autumn to progress the new model. An Interim Service Director for transformation and change was appointed and he is taking the lead in implementing the revised staffing structures approved by the Sub-Committee in November 2020. Key strategic programmes for change have been agreed, and these will be the focus for the Council's transformation over the next few years. The establishment of a Strategic Insight Unit will provide the drive for continued and sustainable change going forward.			
<b>13. Transformation best practice:</b> carry out the National Audit Office self-assessment guidance for best practice in Member scrutiny of transformation.	Group Manager Assurance and Group Manager Transformation & Change to prepare a joint report to the Improvement & Change Sub-Committee	November 2020	 In progress
This will now be conducted as a piece of internal audit work, using the self-assessment as a basis for the audit programme. The assignment is included in Internal Audit's Term 3 Plan and should help inform current developments in the Council to design and implement a revised model for transformation and change.			
<b>14. Social care fraud risk:</b> Continue to monitor implementation of the agreed actions from the internal audit review of the Council's response to social care fraud.	Group Manager – Assurance and Service Directors/Group managers with responsibility for social care services	Periodic updates to the Governance & Ethics Committee through Internal Audit's follow-up procedure	 In progress
The latest position against the agreed actions from Internal Audit's previous reports on this issue was presented to the Governance & Ethics Committee in October 2020. The next update is due in March 2021.			

Planned Action	Officer responsible	Target date for completion	Progress status
<b>15. Risk management:</b>			
a) Undertake a review of the Council's approach to risk management, including development of an approach to establishing the Council's risk appetite	Group Manager – Assurance	a) October 2020	 In progress
b) Deliver a training session on risk management for the Governance & Ethics Committee		b) March 2021	 Completed
Progress continues with the Risk, Safety & Emergency Management Board to refresh the approach to corporate risk management. Progress was reported to the Governance & Ethics Committee as part of the 6-monthly update on this topic in February 2021. An initial, brief training slot on risk management was delivered for Members of the Governance & Ethics Committee following its meeting in January 2021.			
<b>16. Vacant property management:</b>			
further progress report to Governance & Ethics Committee on actions to address the risks identified by the internal audit	Corporate Director - Place	Periodic updates to the Governance & Ethics Committee through Internal Audit's follow-up procedure	 In progress
The latest position against the agreed actions from Internal Audit's previous reports on this issue was presented to the Governance & Ethics Committee in October 2020. The next update is due in March 2021.			
<b>17. Data quality in Mosaic:</b> greater priority given to addressing issues highlighted by routine reporting			
	Corporate Director – Adults Social Care and Health	To commence in the 3 <sup>rd</sup> quarter of 2020/21	 Yet to start
This will become a focus for attention from the 3 <sup>rd</sup> quarter of 2020/21.			
<b>18. Pension Fund Committee:</b> active management of the Committee's meetings			
	Service Director – Finance, Infrastructure & Improvement	Ongoing in 2020/21	 In progress
The Pension Fund Committee continues to hold meetings virtually.			

Planned Action	Officer responsible	Target date for completion	Progress status
<b>19. IICSA Accountability &amp; Reparations:</b> update the Council's response for the findings and recommendations of IICSA in its Accountability & Reparations Report	Corporate Director Children's & Families & Service Director Finance, Infrastructure & Improvement	To be determined following publication of the IICSA report	 Yet to start
Further updates and guidance from IICSA are awaited.			
<b>20. ICT resilience:</b> keep the resilience of ICT provision, and development of digital working solutions, under frequent review to remain aligned with the Council's operating environment during recovery from the pandemic.	Group Manager - ICT	As part of established reporting to the Improvement & Change Sub-Committee	 In progress
An update report was taken to the Improvement & Change Sub-Committee in July 2020, to outline the range of actions taken to increase ICT resilience for the changed working arrangements of most of the Council's staff. Continual monitoring and update reporting to the Sub-Committee will remain in place.			
<b>21. Fair Funding &amp; Business Rates Retention:</b> continue to be active in campaigning for the Fair Funding Review to take place.	Service Director – Finance, Infrastructure & Improvement	Ongoing pending an announcement from Government	 In progress
The 2020/21 Local Government Settlement put this back another year, and Covid-19 has impeded further progress; the Government has not produced anything further, nor has it, or the Local Government Association, called any meetings on the subject. The Comprehensive Spending Review was not published in the autumn due to the impact of the pandemic, with a further one year settlement being put forward for 2021/22.			



**1 February 2021****Agenda Item: 7****REPORT OF THE SERVICE DIRECTOR, CUSTOMERS, GOVERNANCE AND  
EMPLOYEES****WORK PROGRAMME****Purpose of the Report**

1. To review the Committee's work programme for 2021.

**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 items will be added to the programme as they are identified. The meeting dates and agenda items are subject to review in light of the ongoing COVID-19 period.

**Other Options Considered**

4. None

**Reason/s for Recommendation/s**

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

**Statutory and Policy Implications**

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

## **RECOMMENDATION**

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

**Marjorie Toward**

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

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

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### **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 22 JANUARY 2021)**

<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>31 March 2021</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 (item to be confirmed).	Marie Rowney	Jo Kirkby
Use of Councillor's Divisional Fund	To consider the latest six monthly monitoring report and outcomes of sample audit exercise.	Marjorie Toward	Keith Ford
Internal Audit 2020-21 Plan – Term 2 and 2021-22 Plan Term 1	To consider progress in the latest monitoring term and proposed actions in 2021-22 Plan Term 1.	Rob Disney	Simon Lacey
Update on use of the Council's Whistleblowing Policy	To consider the latest update on the use of this policy	Marjorie Toward	Heather Dickinson
Internal Audit Recommendations: Action Tracking	To consider progress against previously agreed internal audit recommendations.	Rob Disney	Simon Lacey
<b>23 June 2021</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 (item to be confirmed).	Marie Rowney	Jo Kirkby
Annual Governance Statement 2020-21	To approve the annual statement.	Rob Disney	Simon Lacey
Assurance Mapping 2020-21	To consider this annual review of progress.	Rob Disney	Simon Lacey
Annual Fraud Report 2020-21	To consider this annual review of progress.	Rob Disney	Simon Lacey
Head of Internal Audit Annual Report 2020-21	To consider the Head of Internal Audit's latest annual report.	Rob Disney	Simon Lacey

