

Governance and Ethics Committee

Wednesday, 31 March 2021 at 10:30

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

AGENDA

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2	Apologies for Absence	
3	Declarations of Interests by Members and Officers:- (see note below) (a) Disclosable Pecuniary Interests (b) Private Interests (pecuniary and non-pecuniary)	
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Notes

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

Customer Services Centre 0300 500 80 80

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

Councillors or Officers requiring clarification on whether to make a declaration of interest are invited to contact 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 **Monday 1 February 2021 (commencing at 2.00 pm)**

membership

Persons absent are marked with 'A'

COUNCILLORS

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

Nicki Brooks
Steve Carr
Kate Foale
John Handley
Errol Henry JP

Rachel Madden
Phil Rostance
Keith Walker
Martin Wright

SUBSTITUTE MEMBERS

None

OFFICERS IN ATTENDANCE

Sara Allmond Rob Disney Jo Kirkby Wade Lowther Nigel Stevenson Marjorie Toward	}	Chief Executive's Department
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Ainsley Macdonnell Adult Social Care and Health Department

1. MINUTES

The Minutes of the last meeting held on 6 January 2021, having been previously circulated, were confirmed and signed by the Chairman.

2. APOLOGIES FOR ABSENCE

None

3. DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

None

4. LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN (LGSCO) DECISIONS – DECEMBER 2020

Jo Kirkby, Team Manager, Complaints and Information introduced the report which informed Members of the latest complaint decisions by the LGSCO. Ainsley Macdonnell, Service Director, Community Services – Living Well responded to questions on the decisions.

RESOLVED: 2021/008

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

5. CORPORATE RISK MANAGEMENT UPDATE

Rob Disney, Group Manager – Assurance and Wade Lowther, Senior Auditor, introduced the report which set out the updated corporate risk register, along with developments in the Council's arrangements for corroborate risk management.

RESOLVED: 2021/009

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

6. QUARTERLY GOVERNANCE UPDATE

Rob Disney, Group Manager – Assurance introduced the report which set out the progress being made with the Governance Action Plan for 2020/21.

RESOLVED: 2021/010

That no further actions were required.

7. WORK PROGRAMME

RESOLVED: 2021/011

That the work programme be agreed, with the addition of an update on virtual meetings and the impact on public engagement in the meetings.

The meeting closed at 2.53 pm.

CHAIRMAN

31 March 2021**Agenda Item: 4****REPORT OF THE SERVICE DIRECTOR FOR CUSTOMERS, GOVERNANCE
AND EMPLOYEES****LOCAL GOVERNMENT & SOCIAL CARE OMBUDSMAN DECISIONS
JANUARY TO FEBRUARY 2021****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 the end of 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 1st February 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/). The decisions are anonymous, but the website can be searched by Council name or subject area.
5. A total of nine decisions relating to the actions of this Council have been made by the Ombudsman in this period. Appendix A to this report summarises the decisions made in each case for ease of reference and Appendix B contains each decision statement in full.
6. Following initial enquires into five cases, the LGSCO decided not to continue with any further investigation for the reasons given in Appendix A.
7. Full investigations were undertaken in four 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. No fault was found in one case relating to the determination of a contractor's tax status, and some fault was found in the Council's response when an Academy decided to close a footpath used by parents accessing an infant school.
9. Two cases related to Adult Social care, one concerned a complex case and a reduction in a care package. Some fault was found and a payment of £500 for distress and anxiety has been made.
10. The other case has been the subject of a Public Report. There are many reasons why the LGSCO might issue a public report. The main reason is because the Ombudsman believes it is in the public interest to highlight particular issues or problems. He might also issue a public report because what went wrong is significant or because the impact on the person complaining is significant.
11. In summary the report (page 21 in Annex B) found that the Council failed to act promptly in assessing the complainant's stepfather's care needs and mental capacity to decide where to live. This meant he may have stayed at a care home longer than necessary and he also accrued a debt of over £15,000, for care fees. It was found that the Council failed to act in his best interests regarding decisions about his care and finances. The Council's actions did not assess his wife's needs as a carer at a time she had said that she was having difficulties being able to cope. The Care Provider continued to pursue her for the fees directly, including threatening bailiff action, which has been a distressing experience.
12. The report made several recommendations which have all been accepted by the Council.
 - Apologise to members of the family
 - The Council has told the Care Provider it will take over responsibility for the outstanding care fees. The Council will pay the outstanding care fees.
 - Make payments to different members of the family
 - Review the reasons for the delays in this case and implement any identified improvements to service.
 - Give relevant staff training on applying the Human Rights Act 1998 to adult social care cases. So that staff are aware when the Articles of the Act might be engaged, and what is required of them to ensure individuals' rights are not unlawfully interfered with. And that the Council documents any consideration it has to the Human Rights Act 1998 in individual cases.

The LGSCO also noted "*The Council has wholeheartedly accepted our recommendations, is committed to improve, and has already started acting on the recommendations. The Council has started improvement work by reviewing its Mental Capacity Act documentation, making necessary changes to it, and issuing guidance to staff. We welcome the Council's commitment to learning from past mistakes*".

13. The Council has fully accepted the findings and recommendations of the Ombudsman final report. Adult Social care have developed an action plan which is attached at Appendix C and includes;

Actions completed:

- Apologies and payments have all been made
- Group Manager and Principal Social Worker have done briefings with the team concerned and are now working with the team on some interactive case studies to assure that all staff both understand and are able to apply relevant legislation.
- The case and reasons for the delays have been investigated internally by a senior manager and the findings from this have informed the action plan.
- Mental Capacity documentation and practice guidance has been reviewed so that it better supports good practice
- Departmental Care Act and Mental Capacity training programme has been reviewed
- A digital platform for a Mental Capacity Community of Practice is in now in place for staff to share skills and raise queries through a live chat forum

Actions planned:

- Article on lessons learnt from this report for the March departmental Practice newsletter
- Ongoing departmental audit process to be in place to assure quality of mental capacity and best interests assessments from March 2021.

14.

Statutory and Policy Implications

15. 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

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

Financial Implications

17. The total financial remedies from the Adult Social care budget is £26,948.01.

Implications for Service Users

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

RECOMMENDATION/S

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

Marjorie Toward

Monitoring Officer and Service Director – Customers, Governance and Employees

For any enquiries about this report please contact:

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 [RWK 10/03/2021]

The decisions detailed in the report and the appendix have resulted in financial remedies totalling £26,948.01 comprising £25,698.01 in waived care fees and £1,250 in compensation payments. These costs will be met from within the budget for adult social care.

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
05.01.2021	20 007 480 page 6	Childrens	Council failed to provide a satisfactory Education Health and Care Plan and failed to ensure complainant is provided with a suitable education.	Matters being considered by a SEND Tribunal
15.02.2021	20 009 408 page 30	Adults	Complainant says Council maliciously and unjustly referred him to Social Work England, alleging exploitation of vulnerable clients.	This is because there is no evidence of fault in the way that the Council made its decision to refer him to SWE
18.02.2021	20 010 286 page 32	Corporate	Council wrongly said a section of complainant's garden is part of the adopted highway.	Only the courts can decide the extent of the highway
23.02.2021	20 006 509 page 34	Adults	Councils decision to recover outstanding fees for the care it commissioned. Complainant said the care home failed to provide appropriate care, resulting in a safeguarding investigation. Request to waive the outstanding care fees, not just those following the safeguarding referral.	Investigation discontinued – Council will waive outstanding care fees - £2,580.30 Contract with care provider suspended.
23.02.2021	20 010 177 page 36	Adults	Late complaint about the Council charging late mother, for respite care she received in 2017.	Complainant could have come to the Ombudsman sooner if she was concerned about the charges. There is no good reason to disapply the law and investigate this late complaint

FULL INVESTIGATIONS

DATE	LGO REF ANNEX PAGE No	PROCEDURE	COMPLAINT SUMMARY	DECISION	RECOMMENDATION	FINANCIAL REMEDY
05.01.2021	19 018 645 page 1	Corporate	Council did not use reasonable care when determining complainants tax status, and did not provide reasons for its determination after a written request.	No fault in decision making process leading to determination. In relation to request for reasons - given the lapse of time, number of	None.	

				parties involved and lack of evidence cannot say whether Council was at fault.		
11.01.2021	19 016 112 page 8	Adults	Complaint about the Council's decision to reduce care package. Complainant says Council changed her care package four times in one year and has significantly reduced the care hours she receives. She also complains the Council contacted her doctor about her mental health without consent.	Fault for not completing a care assessment properly (June 2019) and for not meeting all of Miss X's eligible needs. No fault in October 2019 assessment. Fault found for contacting doctor without consent, but this did not cause a significant injustice.	Apology and payment for distress and anxiety.	£500
15.01.2021	20 000 236 page 15	Corporate	Council did not take action to prevent an Academy School closing a footpath used by parents to access an Infant School.	Some fault - the Council did not properly consider the impact of the closure on users of the path when it decided not to take legal action against the Academy. Also, its initial reply to complaint was misleading.	Apology Seek assurances from the Academy about future plans and notice required of any changes to opening times of gates.	
21.01.2021	19 015 363 page 21	Adults	Council delayed assessing complainant's father's care needs, delayed assessing his mental capacity to decide where to live, and delayed making a decision in his best interests.	Complaints upheld - this is a public report.	<ul style="list-style-type: none"> • Apologise to complainant and family members. • The Council has told the Care Provider it will take over responsibility for the outstanding care fees, so it should stop pursuing family. The Council will pay the outstanding care fees. • Review the reasons for the delays in this case and implement any identified improvements to service. • Give relevant staff training on applying the Human Rights Act 1998 to adult social care cases. 	Payment to service users wife for distress caused by the pursuance of the care fees over the last year, and the distress caused by not having a clear plan for care and support from April to October at a time of carer crisis. £500 Pay complainant

						<p>£250 for time and trouble pursuing the complaint and supporting her parents</p> <p>Figure for the outstanding care fees waived is £23,117.71</p>
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The Ombudsman's final decision

Summary: Mr X complained the Council did not use reasonable care when determining his tax status, and did not provide reasons for its determination after a written request. There was no fault in the process leading to the determination. Although the Council did not respond to the request for reasons, given the lapse of time, number of parties involved and lack of evidence I cannot say whether the Council was at fault.

The complaint

1. Mr X complained the Council did not use reasonable care in reaching its determination that two contracts were "inside" the "off payroll" rules under Her Majesty's Revenue & Customs (HMRC) guidance IR35. He said he believed the Council adopted a blanket approach and did not consider his particular situation.
2. He also complained that the Council did not tell the agency that employed him what the determination was, nor provide its reasons for it after he made a written request for that information.
3. As a consequence, Mr X says he paid too much tax and national insurance contributions. Mr X had to employ accountants to resolve the issue with HMRC, which took many months but the additional tax was refunded and an adjustment made for the national insurance contributions. Mr X also had to pay fees to an intermediary company.

The Ombudsman's role and powers

4. We investigate complaints about 'maladministration' and 'service failure'. In this statement, I have used the word fault to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. I refer to this as 'injustice'. If there has been fault which has caused an injustice, we may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1), as amended*)
5. We cannot 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*)
6. 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*)

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7. Mr X complained to us in February 2020 about the Council's determination on contracts in 2017 and 2018. We would not usually investigate events more than 12 months before the complaint to us. In this case, the Council initially referred Mr X to HMRC, which was appropriate. HMRC did not make a decision on this tax position until 2019, following which Mr X made a formal complaint to the Council. The Council's final response was dated November 2019 and Mr X complained to us within a reasonable time after that. Given that Mr X was actively pursuing the matter throughout, I exercised discretion to investigate. However, given the lapse of time, it has not been possible to obtain all the evidence requested.
 8. When considering complaints, if there is a conflict of evidence, we make findings based on the balance of probabilities. This means that we will weigh up the available relevant evidence and base our findings on what we think was more likely to have happened.
 9. We investigate complaints about councils and certain other bodies. Where an individual, organisation or private company is providing services on behalf of a council, we can investigate complaints about the actions of these providers. (*Local Government Act 1974, section 25(7), as amended*) In this case the Council was carrying out activity to inform decisions made by HMRC. I investigated the Council's actions as these were administrative functions of that authority.
 10. 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

11. I considered:
 - the information provided by Mr X and the Council;
 - relevant law and guidance, as set out below.
12. Mr X and the Council had an opportunity to comment on my draft decision and I considered their comments before making a final decision.

What I found

Relevant law and guidance

13. Her Majesty's Customs and Revenue (HMRC) issued new rules, in a guidance note IR35, which came into effect in April 2017. The rules were intended to prevent workers avoiding being liable for tax by using an intermediary, such as their own personal company. I have called these the "off payroll rules" in this decision.
14. The guidance says if the person was employed by a public sector body, such as a council, that body would determine whether the person was "inside" the "off payroll" rules or not. If they were "inside" the rules, the employer would need to deduct the same tax and NICs as would be the case for normal council employees. For most agency workers employed through an intermediary, this would mean they would pay more tax and NICs.
15. In making the determination, the public sector body would need to consider:
 - whether the person could send a substitute to complete the work;
 - whether the person was directly supervised; and

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- whether the person was required to use their own equipment.
16. In addition, HMRC provided a tool called Check Employment Status for Tax (CEST) which public sector bodies could use to help them make a determination. However, they did not have to use this.
 17. If the person believed they had been taxed incorrectly they could challenge this through their self-assessment tax return, which HMRC will consider.
 18. The rules state the public sector body must provide its reasons for its determination within 31 days of a written request.

What happened

19. Mr X was employed by agency A, which was on a panel of suppliers for agency B. Agency B had a contract with the Council to provide workers across a number of Council service areas. Mr X carried out work for the Council as part of this arrangement. Mr X disputed the Council's determination of his IR35 status on two contracts: the first ran from April to June 2017, and the second from January to June 2018.

Determination of status

20. Mr X said he believed the Council made a blanket decision that all agency workers in his service area would be "*inside*" the "*off payroll*" rules. He said the Council had not used reasonable care in reaching its determination
21. In respect of the 2017 contract, the Council said it:
 - worked with agency B to consider the impact of IR35 on its agency workers;
 - considered all agency workers as individuals, and did not make blanket decisions; and
 - communicated its determination to agency B and agency B communicated with agency workers, or in Mr X's case, agency A.
22. The Council said it considered the three criteria set out at paragraph 15 above. It determined that given Mr X was supervised and managed in his assignments, and it would not have accepted a substitute in his place, he was inside the "*off payroll*" rules and therefore treated as a normal employee for payroll purposes.
23. Although the Council did decide most agency workers were "*inside*" the "*off payroll rules*", I have seen evidence to show the Council considered the position for agency workers individually and did not take a blanket approach.
24. The Council was not able to provide evidence to show when it communicated its determination to agency B or what information was shared at that point. Agency B was not able to provide evidence that it communicated the determination to agency A. However, both the Council and agency B have confirmed that following the determination Mr X asked for an increase in his daily rate to offset the additional tax and national insurance he would incur as a result. The Council declined the request in early April 2017. Mr X says he discussed the matter with a Council officer but the Council has no record of any such discussion.
25. In respect of the 2018 contract, the Council said it made a determination at the time the contract was entered into. It said agency B had confirmed all candidates were made aware of the Council's position on IR35 determinations. It said its reasons for its determination in 2018 were the same as in 2017.

Provision of reasons for the determination

26. Mr X said he initially requested information about his IR35 status from his line manager at the Council on 16 March 2017. I have seen his email, which asked whether the Council had used the HMRC CEST tool. He said he had run the test himself, with the result he was “outside” the IR35 rules. He said if that was not the case, the contract would not be viable for him. During the complaint process, Mr X said he was told to either accept the amended contract terms or leave at the end of March 2017.
27. After contacting HMRC, he made a formal written request to agency A on 11 May 2017. Agency A confirmed, in mid July 2017, that the Council had not provided specific reasons “*per role or candidate*”.
28. The Council says it has no record of a request from agency A for written reasons for its determination. Agency B was not able to identify and provide copies of emails to show whether it received a request and passed it on to the Council. This was because a key employee was no longer working for it and it was necessary to access archives and email Inboxes. It could not confirm the evidence still existed.

My findings

Determination of status

29. It is not my role to say whether the Council’s determinations in 2017 and 2018 were correct. The fact that HMRC later took a different view does not on its own mean the Council’s original’s determinations were made with fault.
30. I have considered the decision-making process. The Council considered the correct criteria when making its determinations. It provided evidence to show it considered each agency worker individually and did not make a blanket decision.
31. On balance, I find it probably communicated its determination in 2017 to agency B, which communicated it to agency A. As a result, Mr X asked for an increase in his daily rate, which was not agreed. There was no fault in the decision-making process.
32. In 2018, Mr X was aware of the basis on which the Council he would be working for the Council.

Reasons for the determination

33. Mr X made a written request to agency A for the Council’s reasons for its determination. I have not seen evidence to show agency A passed on this request to agency B but have no reason to doubt that it did so.
34. I have not been able to obtain records from agency B to show whether it received the request from agency A and, if it did, whether it passed on that request to the Council. The Council said it did not receive a request from agency A. However, it is more likely it would have received the request from agency B.
35. Agency A said, in July 2017, it had not received specific reasons for the determination in Mr X’s case.
36. The rules state the public sector body must provide its reasons for its determination within 31 days of a written request. On balance, I consider the request was probably made to agency B, although I cannot confirm agency B received it, but if it did, either agency B did not pass on the request or the Council overlooked responding to it. Given the passage of time, lack of records and the

involvement of multiple organisations, I cannot say, even on the balance of probabilities, that there was fault by the Council.

37. Although the failure to provide written reasons caused frustration for Mr X and uncertainty about whether the Council had used reasonable care in reaching its determination, I cannot say this was because of fault by the Council.

Final decision

38. I have completed my investigation. I have not made findings of fault.

Investigator's decision on behalf of the Ombudsman

The Ombudsman's final decision

Summary: We cannot investigate Miss X's complaint about the adequacy of an Education Health and Care Plan as the Tribunal is considering this. We will not investigate whether any Council delays caused Miss X an injustice until the Tribunal finishes and the final needed provision is known.

The complaint

1. The complainant, whom I shall call Miss X, says the Council failed to provide a satisfactory Education Health and Care Plan (EHC Plan) and failed to ensure she is provided with a suitable education.

The Ombudsman's role and powers

2. We cannot investigate a complaint if someone has appealed to a tribunal or a government minister or started court action about the matter. (*Local Government Act 1974, section 26(6), as amended*)
3. SEND is a tribunal that considers special educational needs. (*The Special Educational Needs and Disability Tribunal ('SEND')*)
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:
 - the fault has not caused injustice to the person who complained, or
 - the injustice is not significant enough to justify the cost of our involvement. (*Local Government Act 1974, section 24A(6), as amended*)

How I considered this complaint

5. I considered the information Miss X provided with her complaint. Miss X had the opportunity to comment on a draft version of this decision.

What I found

6. Miss X has an EHC Plan. A child with special educational needs may have an Education, Health and Care (EHC) plan. This sets out the child's needs and what arrangements should be made to meet them. The EHC plan is set out in sections.

We cannot direct changes to the sections about education, or name a different school. Only the Tribunal can do this. The Council is responsible for making sure that arrangements specified in the EHC plan are put in place. We can look at complaints about this, such as where support set out in the EHC plan has not been provided, or where there have been delays in the process.

7. The Council held Miss X's EHC Plan annual review in January 2020. Miss X says it then delayed in producing an amended EHC Plan and in particular that it did not name a suitable placement to start in September 2020. She says she has not been provided with the education she should have had as a result and the uncertainty affected her health.
8. Miss X appealed the EHC Plan to SEND. It is still considering the case.

Analysis

9. We cannot consider the same issues the Tribunal is. This means we cannot investigate if the EHC Plan is worded appropriately or if it names the right setting for Miss X's education.
10. We could not work out any injustice to Miss X caused by delays in providing the EHC Plan until the Tribunal's decision is known. This is because we cannot know what Miss X has missed until we know what she should have received.

Final decision

11. We will not and cannot investigate this complaint. This is because the Tribunal is still considering the case.

Investigator's decision on behalf of the Ombudsman

The Ombudsman's final decision

Summary: Miss X complains about the Council's decision to reduce her care package. She also complains the Council contacted her doctor about her mental health without consent. We find fault with the Council for not completing a care assessment properly and for not meeting all of Miss X's eligible needs. We also find fault with the Council for contacting Miss X's doctor without consent, but this did not cause a significant injustice.

The complaint

1. Miss X complains about the Council's decision to reduce her care package. She says the Council changed her care package four times in one year and has significantly reduced the care hours she receives. She also complains the Council contacted her doctor about her mental health without consent. Miss X says the Council's actions have caused her distress and caused her health to worsen.

The Ombudsman's role and powers

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

How I considered this complaint

5. I spoke with Miss X and considered the information she provided.
6. I made enquiries with the Council and considered the information it provided.
7. I sent a draft decision to Miss X and the Council and considered their comments.

What I found

Legislation and guidance

8. Councils must carry out an assessment for any adult who appears to have a need for care and support. Decisions made by councils about whether someone's needs are eligible for care and support must be made on the basis of an assessment. (*The Care Act 2014*)
9. The purpose of an assessment is to identify the person's needs, how they impact on the person's wellbeing, and the outcomes the person wishes to achieve in day-to-day life. Assessments provide a full picture of the person's needs. (*Care and Support Statutory Guidance, Sections 6.5, 6.9, 6.12 and 6.13*)
10. In considering whether an adult with care and support needs has eligible needs, councils must consider whether:
 - The adult's needs arise from or are related to a physical or mental impairment or illness.
 - As a result of the adult's needs the adult is unable to achieve 2 or more of the specified outcomes (described below).
 - As a consequence of being unable to achieve these outcomes, there is a significant impact on the adult's wellbeing.
11. The outcome areas are:
 - Managing and maintaining nutrition
 - Maintaining personal hygiene
 - Managing toilet needs.
 - Being appropriately clothed.
 - Being able to make use of the home safely
 - Maintaining a habitable home environment: councils should consider whether the condition of the adult's home is sufficiently clean and maintained to be safe.
 - Developing and maintaining family or other personal relationships: councils should consider whether the adult is lonely or isolated, because their needs prevent them from developing or maintaining personal relationships.
 - Accessing and engaging in work, training, education or volunteering.
 - Making use of necessary facilities or services in the local community including public transport and recreational facilities or services.
 - Carrying out any caring responsibilities the adult has for a child.
12. If the council identifies eligible needs through an assessment, it has a duty to meet those needs. (*The Care Act 2014, section 18*)
13. The law does not set a timescale for local authorities to complete an assessment. However, statutory guidance says it should be carried out over an appropriate and reasonable timescale.
14. When a person has eligible needs, councils should provide a care and support plan which sets out what needs a person has, what they want to achieve and what they are able to do by themselves or with existing support. The plan should include a personal budget which is the money the council has calculated that it will cost to arrange the necessary care and support for the person.

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15. Section 27 of the Care Act 2014 gives an expectation that councils should conduct a review of a care and support plan at least every 12 months. The authority should consider a light touch review six to eight weeks after agreement and signing off the plan and personal budget. It should carry out the review as quickly as is reasonably practicable in a timely manner proportionate to the needs to be met. As well as the duty to keep plans under review generally, the Act puts a duty on councils to conduct a review if the adult or a person acting on the adult's behalf asks for one.

What happened

16. Miss X has a long-term neurological condition which affects her mobility and muscles. Miss X's condition causes fluctuating needs. She lives with two of her children and her partner. The back of Miss X's property has been adapted to meet her needs.
17. In April 2019, the Council completed a care plan which set out Miss X had eligible needs in all outcome areas. It also set out the Council would provide Miss X with support for:
- personal care;
 - meal preparation;
 - essential cleaning of the home
 - accessing the community; and
 - parenting, such as getting the youngest child ready for school and taking them to school.
18. The Council provided 21.5 hours of support each week to meet Miss X's eligible needs. This included hours for a personal assistant to support Miss X. The Council later amended the care plan and increased Miss X's support hours to 26.5 hours a week.
19. The records showed the Council arranged for a care agency to provide the support hours.
20. In May 2019, the records showed Miss X cancelled the visits from the care agency. The records noted Miss X was unhappy with her carers and felt the carers were not meeting her needs. Miss X told the Council she would recruit a personal assistant. The social worker asked Miss X what support she would need in the meantime, but it was noted Miss X said she would manage.
21. The social worker tried to arrange a meeting between Miss X, the Council and the care agency to discuss the problems Miss X had. However, Miss X cancelled the meeting that was arranged. The evidence suggests Miss X received no support in May 2019 after she cancelled the care agency visits.
22. In June 2019, the Council completed a reassessment of Miss X's care needs. The case records noted Miss X told the social worker mornings were the worst time of day for her. She said on a typical day she struggles in the morning to undertake all tasks. It was also noted Miss X told the social worker she was struggling to keep on top of running the house and needed support after school.
23. The assessment noted Miss X could not shop independently and that Miss X had some difficulty with:
- Preparing meals and drinks, eating, and drinking.
 - Washing herself.

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- Washing and drying clothes.
 - Getting to the toilet and managing her continence.
 - Dressing and undressing.
 - Getting out of bed and getting up from sitting.
 - Using the stairs.
 - Keeping the house clean and safe.
24. The Council completed Miss X's care plan in July 2019. The care plan noted Miss X had eligible needs in the following outcome areas:
- Maintaining a habitable home environment
 - Making use of necessary facilities
 - Carrying out caring responsibilities for a child.
25. The care plan set out the Council would provide around 13.5 hours a week of child minder support to help Miss X with her youngest child. The Council removed the rest of the support hours Miss X received to support her.
26. The case records noted the Council did not consider it was suitable for Miss X to have a personal assistant as Miss X was able to meet a lot of her needs. It noted that the Council discussed with Miss X that she had found it intrusive to have carers coming in and out of her home. The Council noted there was agreement with Miss X that the care package with the carers had not worked because it caused Miss X stress and anxiety.
27. At the end of July and August 2019, there is evidence the social worker tried to work with Miss X to provide support in other ways, such as through assistive technology. Miss X turned this down due to the cost and because she said she could not use it effectively.
28. There is also evidence the social worker discussed Miss X's needs with her doctor and nurse. There is no record of the Council asking Miss X's doctor for any information regarding her mental health. The Council said there was no evidence it had asked Miss X for consent to contact her doctor.
29. In September 2019, Miss X complained about the Council's reduction of her support hours. Following her complaint, the Council agreed to provide Miss X with three hours for a personal assistant. This was to support Miss X with maintaining her home and shopping.
30. In October 2019, the Council offered Miss X a short-term assessment and reablement team intervention (START). The purpose of this was to identify what Miss X could do and what areas could be worked on. The Council's records noted Miss X decline this as the team could only offer an early morning assessment time. Miss X said she did not decline it but was advised this option would not benefit her. Miss X did not specify who told her this.
31. In mid-October 2019, the Council reassessed Miss X. The assessment noted Miss X was not independent with shopping and getting to and using community leisure facilities. The assessment also noted Miss X had significant difficulty, or some difficulty, with:
- Washing herself
 - Dressing and undressing.

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- Getting to the toilet and managing her continence.
 - Preparing meals and drinks, eating, and drinking.
 - Washing and drying clothes.
 - Get in and around her home.
 - Getting out of bed.
 - Using the stairs.
 - Keeping the house clean and safe.
 - Meeting and making friends.
32. The Council completed Miss X's care plan in October 2019. The care plan noted Miss X had eligible needs in the following outcome areas:
- Maintaining a habitable home environment
 - Making use of necessary facilities
 - Carrying out caring responsibilities for a child.
33. The care plan set out the Council would continue to provide 13.5 hours of child minder support. The Council also provided Miss X with support hours for cleaning, community support, and personal care. Totalling 6.5 hours a week.
34. In December 2019, the Council reassessed Miss X. The Council's assessment noted Miss X had significant difficulty, or some difficulty, with the same areas as in the October 2019 assessment.
35. In mid-December 2019, the Council met with Miss X to discuss her assessment. The Council said it needed to complete a START assessment, which would take place over two weeks, so that it had a better idea of Miss X's needs. This was due to Miss X's condition causing her needs to fluctuate depending on if she was having a good or bad day. Miss X agreed to this.
36. The Council completed the START assessment in mid-January 2020. The Council's occupational therapist observed Miss X's capabilities over two weeks. The Council completed the support plan in February 2020.

Analysis

37. In April 2019, the evidence shows Miss X had a care plan which set out the Council would provide 26.5 hours of support per week to meet Miss X's eligible needs. The Council was not able to provide a copy of the assessment which led to this care plan.
38. There is evidence Miss X cancelled the care agency that was providing her with the support hours in May 2019. The evidence also suggests Miss X received no support in May 2019 after she cancelled the care agency.
39. The records outlined a discussion between the social worker and Miss X about how it was not appropriate for Miss X to have a personal assistant as she was able to meet most of her needs and because the care package had not worked in April 2019.
40. However, the evidence shows the Council's assessment in June 2019 noted Miss X had some difficulty in most outcome areas and noted Miss X could not shop independently. The evidence also shows Miss X told the social worker she struggled in the morning and to keep on top of running the house. There is no evidence Miss X told the Council her abilities or condition had improved.

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41. Miss X's care plan in July 2019 noted she had eligible needs in three outcome areas. However, the care plan only provided support to meet Miss X's needs in one outcome area, carrying out caring responsibilities for a child.
 42. The evidence shows the social worker was trying to put in place support in other ways, not just through a traditional care package. However, these were not successful. This effectively means some of Miss X's eligible needs were not met until October 2019, when Miss X was reassessed. The law is clear that if the Council identifies eligible needs, it has a duty to meet those needs. This is fault.
 43. Further, it is not clear from the evidence what had changed between April 2019 and June 2019 to cause Miss X's eligible needs to change. The evidence available shows Miss X told the Council she still struggled with most tasks and that she needed support.
 44. The case records do suggest Miss X went without any support in May 2019. However, if this impacted on the social worker's assessment of Miss X's eligible needs, this information should be clearly highlighted in the assessment.
 45. Therefore, it is not clear from the evidence how the Council made its decisions as there is no evidence to suggest Miss X's condition or abilities had improved since April 2019. Therefore, I am not satisfied the Council completed its assessment of Miss X's care and support needs in June 2019 properly. This is fault.
 46. I also find fault with the Council for not considering a light touch review following the implementation of the new care plan in July 2019. Given the large reduction in support hours, it would have been appropriate for the Council to review the care plan within six to eight weeks to see how Miss X was coping without the support hours she had previously received.
 47. I consider the faults identified has caused Miss X an injustice. I cannot say on balance what support the Council would have put in place had it completed its assessment properly in June 2019. This has therefore caused some uncertainty as to whether Miss X received the support she needed. I also consider the faults identified caused Miss X some distress and anxiety regarding how her eligible needs were going to be met by the Council.
 48. The October 2019 assessment shows the Council had assessed Miss X to have greater difficulty in some outcome areas, when compared with the June 2019 assessment. The assessment notes Miss X's views on the things she struggled with and how things had changed since the June 2019 assessment.
 49. Therefore, I do not find fault with the Council's October 2019 assessment as it is clear from the evidence how the Council made its decisions. The Council was entitled to decide what Miss X's eligible needs are as it has properly assessed Miss X.
 50. I also do not find fault with the Council's care plan in October 2019. This is because the Council provided some support hours to meet Miss X's other eligible need. Therefore, I am satisfied the Council met its duty to meet the eligible needs it identified during the October 2019 assessment.
 51. The Council has recently completed a START assessment for Miss X and issued her with a new care plan. These matters occurred after Miss X submitted her complaint to the Ombudsman. Therefore, I have not considered the Council's START assessment or most recent care plan.

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52. If Miss X is unhappy about her most recent care plan, it would be open to her to make a new complaint to the Council to consider. If she is unhappy with the Council's response, she can make a new complaint to the Ombudsman.
53. Miss X said the Council contacted her doctor about her mental health without her consent. The available evidence does suggest the Council contacted Miss X's doctor without her consent. However, there is no evidence the Council contacted Miss X's doctor to discuss or get information about her mental health.
54. I find fault with the Council for contacting Miss X's doctor without her consent or knowledge. The Council may have had good reason to contact Miss X's doctor without her consent. However, it would be good practice for the Council to record its reasons for not getting Miss X's consent before making its enquiries.
55. I acknowledge Miss X was unhappy the Council contacted her doctor. However, the Council did not share any sensitive information about Miss X and asked her doctor for relevant information to help inform its assessment. The Council also told Miss X it had contacted her doctor a few days later. Therefore, I do not consider the fault identified caused Miss X any significant injustice.

Agreed action

56. To remedy the injustice caused by the faults identified, the Council has agreed to complete the following:
- Apologise to Miss X for the injustice caused by the faults identified.
 - Pay Miss X £500 to recognise the distress, anxiety, and uncertainty caused by the faults identified.
57. The Council should complete the above within four weeks of the final decision.

Final decision

58. I find fault with the Council for not completing the June 2019 assessment properly and for not meeting all of Miss X's eligible needs. I also find fault with the Council for contacting Miss X's doctor without consent, but this did not cause a significant injustice. The Council has agreed to my recommendations. Therefore, I have completed my investigation.

Investigator's decision on behalf of the Ombudsman

The Ombudsman's final decision

Summary: Mr B complains the Council did not take action to prevent an Academy School closing a footpath used by parents to access an Infant School. We uphold the complaint finding the Council did not properly consider the impact of the closure on users of the path when it decided not to take legal action against the Academy. We also its reply to Mr B's complaint was misleading. These faults caused Mr B injustice. Because it is uncertain if the Council would have taken the same approach but for its fault and he was put to unnecessary time and trouble in this matter. The Council accepts these findings and at the end of this statement we set out action it has agreed to remedy this injustice.

The complaint

1. I have called the complainant 'Mr B'. His complaint concerns the decision taken by an Academy School to change the times when it locked gates which allowed access to a path running across its grounds on land formerly owned by the Council. He complains the Council is at fault for not taking action to prevent this. Mr B believes the Council had the power to do so as it transferred the land to the Academy's predecessor (a Foundation School). The deed of transfer required the path remain accessible at "*all reasonable times*" to allow parents and pupils access to a neighbouring Infant and Nursery School.
2. Mr B says as a result he has experienced inconvenience in having to use a longer walking route to accompany a child to the Infant and Nursery School. He also considers the Council's actions disadvantage other users of the path, including potentially those with disabilities or who use pushchairs.

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. 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*)

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

How I considered this complaint

6. Before issuing this decision statement I considered:
- Mr B's written complaint to the Ombudsman and any supporting information he provided. I also spoke to Mr B by telephone to clarify my understanding of his complaint.
 - Correspondence exchanged between Mr B and the Council about the subject of his complaint, which pre-dated my investigation.
 - Information provided by the Council in reply to our enquiries. This included legal advice it sought about the issue at the crux of this complaint.
 - Comments made by Mr B and the Council in response to a draft decision statement where I set out my provisional thinking about the complaint.

What I found

Key facts

7. Mr B accompanies a child to a local Infant and Nursery School. This forms one half of a Primary School located on a split site, with the Junior School forming the other half. Between the two sites are the grounds of what is now an Academy (previously a Foundation School). Across those grounds runs a footpath used by parents and pupils moving between the two sites. There are gates at either end of the footpath where it crosses the Academy grounds (and another gate allowing access from another location). When locked, the walking route between the two primary school sites involves a significant diversion using local roads.
8. Until February 2019 the gates on the footpath were kept open until Infant School hours began. Further the footpath had temporary fencing running alongside it, meaning that pedestrians using it could not access the Academy across its grounds.
9. In February 2019 that temporary fencing came down. The Academy took the decision to lock the gates at either end of the footpath when its school day began, around half an hour before that of the Infant School. Before taking this decision the Academy had consulted with the primary school and neither of its headteachers objected. But parents affected received only limited notice of the change and the Academy did not consult with the Council.
10. The Academy says it took this decision to safeguard pupils on its site. It highlighted a concern that once it removed the temporary fencing there was nothing to stop an intruder crossing the grounds and gaining unauthorised access to its buildings.
11. When Mr B learnt of the Academy's actions he complained directly to it and alerted the Council. A senior officer in the Council's Children's Services contacted the Academy within a few days and questioned its actions. The Council said "*it was not in the Academy's gift*" to take this decision unilaterally. The Council took this view because it had previously owned the land across which the footpath runs. It had transferred this to the Academy's predecessor in title, the Foundation School. In doing so it had placed a covenant in the transfer agreement requiring

the Foundation School maintain access along the path to the Infant School, at *“all reasonable times by day and night”*.

12. The Academy argued its actions were reasonable. Despite the Council contacting it shortly before the decision to close the gates early took effect, the Academy proceeded with this action. It told the Council it had consulted the Primary School headteachers. But the Council repeated it considered its actions unsatisfactory. In a further email sent in February 2019 it said this was because the Academy had not consulted with it *“or parents”*.
13. I have not identified that any communications followed between Council and the Academy until July 2019 when two Health and Safety specialist officers working for the Council visited the Academy. But I noted in June 2019 a meeting held at the Academy recorded the view that it faced being *“sued”* by the Council for its actions.
14. The July 2019 report concluded the actions of the Academy reasonable, taking account of its safeguarding concerns. That report did not consider the impact of closure of the gates on parents or pupils using the path to access the Infant School.
15. In August 2019 the Council sought legal advice. This confirmed it had the power to go to Court and seek to enforce the covenant. It could ask the Court for a declaration requiring the Academy to keep the gates open long enough to enable parents and pupils to access the Infant School for the start of its school day. But such action was at its discretion.
16. Later that month the Council corresponded with the Infant School. Its headteacher confirmed the Academy had told it of its intent to close the gates earlier in the morning before it took this action. They confirmed the Infant School had not objected at the time and nor did it object at the time of the Council’s enquiry. The Infant School said it knew of only two parents unhappy with the decision. Separately the Academy had commented to the Council that it was only aware of Mr B’s dissatisfaction with its decision. While the Council says it has only received one complaint about this matter, from Mr B.
17. The Council also took further legal advice, although this was not confirmed in writing until November 2019. This second legal advice considered the extent to which the Council’s overall duty to have regard to the safeguarding of children impacted on the initial legal advice given. The legal advice did not change in respect that the Council still had the power to go to Court and seek a declaration requiring the gates remain open longer in the morning. However, the decision to seek such a declaration remained at its discretion.
18. Before receiving confirmation of this advice in writing, the Council had already written to Mr B saying it did not plan on taking further action. In October 2019 it wrote to him saying that in view of the Infant School’s position it did not consider it reasonable to take further action. It said this was because the covenant was for the benefit of that school and it did not object to the Academy’s actions.
19. Later, Mr B also made a complaint to the Council. In its reply the Council again defended its actions saying:
 - the issue raised by Mr B was not one *“our complaints process would pick up [...] as the area of land is neither owned, maintained or controlled by the Council”*;
 - the Academy had the *“prerogative”* to close the path on safeguarding grounds;

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- the Infant School had supported the Academy's decision.
20. I have noted that separately Mr B also corresponded with the Council's Countryside Access Team, who process requests to register footpaths as public rights of way. He asked if it was possible to "*dedicate a private right of way*" in favour of a specific purpose, to allow parents and pupils access to the Infant School. That Team has told Mr B there is no procedure to do this. I understand Mr B accepts this advice and he has not sought to prolong this correspondence. I will not return to this matter in my findings below.
21. During this investigation Mr B told me the gates had re-opened for longer hours in response to measures taken to secure the safe passage of children during the COVID-19 pandemic. Subsequently the Academy has erected new perimeter fencing and the path to the Infant School has now re-opened at the earlier time. The path takes a slightly different route to previously and is narrower as a result of how the fencing has been erected.
22. In comments on a draft of this decision the Council asked me to take account of various legislation including sections from the School Standards Framework Act 1998 and the Education Act 2002. The passages it quoted refer in general terms to the powers of school governing bodies, consultation arrangements and schools' safeguarding duties.

Findings

23. I find the Council had no adequate warning of the Academy's decision to restrict the opening times of the gates serving the footpath in February 2019. The Council therefore had no opportunity to question or object to this course of action. I also find that when it learnt of the Academy's actions the Council did as I might expect. It questioned with the Academy why it had taken this step and registered its unhappiness at not being consulted. I find no fault in its immediate response and in entering this correspondence with the Academy.
24. But when it became clear the Academy did not intend to change its actions, the Council had to decide what to do next. I find there is little information that sheds light on the Council's thinking between March and June 2019, but it appears in this time to have viewed the Academy's actions unacceptable. It gave the Academy reason to believe it would take legal action. I am satisfied from reading the legal advice it later received, the Council could have had such recourse if it chose.
25. However, that decision was at the Council's discretion. It was never obliged to take legal action to require the gates stay open longer. I am satisfied two factors persuaded the Council not to do so. The first being that it accepted the Academy had legitimate child safeguarding concerns. The second being that the Primary School and particularly the Infant School did not object to the Academy's actions.
26. I explained above the role of the Ombudsman is not to criticise a Council's decision on the basis that a complainant disagrees with it. So long as the Council has made its decision properly we have no reason to fault it. A 'proper' decision in this context is one that has taken account of relevant matters and not taken account of anything irrelevant.
27. In this case I consider the matters referred to at paragraph 25 are relevant to the Council's decision. I also accept that in taking this decision it was relevant for the Council to consider the legislation it has referred to. Although I also note all this legislation was in place at the time it transferred land to the Academy's

predecessor in title, the Foundation School. So, none of this legislation prevented the Council having discretion to seek to enforce the covenant if it chose.

28. I am also satisfied the Council took nothing irrelevant into account. But I find it did not take account of one further relevant factor. It did not consider the impact of the early closure of the gates on parents (and by implication pupils) who used the footpath. This was despite it identifying in February 2019 the Academy did not appear to have taken the needs of this group into account.
29. I cannot see the Council ever returned to consider this issue further. I note that only Mr B appears to have pursued a complaint about the early closure of the gates. I find this may indicate few parents were inconvenienced or dissatisfied with the Academy's actions. However, I do not think this can be assumed. I also do not think it follows that just because the Infant School Headteacher did not object that they spoke for parents who were not consulted. I note there is no evidence the Infant School undertook its own consultation on the earlier closure times, for example.
30. I note the Council undertook a comprehensive study to understand why the Academy closed the gates early. I make no criticism of that. It wanted to understand the 'pros' of the Academy's decision. But it should also have made a similarly detailed study of the potential 'cons' – namely the impact on parents and pupils of closing the gates early. It should have considered the inevitable inconvenience caused to some users of the path, including any impact on disabled users. One way the Council could have done this was by approaching this matter 'as if' it owned the land. In which case I am sure it would have considered its duty to consult on such a change and considered its duties under the Equality Act. It should have weighed such considerations in the balance before making its decision on legal action. It did not do this. This was a fault.
31. I cannot say if taking better account of footpath users would have led the Council to a different decision on the merits of taking legal action. But nor can I rule out that it might have done. We regard such uncertainty as an injustice.
32. I have gone on next to consider how the Council answered Mr B's complaint. I consider it was wrong for it to say the matter he wanted to complain about was not one falling under its complaint procedures. His complaint engaged with decisions and actions taken by its Property Services and Children's Services, both of whom clearly knew of the Council's power to potentially pursue legal action against the Academy.
33. It was also wrong to say the Academy had the 'prerogative' to close the gates when it wished. This might imply the Academy could close the gates when it liked. This is not what the covenant said. It is only reserved to the Academy to close the gates at reasonable times. The Council could say it considered the Academy complied with this, but it should not have implied the Academy had unfettered rights over the gates. Its choice of language was poor here.
34. The Ombudsman expects local authorities to be open and transparent in their communications with those who complain. I find this response potentially misleading on these two counts as combined they implied there was nothing the Council could do about the Academy's actions. This is not the case. It used its discretion not to take legal action, which is a different matter. It is the difference between choosing not to take a course of action rather than being unable to. By giving the wrong impression the Council failed to meet the standard we expect. That justifies a second finding of fault.

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35. The injustice this has caused Mr B is that of some understandable and avoidable time, trouble and frustration in pursuing his complaint.
36. I welcome that since Mr B made his complaint events have moved on and a solution has been found which has led to the re-opening of the path at the earlier time. I note that has resulted in a slight re-routing of the path and its narrowing in places. The Council is invited to consider the implications of these actions. But it outside the scope of this investigation for me to express any view on these matters.

Agreed action

37. In paragraphs 31 and 35 above I have set out where I consider fault by the Council caused Mr B an injustice. The Council accepts this finding. In order to remedy this injustice, it has agreed that within 20 working days of this decision it will:
- a) apologise to Mr B accepting the findings of this investigation;
 - b) seek assurance from the Academy about whether it has any plans to change the opening times of the gates in future. In making such contact the Council will set out what it considers would be sufficient notice of any such plans that would enable it to consider the merits of such changes before they are enacted. This is specifically to allow for consideration of the needs of the users of the footpath in any decision.

Final decision

38. For reasons set out above I uphold this complaint finding fault by the Council causing injustice to Mr B. I am satisfied the Council has agreed action that will remedy this injustice. Consequently, have completed my investigation satisfied with its response.

Investigator's decision on behalf of the Ombudsman

**Report by the Local Government and Social Care
Ombudsman**

**Investigation into a complaint against
Nottinghamshire County Council
(reference number: 19 015 363)**

27 January 2021

The Ombudsman's role

For more than 40 years the Ombudsman has independently and impartially investigated complaints. We effectively resolve disputes about councils and other bodies in our jurisdiction by recommending redress which is proportionate, appropriate and reasonable based on all the facts of the complaint. Our service is free of charge.

Each case which comes to the Ombudsman is different and we take the individual needs and circumstances of the person complaining to us into account when we make recommendations to remedy injustice caused by fault.

We have no legal power to force councils to follow our recommendations, but they almost always do. Some of the things we might ask a council to do are:

- > apologise
- > pay a financial remedy
- > improve its procedures so similar problems don't happen again.

Section 30 of the 1974 Local Government Act says that a report should not normally name or identify any person. The people involved in this complaint are referred to by a letter or job role.

Key to names used

Ms B	The complainant
Mrs D	Her mother
Mr D	Her father (the user of the service)

Report summary

Adult social care

Ms B complained the Council delayed assessing her father's (Mr D) care needs, delayed assessing his mental capacity to decide where to live, and delayed making a decision in his best interests. We have upheld these complaints. This meant Mr D stayed at a care home longer than necessary and has a debt of over £15,000, for care fees which he cannot afford to pay because the Council failed to act in his best interests. The Council's actions also had an impact on Ms B's mother (Mrs D) at a time she was suffering carer crisis. The Care Provider has pursued her for the fees, including threatening bailiff action, which has been distressing.

Finding

We found fault causing injustice and made recommendations.

Recommendations

To remedy the injustice caused, the Council will take the following action, within three months of the date of this report.

- Apologise to Mr D, Mrs D and Ms B for:
 - its delay completing an assessment of Mr D's care and support needs;
 - its delay completing an assessment of Mr D's mental capacity;
 - its delay completing a best interests decision for Mr D;
 - failing to consider whether it was necessary and proportionate for Mr D to remain away from home, given his human right to enjoy his home peacefully; and
 - failing to adequately support Mrs D at a time of carer crisis.
- The Council has told the Care Provider it will take over responsibility for the outstanding care fees, so it should stop pursuing Mrs D. The Council will pay the outstanding care fees.
- Pay Mrs D £500 to acknowledge the distress caused by the pursuance of the care fees over the last year, and the distress caused by not having a clear plan for Mr D's care and support from April to October at a time of carer crisis.
- Pay Ms B £250 to acknowledge her time and trouble pursuing the complaint and supporting her parents at a time there was no clear plan for Mr D's care and support.
- Review the reasons for the delays in this case and implement any identified improvements to service.
- Give relevant staff training on applying the Human Rights Act 1998 to adult social care cases. So that staff are aware when the Articles of the Act might be engaged, and what is required of them to ensure individuals' rights are not unlawfully interfered with. And that the Council documents any consideration it has to the Human Rights Act 1998 in individual cases.

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The Council has wholeheartedly accepted our recommendations, is committed to improve, and has already started acting on the recommendations. The Council has started improvement work by reviewing its Mental Capacity Act documentation, making necessary changes to it, and issuing guidance to staff. We welcome the Council's commitment to learning from past mistakes.

The complaint

1. Ms B complained on behalf of Mr D that the Council:
 - delayed assessing Mr D's care needs, did not assess his mental capacity and failed to hold a best interests meeting;
 - failed to inform Mr D's family about charges for care; and
 - wrongly applied charges for a period when Mr D was in a care home and wrongly pursued the family for these charges.
2. Mr D now has a large debt which he cannot afford to pay back. The Care Provider has pursued Mr D's wife, Mrs D, for over a year for care charges which now stand at over £15,000. Mrs D is very distressed, especially when threatened with bailiff action. Ms B has spent a lot of time trying to resolve the issues and support her parents.

Legal and administrative background

The Ombudsman's role and powers

3. We investigate complaints about 'maladministration' and 'service failure'. In this report, we 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. We 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*)

Relevant law and guidance

The Care Act 2014

4. A council must carry out an assessment for any adult with an appearance of need for care and support, applying national criteria to decide if a person is eligible for care. (*Care Act 2014, section 9*)
5. If a council decides a person is eligible for care, it should prepare a care and support plan which specifies the needs identified in the assessment, says whether and to what extent the needs meet the eligibility criteria and specifies the needs the council is going to meet and how this will be done. The council should give a copy of the care and support plan to the person. (*Care Act 2014, sections 24 and 25*)

The Mental Capacity Act 2005 and Code of Practice to the Mental Capacity Act

6. A person lacks mental capacity to make a decision if they have a temporary or permanent impairment or disturbance of the brain or mind and they cannot make a specific decision because they are unable to:
 - understand and retain relevant information;
 - weigh that information as part of the decision-making process; or
 - communicate the decision (whether by talking using sign language or other means.) (*Mental Capacity Act, 2005 section 3*)
7. The Code of Practice to the Mental Capacity Act (the Code) is statutory guidance which councils must have regard to. The Code sets out the principles for making decisions for adults who lack mental capacity. An assessment of a person's

mental capacity is required where their capacity is in doubt. (*Code of Practice paragraph 4.34*)

8. Decisions taken for a person lacking mental capacity must be in their best interests. The Mental Capacity Act and the Code provide a checklist of factors decision-makers must work through when deciding what is in a person's best interests.
 - Take into account all relevant circumstances.
 - If faced with a particularly difficult or contentious decision, practitioners should adopt a 'balance sheet' approach.
 - Involve the individual as fully as possible.
 - Take into account the individual's past and present wishes and feelings, and any beliefs and values likely to have a bearing on the decision.
 - Consult as far and as widely as possible.
 - Record the best interests decision. Not only is this good professional practice, but decision-makers will need an objective record should the decision or decision-making processes later be challenged.
9. A decision-maker should consider the least restrictive option. This means before a person acts or makes a decision for someone who lacks capacity, they should consider if the purpose can be achieved in a way that is less restrictive of the person's rights and freedoms. (*Mental Capacity Act 2005, section 1*)

The Human Rights Act 1998

10. The Human Rights Act 1998 brought the rights in the European Convention on human rights into UK law. Public bodies, including councils, must act in a way to respect and protect human rights. It is unlawful for a public body to act in a way which is incompatible with a human right. (*Human Rights Act 1998, section 6*)
11. It is not our role to decide whether a person's human rights have been breached. This is for the courts. We decide whether there has been fault causing injustice. Where relevant, we consider whether a council has acted in line with legal obligations in section 6 of the Human Rights Act. We may find fault where a council cannot evidence it had regard to a person's human rights or if it cannot justify an interference with a qualified right.
12. The Act sets out the fundamental rights and freedoms that everyone in the UK is entitled to. Article 8 protects your right to respect for your private life, family life, your home and your correspondence. You have a right to enjoy your existing home peacefully. Public authorities should not stop you entering or living in your home without very good reason.
13. Article 8 is qualified which means it may need to be balanced against other people's rights or those of the wider public. A qualified right can be interfered with only if the interference is designed to pursue a legitimate aim, is a proportionate interference and is necessary. Legitimate aims include:
 - the protection of other people's rights;
 - national security;
 - public safety;
 - the prevention of crime; or
 - the protection of health

How we considered this complaint

14. We produced this report after examining relevant documents and speaking to the complainant.
15. We gave the complainant and the Council a confidential draft of this report and invited their comments. The comments received were taken into account before the report was finalised.

What we found

16. Mr D lived at home with his wife; he has dementia. Their son had terminal cancer; Mrs D was finding it hard to cope with caring for her husband and her son's illness. Ms B and Mrs D placed Mr D in a residential care home for a respite stay in April 2019. They contacted the Council and explained that Mrs D was struggling to cope with Mr D at home, so he was currently in a care home. Mrs D initially told the Council in February that she was struggling, and Mr D had a week stay in a care home to give her respite then, which the Council funded. The Council said it would fund a two-week stay in April, but anything after that would be funded privately by the family.
17. Mr D stayed at the care home after the two-week respite ended, as Mrs D felt she could not cope with him at home. The Council was aware of this.
18. The Council's view throughout was that Mr D was entitled to return to his home, that he did not need residential care, and that his needs could be met with additional care calls at home to take some pressure off Mrs D. The Council had not completed a review or assessment at this time despite Mr D's change of circumstances, to establish Mr D's care and support needs and whether these could be met in the community without Mrs D's support. The Council had not completed any carer review or reassessment, to assess the support Mrs D needed.
19. The Council's responsibility was to complete a review or assessment of Mr D's care and support needs given his change of circumstances. The Council also needed to complete a mental capacity assessment with Mr D to assess whether he could understand his current situation, make a decision regarding his care and support, and consent to remain in the care home and incur the fees. If Mr D did not have mental capacity to make decisions about his care and support and/or finances, then the Council needed to make a decision in his best interests in accordance with the Mental Capacity Act 2005.
20. The Council did not take any action between April and July. It then tried to complete a care needs assessment and mental capacity assessment but could not do so because Mr D had an infection which can cause confusion.
21. The Council completed an assessment of Mr D's care and support needs in September and assessed his care needs could be met in the community with a package of support. The Council completed a mental capacity assessment which assessed Mr D did not have the capacity to decide where to live or make decisions about his finances.
22. The Council agreed short term funding to pay for the care home from the date of its assessment, until Mr D moved to a unit for further assessment and consideration of where to live long term. Mr D moved to the assessment unit in October.

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23. The care home has pursued Mrs D for over a year for outstanding fees for Mr D's stay from April to October. This is ongoing and currently stands at over £15,000.
24. A note from the Council's safeguarding team says "Despite [Mrs D] refusing to have [Mr D] back home from [the care home], the property is in joint names, and if [Mr D] did not have eligible needs for 24 hour care, it is in my professional opinion that [Mr D] should have been supported to return home, as he has remained in 24 hour care without giving consent for this and is not liable for a large bill."

Conclusions

25. The Council failed to act promptly to complete an assessment of Mr D's care and support needs and his mental capacity when it knew he had moved from home into a residential care home. The Council's own records acknowledge it allowed this case to drift. This was fault.
26. Mrs D had told the Council she could not cope with Mr D at home. The Council should not expect family members to act as carers unless they are willing and able to do so. The Council did not complete an assessment of Mr D's needs and how they would be met until he had been away from home for five months and it did not assess Mrs D's needs as a carer. This was fault.
27. Because of the Council's delay Mr D remained away from his home without the Council establishing and recording a good reason. Mr D had a right under Article 8 to respect for his family life and home, and to enjoy his existing home peacefully. The Council did not consider Mr D's Article 8 right and whether it was necessary and proportionate for him to be away from his home. This was fault.
28. The Council failed to act in Mr D's best interests, as someone lacking capacity under the Mental Capacity Act to make decisions about his care and finances. The Council's delay meant a large bill for residential care has accrued. The Council's own records say Mr D remained in 24-hour care without giving consent and is not liable for the bill. This was fault.
29. Mr D did not have mental capacity to agree to the care home fees, and nobody held power of attorney for finances to make that decision on his behalf. The onus was on the Council to decide in his best interests, in accordance with the Mental Capacity Act 2005. It delayed doing that, and this was fault.
30. Following the Council's assessment in September it agreed to fund the care home fees until Mr D moved. This was because the Council was concerned about mismanagement of his finances given no-one was paying the care home fees. If the Council had completed the required assessments sooner, this issue could have been identified and resolved sooner. This indicates had the Council completed the required assessments without delay, it would then have agreed responsibility for the funding, Mr D would have moved from the care home sooner, and he would not have incurred the outstanding fees.
31. Despite this the Council has, until our investigation, failed to acknowledge its errors and the impact that has caused. The Council knew Mrs D was struggling to cope with looking after Mr D and the death of her son; she was going through carer crisis. The Council knew the Care Provider was pursuing Mrs D for care fees, and she was finding that distressing as the family cannot afford the fees. The family did offer a repayment plan, which the Care Provider turned down as the monthly amounts were too small. The Council's delay has added to Mrs D's distress. Ms B has had time and trouble trying to resolve the issues and support her parents.

Recommendations

32. To acknowledge the injustice caused by its fault, and to prevent future failings, the Council will take the following action.
- Apologise to Mr D, Mrs D and Ms B for:
 - its delay completing an assessment of Mr D's care and support needs;
 - its delay completing an assessment of Mr D's mental capacity;
 - its delay completing a best interests decision for Mr D;
 - failing to consider whether it was necessary and proportionate for Mr D to remain away from home, given his human right to enjoy his home peacefully; and
 - failing to adequately support Mrs D at a time of carer crisis.
 - The Council has told the Care Provider it will take over responsibility for the outstanding care fees, so it should stop pursuing Mrs D. The Council will pay the outstanding care fees.
 - Pay Mrs D £500 to acknowledge the distress caused by the pursuance of the care fees over the last year, and the distress caused by not having a clear plan for Mr D's care and support from April to October at a time of carer crisis.
 - Pay Ms B £250 to acknowledge her time and trouble pursuing the complaint and supporting her parents at a time there was no clear plan for Mr D's care and support.
 - Review the reasons for the delays in this case and implement any identified improvements to service.
 - Give relevant staff training on applying the Human Rights Act 1998 to adult social care cases. So that staff are aware when the Articles of the Act might be engaged, and what is required of them to ensure individuals' rights are not unlawfully interfered with. And that the Council documents any consideration it has to the Human Rights Act 1998 in individual cases.
33. The Council must consider the report and confirm within three months the action it has taken or proposes to take. The Council should consider the report at its full Council, Cabinet or other appropriately delegated committee of elected members and we will require evidence of this. (*Local Government Act 1974, section 31(2), as amended*)
34. The Council has already confirmed agreement to all the above, has started acting on the recommendations, and making improvements to its service. We are pleased to see the Council's proactive approach and willingness to learn and improve.

Decision

35. We have upheld Ms B's complaint the Council delayed assessing Mr D's care needs, delayed assessing his mental capacity and delayed making a decision in his best interests. This meant Mr D accrued care home fees which was not in his best interests. The Council will take the actions identified in paragraph 32 to remedy that injustice.

The Ombudsman's final decision

Summary: I will not investigate this complaint about the Council's decision to refer the complainant to Social Work England. This is because we are unlikely to find fault in the way the decision was taken.

The complaint

1. The complainant, who I refer to here as Mr K, says that the Council maliciously and unjustly referred him to Social Work England (SWE), alleging exploitation of vulnerable clients.

The Ombudsman's role and powers

2. We investigate complaints of injustice caused by 'maladministration' and 'service failure'. I have used the word 'fault' to refer to these. We cannot question whether a council's decision is right or wrong simply because the complainant disagrees with it. We must consider whether there was fault in the way the decision was reached. (*Local Government Act 1974, section 34(3), as amended*)
3. We investigate complaints about 'maladministration' and 'service failure'. In this statement, I have used the word 'fault' to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. I refer to this as 'injustice'. We provide a free service, but must use public money carefully. We may decide not to start or continue with an investigation if we believe it is unlikely we would find fault.
(*Local Government Act 1974, section 24A(6), as amended*)

How I considered this complaint

4. I considered the information provided by Mr K's representative, and I have sent a draft decision for his comments.

What I found

5. Mr K owns an agency which provides advice and support to vulnerable clients. Allegations were made to the Council that Mr K, through his agency, was exploiting and financially abusing clients.
6. The Council considered the allegations and decided to refer Mr K to SWE. Mr K complained about the decision.

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7. The Council told him that it has a responsibility to report relevant concerns to SWE. It said that the triggers for referral were met, and that the officer followed the Council's policy correctly.
 8. Mr K has now complained to the LGSCO, but we will not investigate the complaint. This is because we cannot consider the merits of a decision that has been properly taken by the Council.
 9. In this case, the allegations made are covered by SWE's list of triggers which should be referred to it. The Council must take action in these circumstances, and it has confirmed that the officer correctly checked her understanding before making the referral.
 10. Consequently there is no evidence of fault in the way the decision was made. We will not look at the substance of the evidence the officer considered, as that is now a matter for SWE to investigate.

Final decision

11. Subject to any comments Mr K might make, my view is we should not investigate this complaint. This is because there is no evidence of fault in the way that the Council made its decision to refer him to SWE.

Investigator's decision on behalf of the Ombudsman

The Ombudsman's final decision

Summary: We will not investigate this complaint about Mr X's garden and whether a section of it is part of the adopted highway. This is because it is a matter for the courts to decide the extent of the adopted highway.

The complaint

1. The complainant, whom I have called Ms Q, complained on behalf of Mr X about Nottinghamshire County Council. She said the Council wrongly said a section of Mr X's garden is part of the adopted highway.

The Ombudsman's role and powers

2. The Local Government Act 1974 sets out our powers but also imposes restrictions on what we can investigate.
3. The law says we cannot normally investigate a complaint when someone could take the matter to court. However, we may decide to investigate if we consider it would be unreasonable to expect the person to go to court. (*Local Government Act 1974, section 26(6)(c), as amended*)

How I considered this complaint

4. I considered the information Ms Q provided. I considered the information the Council provided. I considered Ms Q's comments on a draft of this decision.

What I found

5. The Council believes a section of Mr X's garden is part of the adopted highway. Ms Q gave the Council evidence which she thinks proves it is not. She said the Council had lost key documents and could not prove the land is part of the adopted highway.
6. We have no power to determine whether a section of Mr X's garden is part of the adopted highway. Only the courts can decide the extent of the highway. So it would be reasonable for Mr X to go to court if he wants to determine whether a section of his garden is, in fact, part of the adopted highway.

Final decision

7. We will not investigate this complaint. This is because Mr X can go to court.

Investigator's decision on behalf of the Ombudsman

The Ombudsman's final decision

Summary: We have discontinued our investigation into Mr X's complaint about the Council's decision to recover the outstanding care fees for his relative Mr Y. The Council has offered to waive the outstanding care fees which remedies any injustice caused.

The complaint

1. Mr X complained about the Council's decision to recover outstanding fees for the care it commissioned for Mr Y. He said the care home failed to provide appropriate care for Mr Y, resulting in a safeguarding investigation.
2. Mr X wanted the Council to waive the outstanding care fees, not just those following the safeguarding referral. He also wanted the care home to make service improvements to ensure other residents did not experience similar issues.

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 provide a free service, but must use public money carefully. We may decide not to start or continue with an investigation if we are satisfied with the actions a council has taken or proposes to take. (*Local Government Act 1974, section 24A(7), as amended*)
4. Under our information sharing agreement, we will share this decision with the Care Quality Commission (CQC).

How I considered this complaint

5. I considered the documents provided by Mr X.
6. I considered the Council's response to my enquiries.
7. Mr X and the Council had an opportunity to comment on my draft decision. I considered any comments received before making a final decision.

What I found

8. In July Mr Y went into a care home. Mr X and his family often visited Mr Y and were concerned about the quality of care the home provided.
9. Mr X and his mother reported the issues to the care home. After the care quality did not improve, Mr X made a safeguarding referral to the Council in December 2019. The Council started a safeguarding investigation, however, Mr Y died shortly after.

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10. The following year, in January the Council contacted Mr X and asked him to settle the outstanding invoices for Mr Y's care.
 11. Mr X expressed his concerns about the Council's decision to recover the cost of care and said the care Mr Y received in the care home was below the acceptable standard.
 12. The Council decided not to charge for Mr Y's care from the day Mr X made a safeguarding complaint but said Mr X would have to pay the outstanding fees for care provided before the safeguarding referral. In February the Council confirmed the outstanding balance amounted to £3,420.
 13. In March the Council upheld the safeguarding complaint Mr X made in December 2019. It found Mr Y did not receive the standard of care he would have expected to receive. Mr X complained to the Council; he said he would not pay the outstanding care balance because the Council had confirmed the care was not up to standard.
 14. The Council considered the complaint further but decided not to waive the charges.
 15. In October 2020 Mr X complained to the Ombudsman about Council's decision to recover fees for the care it commissioned for Mr Y. In response to my enquiries the Council offered to waive the outstanding care fees. It stated it had also suspended the contract with the care provider.

My findings

16. As the Council has offered to waive the outstanding care fees and has also suspended its contract with the care provider, there is nothing more we can achieve by investigating this complaint further. Therefore, I have discontinued my investigation.
17. Under our information sharing agreement, we will share this decision with the Care Quality Commission (CQC) to decide if it needs further investigation about the quality of care provided to Mr Y.

Final decision

18. I have discontinued my investigation as the Council has offered a suitable remedy to Mr X.

Investigator's decision on behalf of the Ombudsman

The Ombudsman's final decision

Summary: We will not investigate Mrs B's late complaint about the Council charging her late mother, Mrs C, for respite care she received in 2017. This is because Mrs B could have come to the Ombudsman sooner if she was concerned about the charges. There is no good reason to disapply the law and investigate this late complaint.

The complaint

1. Mrs B complained to the Council in July 2019 that it should not attempt to recover respite care charges for her late mother, Mrs C, for a period of respite care she received between 8 and 22 September 2017 amounting to £912. Mrs B says she was not told in 2017 there would be a charge in addition to the top-up amount. Mrs B says the Council should waive the charges because she disagreed with the charges in 2017 and believed they had been cancelled.

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 and documentation Mrs B and the Council provided. I sent Mrs B a copy of my draft decision and considered her comments on it.

What I found

4. Mrs B says she received a letter in August 2017 from the Council explaining that the top up for Mrs C's chosen care home would be £688 for two weeks in addition to Mrs C paying her usual contribution of £80. The letter says this is subject to a financial assessment. Mrs B says she did not know Mrs C would be required to pay anything else towards her care.
5. Following completion of the financial assessment the Council wrote to Mrs C care of Mrs B in November 2017. The letter explains as Mrs C owned her own property, and had capital over the threshold for Council funding, she would be required to pay the full cost the Council were paying towards her care charges, that is £456 per week in addition to the £344 paid by family as a top-up.

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6. Mrs B knew in November 2017 Mrs C was liable to pay the full cost of her care and wrote to the Council, challenging the decision to charge Mrs C, in January 2018. Mrs B complained to the Council in July 2019 that it was trying to recover a debt from Mrs C she believed to be cancelled. The Council responded to Mrs B's concerns and explained in November 2019 that the letter sent in 2017 explained Mrs C had capital over the threshold for council funding. I have not seen any evidence that Mrs B was advised the care costs were to be cancelled.
 7. Mrs B pursued the complaint about the charges in 2019 following the death of Mrs C when the Council invoiced her for the care costs. Mrs B could have come to the Ombudsman in 2017 or 2018 when she knew about the charges. There is no good reason for us to disapply the law in this case.

Final decision

8. We will not investigate this complaint. This is because Mrs B could have come to the Ombudsman sooner. There is no good reason to disapply the law and investigate this late complaint.

Investigator's decision on behalf of the Ombudsman

Action Plan addressing lessons to be learned:

No.	Action	Timescale
1.	<p>Communication on lessons learned</p> <p>a) Briefing for teams – Principal Social Worker and Ageing Well Group Manager (GM) to lead on a briefing for the team concerned on lessons learned including the Mental Capacity Act and Human Rights Act implications.</p> <p>PSW and GM will also undertake some case reviews to ensure that the legislation is being correctly applied in practice.</p> <p>PSW to arrange briefings for other team managers across the Council on the lessons learned.</p> <p>b) Briefing for Group Managers – Principal Social Worker to meet with Group Managers during the standing agenda item to discuss lessons learned from complaints, LGO and safeguarding adult reviews.</p> <p>c) Advanced Social Work Practitioners and Senior Practitioner OTs practice forum – Principal Social Worker/Principal OT to include regular updates on lessons learned from ombudsman/complaints etc and practice implications around human rights and social justice.</p> <p>d) Article for practice newsletter - To publish an article on lessons learned from the ombudsman enquiry including understanding mental capacity assessments; understanding care act eligibility; promoting the use of advocacy; the importance of carer's reviews and understanding carer's rights; and ensuring the person remains at the centre of any actions</p>	<p>Complete</p> <p>March 2021</p> <p>April 2021</p> <p>March 2021 – ongoing agenda item</p> <p>March 2021 – ongoing agenda item</p> <p>March 2021 – ongoing article on learning from complaints and complements</p>
2.	<p>Legal literacy –</p> <ul style="list-style-type: none"> Review of Mental Capacity documentation - an updated form was 	

	<p>coproduced with social care staff with a view to improving practice. Briefings for staff on the new mental capacity documentation including good practice examples will be undertaken in December 2020.</p> <ul style="list-style-type: none"> • Mental Capacity Practice Guidance – guidance written with tips for social care workers on how to apply the Act in practice. • Training <ul style="list-style-type: none"> - Care Act training – our training offer was reviewed in 2019 to provide staff a refresher of our statutory duties. - Mental Capacity Act training offer has been reviewed and a new training provider commissioned including an emphasis on correct application of the Act to ensure compliance with the Human Rights Act. - Human Rights in Adult Social Care training via Ripfa – Research in Practice have offered dedicated training to staff nominated by their Group Managers • Research in Practice (RiPfA)– The Council has subscribed this year to this online platform which includes articles, case law updates, webinars to support practitioners to improve practice on such as Human Rights Act, Mental Capacity Act and the Care Act. Principal Social Worker has oversight of what staff access and can target ongoing training accordingly. 	<p>Form and guidance: completed and live on 1st December 2020</p> <p>Complete</p> <p>Complete – rolling training programme</p> <p>Complete</p> <p>March 2021</p> <p>Complete - ongoing</p>
3.	Mental Capacity Community of Practice – A digital platform for staff to share skills, raise queries and improve legal literacy through a live chat forum is being rolled out across department and children's service.	Complete - ongoing
4.	Quality Assurance – To complete the next quality assurance audit of sample mental capacity tests and best interests checklists in 2021. To be repeated regularly to maintain standards of practice.	March 2021 – to then become an ongoing cycle of QA.

**REPORT OF GROUP MANAGER, LEGAL, DEMOCRATIC AND INFORMATION
GOVERNANCE****COUNCILLOR INDUCTION AND DEVELOPMENT PROGRAMME, 2021 TO
2025****Purpose of the Report**

1. This report asks the Committee to approve the indicative Councillor induction and development plan (**Appendix A**) for implementation, following the election on 6 May 2021.

Information

2. At its meeting on 25 November 2020, the Governance and Ethics Committee agreed to establish a working group to look at Member training and development. This work was tasked to the Member Communication and Engagement Programme Working Group; its terms of reference included the following aspects of Member training:
 - Developing an initial internal programme of training and development
 - The launch of the Members' learning and development landing page on the 'My Learning' portal
 - To explore and develop options for external training within available budgets
 - To launch a blended programme of training and development tools and techniques
 - To develop and roll out a comprehensive Member induction and mandatory training programme for implementation after the May 2021 County Council elections
 - To develop a rolling programme of events, workshops, guidance, toolkits, online, interactive and face-to-face training and development opportunities to meet Members' needs within available budgets
3. When the working group met on 15 December 2020, it considered an initial draft of the Councillor Induction and Development Programme. It was proposed that, where possible, training sessions would be developed and provided in-house. **Table 1** sets out the feedback provided by the working group and how this influenced the draft plan.

Table 1**a Social Media Training**

In the initial draft, social media training was listed as mandatory. The working group recommended that this should be optional; this was adjusted in the draft plan.

b Equality, Diversity and Unconscious Bias training

The working group felt that it would be helpful if information was available to help Councillors better engage with their communities; including religious festivals, customs and practices. A series of 'Knowledge Boosters' containing this kind of information will be made available through the Members Hub.

c Virtual meetings

Members of the working group requested that this training session should also capture behaviour within virtual meetings. This will be built into the content of these sessions.

d Local Government Finance and Audit training

Members of the working group suggested that these sessions should be mandatory, rather than recommended however officers recognise that some Members have many years' experience of working in the Council and are very familiar with Council financing and the budget setting process. As a result, it is proposed that these sessions be mandatory for new Members and optional for other Members as refresher training.

e Refresher training

For complex and regulatory matters, the working group requested that refresher training should be included in the plan. This has been reflected within the plan recognising the balance between ensuring Councillors have the skills and knowledge they need to enable them to carry out their roles and avoiding frequent repetition.

f Mixed delivery methods

Members agreed that a mix of mediums should be used. They also recognised the impact that training had on Members' time, particularly in the immediate aftermath of the election. This was taken into account when identifying proposed training methods, as was the potential impact of the COVID-19 pandemic and restrictions. Some sessions will be delivered either as virtual meetings or, if possible, in-person sessions (restrictions permitting). Other sessions will be available through an online platform so that Members can complete them at a time that suits them. Knowledge Boosters include workbooks produced by the Local Government Association, which provides another learning format that Members can access at a time that suits them.

g Monitoring of online training

There was strong feeling amongst Members that training needed to be monitored to ensure that mandatory online training was completed. This was noted and can be achieved through the 'My Learning' portal.

h Knowing who to contact

A priority for newly elected Members was knowing who to contact. Key numbers will be provided to all Councillors following the election. A new session has also been added to the plan with Customer Services, which will assist Members in dealing with requests from their constituents.

i Governance and Ethics Committee

A request was made that the training for the Governance and Ethics Committee was made mandatory. This was not adopted, with training instead being listed as recommended, as the Constitution did not provide for mandatory training for this Committee.

j The Role of Groups

There was recognition that the political groups play a role in Member development. This will be co-ordinated directly by each group.

4. The updated draft induction programme was re-presented to the working group meeting on 11 February 2021. The comments raised are addressed in **Table 2**.

Table 2

- | | |
|---|---|
| a | Virtual meetings
In addition to the previous requests of Members about including behaviour at virtual meetings, specific requests were made about including voting etiquette and when cameras needed to be turned on. This will be incorporated within the relevant training session. |
| b | Committee-specific training for substitutes and other Members
Members of the working group were keen that any committee-specific training should be made available to substitute members as well as the wider Council membership. Where it is mandatory for a Councillor to have completed training before sitting on a Committee, the training will also be mandatory for substitute Members. So long as capacity permits, this training will also be open for all Members of the Council to attend. |
| c | Highways training
The working group reported that one of the most frequent matters addressed to them related to highways. Members requested that the planned highways session should be a priority. If possible, this will be linked with an induction session on the Council's approach to Customer Services to provide Councillors with clarity over the most appropriate procedure to follow when handling constituency concerns. This may include using the Customer Services Centre, the My Notts App or another appropriate route to resolving issues raised by constituents. |
| d | ICT Training
Different formats for ICT training were discussed. Different options that were considered were drop-in sessions scheduled around meetings and lunch and learn sessions. Support would also be available through the Office 365 Hub and the Smartphone Hub. Based on this feedback, an offer covering a range of options and formats has been developed by the ICT Team. |
| e | Making contacts
During the meeting the importance for Members of knowing key officers was particularly highlighted. It was anticipated that the marketplace event would provide a forum to allow Members to build up initial contacts. Key contacts will also be included within induction materials, which will be available through the Members' Hub. |
5. The draft programme was then shared with officers to refine the detail. Further suggestions were made, which were reported to the Members' Communication and Engagement Working Group on Thursday 11 March 2021.
6. At this meeting, the working group recommended the draft programme to the Governance and Ethics Committee for approval. Councillors articulated their support for the draft programme and indicated that they were comfortable with the sessions that were proposed and the indicative phasing. At this meeting, Members were advised that a matrix would also be developed to assist Councillors map out their training journey. The matrix would set out different roles and the required training for each, including whether it is mandatory, recommended or optional.
7. During the meeting on 11 March 2021, Members were also given the opportunity to view the 'My Learning' portal, through which Members can access online training, knowledge boosters and personal development content. Again, feedback from Members was positive, both in terms of presentation and accessibility.

8. The draft programme, which is attached as **Appendix A** to this report, sets out indicative dates; once the Committee has agreed it can be implemented, dates will be programmed and content developed.

The Members' Hub and IT Support and Training

9. A working group meeting was held on 21 January 2021. The focus of this meeting was the development of the Members' Hub when colleagues from ICT shared sample content. Councillors were asked to test the usability of the hub and provide any feedback at subsequent meetings of the working group. At the meetings on both 11 February 2021 and 11 March 2021, Members indicated that they had found the hub easy to navigate and indicated that it would be a useful tool. Members are reminded that the Hub is available for any member to use as a "Beta" version and feedback is welcomed. The content of this initial Hub design will be finalised to include ICT support information as referenced below, ready for induction after the election.
10. On 21 January 2021, time was also spent discussing arrangements for supplying equipment for those Councillors elected on 6 May 2021, together with ICT induction arrangements.
11. While equipment is being issued, colleagues from the ICT Team will give Councillors a brief introduction to their new devices, including Smartphones. Officers will also be available during that session to help Councillors with any specific questions that they have. A quick start guide will also be distributed with the equipment.
12. Ongoing support will be available through the Members' VIP number the Members Hub ICT Support tile and the Office 365 and Smartphone hubs. Members indicated that they found the pop-up sessions held on full Council days helpful. This observation will help inform the ongoing training offer. The working group also supported use of pop-in sessions and lunch and learn sessions covering specific topics; these would be short virtual groups featuring a demonstration and opportunities for asking questions.

Other Options Considered

13. The Council could choose to outsource all training, however this would carry significant cost particularly noting that for most sessions appropriate expertise and knowledge was available in-house.
14. Rather than adopt a programme, the Council could choose simply to run *ad hoc* training. This would make it difficult for Members' to plan and risk not equipping Councillors with the skills they need to carry out their roles. While an element of training will be required to reflect the changing environment, adopting a plan should provide a framework in which these can be incorporated and more effectively structure Members' learning and development.

Reason/s for Recommendation/s

15. The election scheduled for 6 May 2021 will bring a new cohort of Councillors, a proportion of whom will be new to the County Council. Adopting a training programme will provide the framework for all newly elected Members to effectively carry out their roles as community leaders, advocates for their constituents and playing an active role in Council decision-making.

16. The Councillor Induction and Development Programme 2021 is a living document and will need to reflect the changing landscape locally and nationally. It may therefore be necessary to add further training modules, to ensure Members have the requisite skills and knowledge to support them in their roles.

Statutory and Policy Implications

17. 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

18. To ensure Councillors handle data in a secure way, the Councillor Induction and Training Programme incorporates sessions on data protection and information governance.

Financial Implications

19. As far as possible, training sessions will be run in-house however it may be necessary for some specific training to secure the assistance of external providers. A small budget is available to cover the costs associated with delivering the plan.

Public Sector Equality Duty implications

20. Newly elected Councillors will receive training on the Public Sector Equality duty as part of their induction.
21. Reasonable adjustments will be made to support Councillors complete their training as necessary.

Smarter Working Implications

22. Councillors will have access to a Yoga device and Smartphone to support them in their work. By training Members on how to get best use of their equipment, it will provide new options to work with their constituents and Council officers.

Safeguarding of Children and Adults at Risk Implications

23. All newly elected Members will have access to training on both Children and Adults Safeguarding, recognising the role of the Councillor as a Corporate Parent.

Implications for Sustainability and the Environment

24. While driven by the legacy of the COVID-19 pandemic restrictions, using alternative methods of delivering training, including virtual groups and online training modules will reduce the number of journeys that Councillors are making to County Hall. As well as providing a cost benefit from reduced travel claims, it also has a positive environmental impact.

RECOMMENDATION/S

That the Governance and Ethics Committee:

- 1) Approves the indicative Councillor Induction and Development Programme 2021 to 2025 for implementation.
- 2) Gives authority to the Monitoring Officer to make any additions to the plan as she considers necessary to ensure the delivery of good governance.

Heather Dickinson, Group Manager
Legal, Democratic and Information Governance

For any enquiries about this report please contact:

Jo Toomey, Advanced Democratic Services Officer
Tel: 0115 977 4506
E-mail: jo.toomey@nottsc.gov.uk

Constitutional Comments (HD – 09/03/2021)

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

Financial Comments [RWK 10/03/2021]

26. The report sets out proposals for the Councillor Induction and Development programme for 2021 to 2025. It is anticipated that any costs incurred will be met from within existing budgets for members support and training.

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.

- Governance and Ethics Committee, 25 November 2020 – [Committee Report](#)
- Governance and Ethics Committee, 25 November 2020 – [Minutes](#)

Electoral Division(s) and Member(s) Affected

- All

MEMBER INDUCTION AND TRAINING PROGRAMME 2021-2025

	Topic	Mand (All)	Mand (New)	Rec	Opt	Deliverer	Overview
Week 1 10 -14 May 2021	First steps <ul style="list-style-type: none"> - Signing of documents - Handover induction pack - Issuing of ICT equipment 	✓				Democratic Services ICT	<p>Newly elected Members will be asked to book an appointment between 11 May and 13 May. During the 2-hour slot, Members will sign the Declaration of Acceptance of Office, begin their paperwork, have photographs taken and be issued with a temporary access badge.</p> <p>This will be followed by a short orientational tour.</p> <p>Finally, Councillors will be issued with their IT equipment. Support will be available to help Members familiarise themselves with their devices and any specific support required.</p>

	Topic	Mand (All)	Mand (New)	Rec	Opt	Deliverer	Overview
	Welcome and Introduction to Council from Chief Executive and Chief Officers (Virtual Meeting)	✓				Chief Executive Members of CLT	Chief Executive, Anthony May introduces the County Council.
	Councillor roles and responsibilities (Virtual Meeting)		✓			Monitoring Officer Democratic Services Customer Services	Covering: <ul style="list-style-type: none"> • Councillor and Officer roles • Council Structure, decision making and procedure rules • Relationships with officers • Membership of outside bodies • Members Code of Conduct, and protocols on use of resources, CDF etc • Queries and Complaints • Constituency Issues – including an overview of how customer services can help
	Virtual Committee Meetings (Virtual Group)		✓			Democratic Services ICT	This session will introduce you to the world of virtual committee meetings, including general etiquette and behaviour, including muting microphones and when to ensure cameras are turned on. Also included will be procedure

	Topic	Mand (All)	Mand (New)	Rec	Opt	Deliverer	Overview
							rules for meetings and the conventions of debate. You will also have an experience of what it feels like to take part in a virtual committee.
Week 2 17-21 May 2021	Highways (Virtual Group)				✓	Service Director, Place and Communities	<p>One of the areas that Members frequently get contacted about is Highways. This session provides a spotlight on the work of the Highways Team and the work of Via.</p> <p>The session will also explore with relationship of customer services and My Notts App</p>
	Place Department (Virtual Group)				✓	Corporate Director, Place	Deputy CEO Adrian Smith will give an induction on behalf of the Place Department. This will give you a chance to understand how they work and how they can assist you in serving your community,
	Children and Young People's Department (Virtual Group)				✓	Corporate Director, Children and Families Services	Colin Pettigrew will give an induction on behalf of the Children and Young People's Department. This will give you a chance to understand how they work and how they can assist you in serving your community,

	Topic	Mand (All)	Mand (New)	Rec	Opt	Deliverer	Overview
							The session will also cover Councillors' responsibilities as a corporate parent
	Adult Social Care and Public Health Department (Virtual Group)				✓	Corporate Director, Adult Social Care and Public Health Director of Public Health	<p>Melanie Brooks and Jonathan Gribbin will give an induction on behalf of the Adult Social Care and Public Health Department. This will give you a chance to understand how they work and how they can assist you in serving your community,</p> <p>This session will also cover Councillors' adult safeguarding role</p>
	Chief Executive's (Virtual Group)				✓	Chief Executive Service Director, HR and Customer Service Service Director, Finance and Procurement	Anthony May, Marjorie Toward and Nigel Stevenson will give an induction on behalf of the Chief Executive's Department. This will give you a chance to understand how they work and how they can assist you in serving your community,
	Introduction to Customer Services (Virtual Group)				✓	Customer Services (Marie Rowney)	The Customer Services Team can help Members deal with their constituents' enquiries. This session will explore further the role of the Customer Services Team

	Topic	Mand (All)	Mand (New)	Rec	Opt	Deliverer	Overview
							<p>and the ways in which they can support Councillors.</p> <p>This one-hour session will also cover MyNotts app, Members Hub and website</p>
	Emergency Planning (Including COVID-19 update) (Virtual Group)			✓		Service Director, Place and Communities Group Manager, Emergency Planning Management and Registration	This session will include an overview of the Council's response to the COVID-19 pandemic and address your role as a local leader in the event of an emergency, as well as how Officers support this work.
	Civic roles and Chairing Council meetings (1-2-1)	Mandatory for the Chairman and Vice-Chairman of the Council				Monitoring Officer Democratic Services.	<p>During this session you will be provided with support and advice around the various civic responsibilities and the Chairing of Council meetings to help you undertake your role effectively</p> <p>The session will also cover the Civic support available, annual events and protocols/etiquette.</p>
	<p>Committee Chairs briefings (1-2-1)</p> <p>Committee Lead Officers will liaise with their Chairs to agree a briefing date. Sessions can commence, but are not restricted, to this week.</p>	Mandatory for new committee chairs and vice-chairs, and recommended for all				Committee Lead Officers	Meetings will be arranged for each Chair and Vice-Chair covering their Committee's areas of responsibility, key service areas and officer leads, current key projects, officer delegations and preferred reporting arrangements,

	Topic	Mand (All)	Mand (New)	Rec	Opt	Deliverer	Overview
							arrangements for briefings and arrangements for pre-agenda meetings. (One hour).
	Chairing skills (Virtual Group)	Mandatory for new committee chairs and vice-chairs, and recommended for all				Monitoring Officer Democratic Services	This hour long session will give you an overview of tips and techniques for chairing meetings and an overview of Council procedure
	IT New Starter Sessions (Virtual Group)				✓	ICT	Multiple sessions each lasting 30 minutes covering: <ul style="list-style-type: none"> - Outlook - Teams - Accessing the intranet and key features
Week 3 24 – 28 May 2021	Ethical Standards and Code of Conduct (Virtual Group)	✓				Monitoring Officer	A one-hour session to ensure Councillors are aware of the County Council's Code of Conduct, how it is applicable and how to ensure your decisions are of the highest standard. The session will also include an introduction to the Independent Person.
Week 4 31 May – 4 June 2021	Half Term While no formal sessions will be provided Members will be able to access knowledge boosters and online training modules (these are set out in the later stages of this programme)						

	Topic	Mand (All)	Mand (New)	Rec	Opt	Deliverer	Overview
7 June – 2 July 2021	ICT – Getting the most from your device				✓	ICT	30 minute sessions on a range of topics to help Councillors get the most from their device.
	ICT – Getting the most from your Smartphone				✓	ICT	A session to help Councillors get the best from their Smartphones
	Planning and Licensing Committee (including Rights of Way) (Virtual Group)	Mandatory for all Planning Committee Members and substitutes <i>Committee Members and substitutes will also be required to undertake periodic updates and refresher training</i>				Service Director, Investment and Growth	The session will cover the regulatory and procedural arrangements for members who sit on the Planning Committee
	Pension Fund Committee (Virtual Group)	Mandatory for Pension Fund Committee Members and substitutes <i>Committee Members and substitutes will also be required to undertake regular updates and refresher training</i>				Service Director, Finance and Procurement	The session will cover the regulatory and procedural arrangements for members who sit on the Pension Fund Committee
	Pension Board (Virtual Group)	Mandatory for Pension Board members <i>Pension Board Members will also be required to undertake regular updates and refresher training</i>				Service Director, Finance and Procurement	The session will cover the regulatory and procedural arrangements for members of the Pensions Board
	Health and Wellbeing Board (Virtual Group)			✓		Democratic Services	This session will cover the role and responsibilities of Members of the Health and Wellbeing Board and its relationship with other organisations and bodies.

	Topic	Mand (All)	Mand (New)	Rec	Opt	Deliverer	Overview
	Health Scrutiny Committee (Virtual Group)			✓		Democratic Services	The session will cover the roles and responsibilities of Health Scrutiny Committees, including the legislative framework and their powers.
	Governance and Ethics Committee (Virtual Group)			✓		Monitoring Officer Service Director, Finance and Procurement Group Manager, Assurance	<p>The session will include the role of the Committee on the scrutiny of the Council's Statement of Accounts its role and the role of external and internal audit</p> <p>It will also outline the role of the Governance and Ethics Sub-Committee when considering formal reports relating to Member conduct investigations</p>
	Committee briefings – opposition spokesperson (1-2-1)	Optional for opposition spokesperson on each Committee				Committee lead officers	Briefings for the opposition spokesperson for each committee on key service areas, officer leads and current key projects.
	Handling the media and media interviews (Virtual Group)	Optional for the Leader, Deputy Leader, Committee Chairs and Group Leaders				Communications	
	Information Security / Information Governance (E-learning)	✓				Data Protection Officer (Team Manager for Information Governance)	A 30-40 minute online training module to be accessed through the learning portal.

	Topic	Mand (All)	Mand (New)	Rec	Opt	Deliverer	Overview
	Safety and Security for Members (Virtual Group)			✓		Health and Safety Team Manager	Your personal safety is important. In this one hour session you will learn about how to keep safe in your work as a County Councillor with John Nilan, Team Manager, Health and Safety. You will also be given a brief overview of the lone worker app Councillors can use – a more detailed session will be available later in the programme
	ICT – Programme and task-focussed sessions				✓	ICT	Sessions to help Councillors get the most from their Yoga, focussing on specific programmes and tasks.
	County Hall building induction (In Person)	✓				Facilities	Health and safety orientation of County Hall and overview of facilities.
Month 3-6 5 July – 1 October 2021	Equalities & Diversity (E-learning)	✓				Corporate Equalities	Understanding the Council's role as an equal opportunities employer, the Public Sector Equality Duty, how we can best represent the whole of our communities, and challenging our own underlying assumptions in order to make better, more representative decisions.
	Modern Slavery (Virtual Group)			✓			A one hour session in which you will find out what the Council is doing

	Topic	Mand (All)	Mand (New)	Rec	Opt	Deliverer	Overview
							to prevent modern slavery and human trafficking
	Local Government Finance and Audit (Virtual Group)	Mandatory for new Members but recommended for all				Service Director, Finance and Procurement	This hour-long session will cover Local Government financing, setting the Council's budget, Financial Regulations and Procurement Rules, the role of Audit and timelines for key financial and audit decisions throughout the year.
	Lone Worker App (Virtual Group)				✓	ICT	Members will receive training on using the lone working app.
	Familiarisation with Council Services Market Place			✓		Group Managers	An opportunity to meet with key representatives from a range of services who will be able to provide you with an overview of their areas.
	Social Media Training for Councillors (Virtual Group)			✓		Local Government Association	<p>A 2-hour session on social media and tips on posting, responding, conduct, defamation, etc.</p> <p>The workshop aims to share best practice and explore the value of social media and how it can be best utilised by Councillors, including managing criticism and engaging with residents.</p>
	New Code of Conduct (Virtual Group)	✓	Page 68 of 144			Monitoring Officer	This hour and a half long session will cover the

	Topic	Mand (All)	Mand (New)	Rec	Opt	Deliverer	Overview
							Council's new Code of Conduct (with repeat)
	Recruitment and Selection Training (as required)	Training will be provided for Leader, Deputy Leader of the groups, business managers, service committee chairs and opposition spokespersons for service committees. Mop up sessions to be provided for anyone else on the panel as required.				Monitoring Officer	You will be trained on the various aspects of recruitment and HR necessary to undertake your role as a recruitment panel member
4 October onwards	Local Government Association Fundamentals (Pension)	Optional for new members of the Pension Fund Committee					

Other training

	Topic	Mand (All)	Mand (New)	Rec	Opt	Deliverer	Overview
Local Government Association Training for Lead Members:	LGA Leadership Essentials for Finance	Optional for the Leader and Finance Committee Chair				LGA	The course discusses longer term strategies for sustainability as well as balancing the budget on an annual basis and how to work with officers to ensure that the Council is making the most of its opportunities.
	LGA Leadership Essentials for Children's Services	Optional for the Chair of Children and Young People's Committee				LGA	Lead Members for Children's Services are responsible for providing leadership to Children's Services in their area and hold a statutory role. This session aims to support Lead Members with the key challenges they face in the changing policy landscape.
	LGA Leadership Essentials for Adult Social Care	Optional for the Chair of Adult Social Care and Public Health Committee				LGA	This session supports Lead Members with the key challenges the face in adult social care in the changing policy landscape.
	LGA Effective Opposition programme	Optional for Opposition Group Leader				LGA	This weekend focuses a range of topics and skills and techniques, including building good working relationships with key officers, engaging with external stakeholders,

							working with the local media and getting the most out of social media.
Free training	Various free training aimed at Councillors provided by the Local Government Association, East Midlands Councils, etc.				✓		
Fee-based training (subject to budgetary limits per annum)	LGIU, LGA, East Midlands Councils and other fee-based training				✓		
My Learning portal	Training modules available through the My Learning Portal				✓		
Mentoring	Mentoring for new Councillors provided by Groups				✓		

Knowledge Boosters

Knowledge boosters are available via the My Learning portal. They include factsheets and workbooks that a Councillor might find helpful if they would like more information on a subject. These are not mandatory and can be completed at a Councillor's convenience should they wish to boost their knowledge on any topic.

- Equality and diversity factsheet: Religion
(<https://www.businessregulatorysupport.co.uk/media/12002258/religion-and-belief-factsheet.pdf>)

Local Government Association Councillor workbooks

- [A councillor's workbook on effective opposition during COVID-19, reset and recovery](#)
- [Acting on climate change](#)
- [Being an effective ward councillor](#)
- [Bribery and fraud prevention](#)
- [Chairing skills](#)
- [Commissioning services](#)
- [Community leadership](#)
- [Community safety](#)
- [Councillor/officer relations](#)
- [Creating a 'fit for the future organisation'](#)
- [Engaging young people](#)
- [Facilitation and conflict resolution](#)
- [Handling casework](#)
- [Handling complaints for service improvement](#)
- [Health and safety in the council](#)
- [Health in All Policies and COVID-19](#)
- [Influencing skills](#)
- [Local government finance](#)
- [Mentally healthier places](#)
- [Planning](#)
- [Neighbourhood & community engagement](#)
- [Neighbourhood planning - ward councillors](#)
- [New councillors](#)
- [Scrutiny](#)
- [Scrutiny of finance](#)
- [Stress management and personal resilience](#)
- [Supporting residents with complex issues](#)
- [Working with town and parish councils](#)

REPORT OF THE MONITORING OFFICER**WHISTLEBLOWING UPDATE****Purpose of the Report**

1. To update Committee on whistleblowing activity during 2019 and 2020 and to report an update with regards to the review of the Whistleblowing Policy.

Information and Advice

2. 'Whistleblowing' means the reporting by employees of suspected misconduct, illegal acts or failure to act within the Council. The aim of the County Council's Whistleblowing Policy is to encourage Council and other relevant employees who have serious concerns about any aspect of the Council's work to come forward and voice those concerns. Having effective whistleblowing procedures enables employees to raise serious concerns within the County Council rather than ignoring a problem or 'blowing the whistle' outside the County Council.
3. The County Council's Whistleblowing Policy is designed to ensure that employees can raise concerns without fear of victimisation, subsequent discrimination, disadvantage or dismissal. Employees who raise concerns under the Whistleblowing Policy have protection against victimisation and dismissal under the law.
4. The County Council logs concerns it receives centrally on its corporate register. All matters which fall under the Whistleblowing Policy are required to be reported to the Monitoring Officer. During 2019, two matters were reported under the Whistleblowing Policy but one was found not to be a Council Whistleblowing after an initial review by Audit as it related to issues already raised within a school HR procedure. In 2020 two concerns were raised.
5. The concerns which have been reported, are summarised in the tables below in order to provide an update to Committee. Given the confidential nature of such complaints this report can only refer to the general nature of the concerns.

Table 1

No.	Nature of concern	Dept.	Status of complaint	Outcome
1	Home Care Contractor Performance	ASCPH	Closed	Investigated by unannounced audits which showed reasonable assurance of contractual and legal compliance.

Table 2

No.	Nature of concern	Dept.	Status of complaint	Outcome
1	Health and safety issues: risk assessments relating to equipment	Place	Closed	Investigated by H&S Manager and further advice provided to service.
2	Concern about Committee staffing decision	ASCPH	Closed	Investigated by Department. Not upheld.

6. The following table sets out the number of complaints for each Department recorded for the last three years: It can be seen that one concern was reported in 2019 and two concerns were reported during 2020.

Year	Number of complaints recorded per Department			
	ASCH	CF	Place	CEX
2020	1		1	
2019	1			
2018	1			1

7. The reasons for these levels of reporting are not immediately clear, although possible scenarios include a) it could just be good news, b) there is a lack of awareness and understanding of what Whistleblowing is and how to raise concerns, c) issues of concern are being raised elsewhere in the Council and being properly dealt with under other monitoring channels (such as financial monitoring and complaints procedures) which are not considered to be Whistleblowing matters.
8. In November 2019 Committee agreed to a number of suggested changes to the Policy. Committee also agreed that a full review of the Policy was necessary. Unfortunately, due to the Covid-19 pandemic it was not possible to undertake this work as scheduled. However, in light of the current low levels of reporting it is suggested that this more fundamental review of the arrangements is required before any changes are made to the Policy and that the findings and recommendations of the review are reported back to Governance and Ethics Committee.

9. It is proposed that a full review would consider:
- a. Clarification of what constitutes a Whistleblowing referral (compared to other types of concern or complaint which may be raised through other channels, such as the Corporate complaints process, HR grievance and harassment procedures or financial monitoring systems);
 - b. The wording of the documents setting out the Council's Whistleblowing arrangements to provide clarity (including practice at other comparator Councils and clarification of the correct procedure for reporting Whistleblowing concerns relating to schools);
 - c. The different ways in which whistleblowing concerns are received across the Council, how they are logged and tracked to a conclusion;
 - d. Training for officers handling whistleblowing referrals and for the wider workforce, to improve awareness and aid understanding of the relevant procedures;
 - e. Awareness raising activities
10. It is expected that key service areas within the Council who may receive relevant referrals (e.g. Audit, Human Resources, Legal Services, Office of Chief Executive, Monitoring Officer, Complaints Team) will be invited to contribute towards this review to ensure consistency of approach and interpretation of the procedures and what constitutes Whistleblowing. Subject to the capacity of colleagues from each of these areas in light of the ongoing pandemic, it is anticipated that this full review will be completed by the end of the 2021/2022 financial year.
11. In the meantime, clarification has been sought regarding whether there is a need to have a Policy for Whistleblowing or whether a Code/Protocol or Procedure would suffice. This has been checked and there is no legal requirement in the UK to have a Policy on Whistleblowing. As such, it is proposed that any review will adapt the documentation into a Whistleblowing Code which will be reported to Governance and Ethics Committee for any reviews and updates.
12. Any review will also need to consider and reflect, as necessary, any changes to UK legislation regarding whistleblowing law which may arise as a result of the UK having left the EU. As the UK government did not adopt the new EU Whistleblowing Directive before leaving the EU, it is currently unclear how future reforms to whistleblowing laws will sit with the UK government's wider domestic agenda.

Other Options Considered

13. The law offers protection to Council employees making protected disclosures and the Council is committed to providing a safe and effective procedure for making such disclosures without fear of intimidation or victimisation. The proposed review should result in a clear and effective procedure which can then be easily communicated to staff to ensure awareness.

Reason/s for Recommendation/s

14. To ensure that the Council complies with its legal obligations regarding protected disclosures. It is important that the Whistleblowing Policy is fit for purpose and that employees are aware of it and understand what to do if they wish to make a disclosure.

Statutory and Policy Implications

15. This report has been compiled after consideration of implications in respect of crime and disorder, 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, sustainability and the environment and ways of working 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) That the Committee considers the contents of the report and decides whether any further action is required.
- 2) That the Committee supports the full review of the current policy in line with the criteria set out in paragraphs 9 to 12 above.

Marjorie Toward, Monitoring Officer

For any enquiries about this report please contact:

Emma Hunter, Legal Services – Corporate & Environmental Law Team

Constitutional Comments (HD – 10/3/2021)

The proposals within the report fall within the remit of the Committee

Financial Comments (SES 17/3/2021)

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

31 March 2021

Agenda Item: 7

REPORT OF SERVICE DIRECTOR FOR FINANCE, INFRASTRUCTURE & IMPROVEMENT

INTERNAL AUDIT 2020-21 TERM 2 REPORT & 2021-22 TERM 1 PLAN

Purpose of the Report

1. To inform Members of the Head of Internal Audit's report on the work carried out by Internal Audit in Term 2 of 2020/21, to allow Members to consider whether they wish to receive any further follow-up reports.
2. To consult with Members on the Internal Audit Plan for Term 1 of 2021/22.

Information

Internal Audit's work in Term 2 2020/21 – August 2020 to November 2020

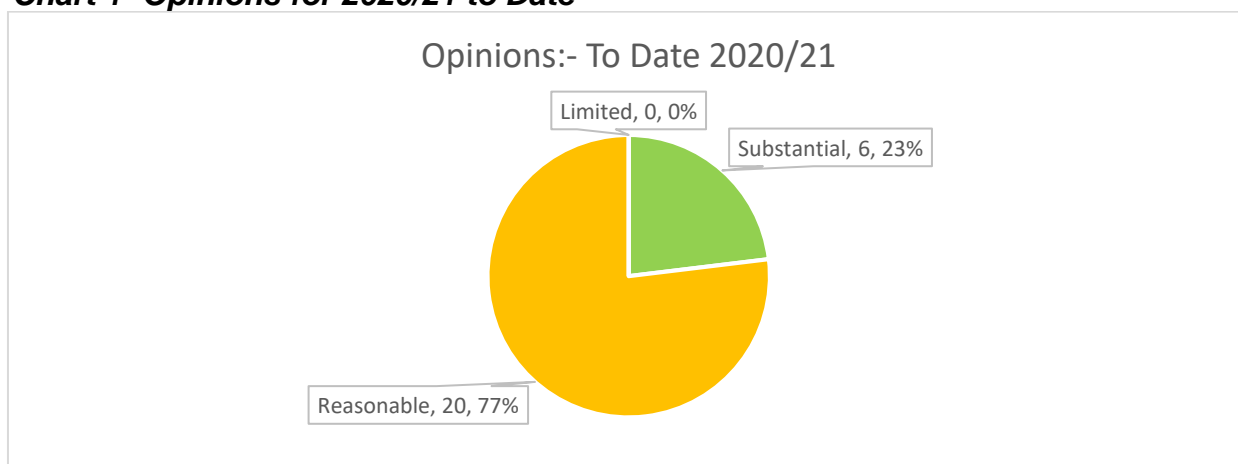
3. Internal Audit continued to implement its plan in an agile way to provide timely assurance to support the Council's ongoing response to the pandemic. This approach was especially important for assurance to front-line services, with efforts focussed on helping managers maintain an appropriate balance between speed of response and proportionate control. Such inputs continue to be complemented with the more established approach for assurance that the Council's core processes have remained resilient through the pandemic.

Audit Assurance work

4. The opinion-based assurance work continues to be a key contributor to the Head of Internal Audit's year-end opinion on the adequacy of the Council's system of internal control. Internal Audit have undertaken significant pieces of opinion-based work during Term 2, notably:
 - Assurance Mapping – annual report completed with reasonable assurance across the five areas of governance in the map for 2019/20.
 - Action tracking – a mixed picture was presented, due to the impact of Covid19 on teams' capacity to make progress, in some areas, to schedules agreed pre-pandemic.
 - Financial resilience – 'reasonable assurance' opinion issued
 - Continuous assurance – substantial progress made with establishing continuous feeds of assurance over core systems.

5. In terms of the agile approach for frontline services, Internal Audit's input provides assurance over new and changing procedures relating to the ongoing Council response to the pandemic. Wherever appropriate, assurance opinions are included, to provide an assessment over the suitability of the controls being designed and implemented. If assessed to be a priority, the intention then is that subsequent Internal Audit Plans may see further coverage of these areas, to review the application of the proposed controls in practice.
6. **Chart 1** shows the positive outcome of opinions issued during 2020/21 to date. The chart usually includes schools' audits undertaken by the Children's & Families' Finance Team, but these were suspended due to the pandemic. Recommencement is planned during Term 3 and progress will be subsequently reported.

Chart 1- Opinions for 2020/21 to Date



7. In terms of the work completed on the County Council's services and systems, **Chart 2** analyses the assurance opinions issued in Term 2 2020/21 by service area and level of assurance.

Chart 2- Opinions for Term 2

	LIMITED ASSURANCE	REASONABLE ASSURANCE	SUBSTANTIAL ASSURANCE
COUNCIL-WIDE		Assurance Mapping Action Tracking	
PLACE			Post Payment - Food and Essentials Fund
CHIEF EXEC'S		Financial Resilience	
COUNTER FRAUD		Fighting Fraud and Corruption Checklist	
ADVISORY		Children's Relief Suppliers Adults Emergency Cash Place Community Hub Place Transport Operators Adults Provider Claims Place Food & Essentials Fund Adults Disabled Adaptions Children's Supported Living Adults Direct Payments	

Counter-Fraud

8. Internal Audit have continued to be pro-active with the counter fraud agenda, as reported in the counter fraud progress report at the Committee's meeting on the 6 January 2021. The key areas of activity included:
- Fighting Fraud and Corruption Locally – completion of a corporate assessment against the good practice guidance.
 - International Fraud Awareness Week 15-21 November 2020 – dissemination of fraud awareness material via Team Talk and the internet.
 - National and Local Fraud Alerts – screening and distributing to relevant sections alerts publicised by national fraud agencies.
 - National Fraud Initiative – compilation of data matches and submission of data for the 2020-21 national exercise.
9. Where appropriate, Internal Audit continues to be involved in fraud investigation activities involving live cases outlined in the Annual Fraud Report.

Internal Audit Performance

10. **Appendix 1** provides an update on the Section's performance in Term 2 against its key indicators. It includes the following charts to depict progress against the Term 2 Plan, expressed in terms of the following:
- Inputs – the number of audit days delivered against the Term 2 plan. Each segment in the chart represents $\frac{1}{4}$ of the Termly Plan.
 - Outputs – the number of jobs completed against the plan. Each segment in the chart represents $\frac{1}{4}$ of the Termly Plan.
 - Productivity indicator – the target score is 1.
11. A very good level of performance is presented which reflects the agility the team has demonstrated during the term to refocus activities to provide the most appropriate assurance during the pandemic. Members' attention is drawn particularly to the following:
- a) Staffing resources – the Team benefitted from the temporary recruitment of a student through the Change 100 Programme created by the Leonard Cheshire charity. The Team's graduate trainee produced excellent work and has now secured a permanent position within the Council. A replacement graduate trainee has subsequently been appointed. The two dedicated internal auditor apprentices have now been inducted and are undertaking productive audit work alongside their professional studies.
 - b) Collaboration – despite stalling during the first wave of the pandemic, to enable all partners in the collaboration to focus their efforts on the emergency response needs of their respective councils, this has now been reinvigorated and outputs are on track for delivery in Term 3.
 - c) Quality Control Questionnaires (QCQ) – where a score of 4 is 'excellent' and 3 is 'good'. Appendix 1 has been updated accordingly, with the current average score being 3.975.

Review of Guidance for the Head of Internal Audit's Year-End Opinion 2020/21












12. The pandemic presented a challenge of adjustment for all internal audit teams, potentially putting the delivery of planned internal audit work at risk. Should any disruption prove significant, the ability of the Head of Internal Audit to deliver the statutory, year-end opinion on the adequacy of the arrangements for governance, risk management and control might become impaired.
13. In recognition that the planned body of evidence might not be available from internal audit work in 2020/21, the Chartered Institute of Public Finance & Accountancy (CIPFA) issued guidance at the end of November 2020 for Heads of Internal Audit to assess the impact locally, and to determine whether a 'limitation of scope' should be applied to the year-end opinion. The guidance also incorporates advice on how internal audit teams might adapt its usual approach in the emergency response circumstances, in order to maximise its coverage. The importance of drawing on appropriate 2nd line assurance and other 3rd line assurance providers is also highlighted.
14. The County Council's Head of Internal Audit carried out a self-assessment against the CIPFA guidance towards the end of December 2020, using it to project the expected year-end position in terms of the sources of assurance that will be available to him in determining his opinion. He also self-assessed against the recommended approaches for internal audit teams in the pandemic.
15. The outcome of the assessment is that a **'limitation of scope' opinion will not be required**, as the Head of Internal Audit expects to have sufficient evidence available to express his opinion on governance, risk management and control. Chart 3 sets out the rationale.


Chart 3 – Expected sources of assurance for Head of Internal Audit's year-end opinion

Governance	Risk Management	Control
Governance Action Plan	Assurance mapping	Internal Audit assurance
1 st Line assurance for Annual Governance Statement	Zurich Municipal Health Check	Assurance mapping
2 nd Line assurance for Annual Governance Statement	Attendance at RSEMB/RSEMGs	Continuous assurance
Assurance mapping	Risk management updates to Governance & Ethics Committee	External inspections
External assessments (BSI, Lexcel)		
Ombudsman Annual Review		
Whistleblower review		
RIPA annual report		
Review of urgency/emergency powers (CV19 response audit)		

16. With regard to the assurance expected from Internal Audit's work, highlighted above in Chart 3, the assessment shows that a good range of timely and relevant evidence will be available. This has been possible due to the self-assessment showing a good degree of compliance with

CIPFA's recommended approaches for internal audit during the pandemic period. Chart 4, below, summarises how well the Council's services matches against the guidance, highlighting the aspects in which further development is in progress to strengthen further.

CIPFA recommendation		Self-assessment
Planning for adequate resource		
Assess extent of changes in Internal Audit resource levels		No issues arose, the revised structure is currently bedding in.
Assess extent of demands for work not relevant to the year-end opinion		No significant demands came through. A member of the team was allocated to support corporate risk management, but this has proven to be more of a positive development.
Assess extent of disruption to Internal Audit access		Manageable disruption arose. Some planned audits of frontline services were deferred, but this was warranted by their replacement audits in the flexed plan. School audits only recommenced in the final third of the year.
Revise audit plans		A four-monthly planning approach has been in place for a number of years now, and this has proved its worth especially during the pandemic period.
Rely on other assurance providers, where appropriate, and an assurance mapping framework		Assurance mapping is well established and will feed in to the Annual Opinion, as will a number of other sources of 2 nd and 3 rd line assurance.
Engage with changes to governance, risk management and internal control		Good input provided on a range of changed and new procedures. The review of the Council's CV19 response is relevant here, along with the further development of continuous assurance.
Avoid significant change in audit resource levels		No changes were noted. The service has benefited from the input of resource through the Graduate Trainee Scheme and the Change 100 Programme.
Making effective use of Internal Audit resources – streamline to increase capacity		
Fill vacant posts		No vacancies to fill.
Consider secondments into Internal Audit		The service continued to benefit from its collaboration with Assurance Lincolnshire, with an ICT audit having been undertaken by a partner auditor.
Maintain communications with clients to secure co-operation		Appropriate contacts have been maintained with clients, as evidenced by departments' willingness to engage with the service for advice with changing procedures.
Devise approach to 'agile audit'		The development of an approach is progressing, centring on the timeliness and relevance of assurance delivered, and the effective engagement of clients during audit fieldwork.
Narrow audit focus to cover the most significant risks through to year-end		This was emphasised to the team and applied for work carried out in Term 3.

CIPFA recommendation		Self-assessment
Prioritise requests for advisory work		Requests were considered carefully for their relevance to the year-end opinion.
Avoid diversion to reactive counter-fraud		Few requests have been received. The service offered advisory inputs.
Check for compliance with Public Sector Internal Audit Standards (PSIAS)		This will be carried out as part of the Head of Internal Audit's year-end review. No issues are anticipated.
Engagement between the Leadership Team, Audit Committee and Head of Internal Audit		
Maintain effective engagement		Reporting planning and progress to the Corporate Leadership Team and to the Governance & Ethics Committee has been maintained. Regular update meetings with the Committee Chairman and Opposition Group Lead have also been held.

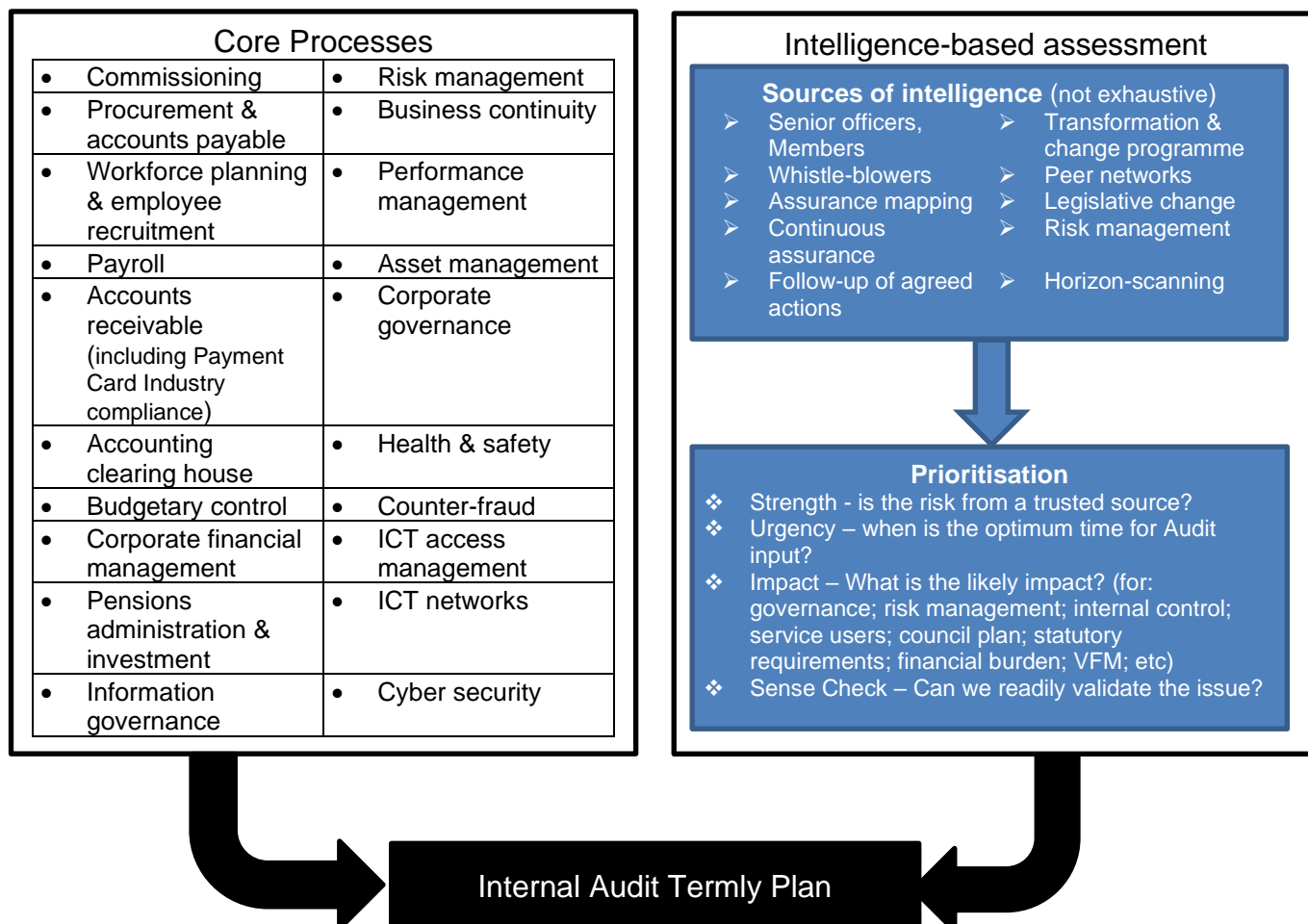
Proposed Internal Audit Plan for Term 1 2021-22

17. Internal Audit termly plans continue to be determined on a risk basis, as required by the Public Sector Internal Audit Standards. Improvements are being made to the way in which priorities for Internal Audit input are identified and assessed, building on incremental developments in the service's intelligence framework over recent years.
18. To date, the bedrock of Internal Audit's prioritisation approach has been its long-established Audit Needs Assessment. Under this approach, each area of activity in the Council is assessed in terms of the following factors:
- Value and volume of transactions involved with the activity
 - The known level of internal control in place (from previous audits)
 - The exposure to fraud risk
 - The relative complexity of the activity
 - Whether the activity is stable or subject to change
 - How sensitive the activity is for the Council among its key stakeholders
 - The number of sites where the activity is carried out.

Using an established system of scoring and weighting the above factors, the Needs Assessment arrives at a high/medium/low risk-rating for each area of activity. This approach is commonly known as maintaining an 'audit universe'.

19. Whilst this approach has served well for many years, it is increasingly the case that its outputs are becoming static and largely predictable. The approach is effective in identifying the Council's core processes, which the Head of Internal Audit needs to review on a rotational basis over a period of 2-3 years as a key element of his annual opinion. However, being grounded in large part on a retrospective assessment of risk, the approach is less effective in identifying which areas, or topics, the service should audit next to deliver timely assurance to the Council. This has been thrown into sharp relief during the pandemic and, whilst the service is able to flex its plans to accommodate new and emerging risks, it is opportune to build greater foresight into the service's planning.

20. It is proposed, therefore, to replace the audit universe with a complementary approach based around the Council's known core processes and an intelligence-based priority assessment. This is depicted below.



21. Termly planning has begun to operate in this agile way, especially over the past year, therefore the proposal serves to formalise, and add structure to, the emerging approach. A further feature to design in to the process is that the precise scope and objectives for each audit assignment should be agreed at the time the audit is to commence. Detailed discussions just prior to an audit commencing should identify other sources of assurance already available for the area in question, thereby clarifying the objectives on which Internal Audit's focus should most impactfully be applied. At this planning stage, therefore, proposed topics for audit are expressed in terms of the broad rationale for their inclusion.

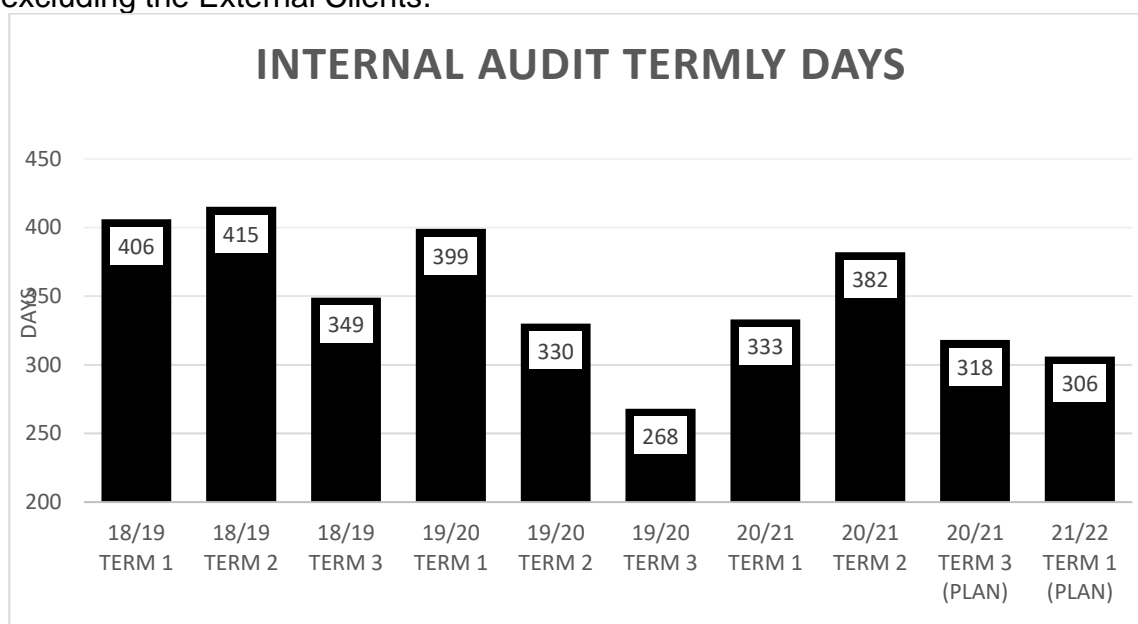
22. The Term 1 plan represents the Section's assessment of the key areas that need to be audited in order to satisfy the Authority's statutory responsibility to undertake an adequate and effective internal audit of its accounting records and its system of internal control. The Section's aim is to complete enough work to express an overall, annual opinion on the adequacy and effectiveness of the Authority's internal control systems.

23. The Term 1 plan has also been compiled in recognition that front-line services continue to prioritise the delivery of response and recovery activities and may have limited capacity to accommodate a full range of assurance input from Internal Audit.

24. **Appendix 2** sets out details of the draft coverage by Internal Audit for Term 1, and it is summarised in the following table.

Assurance from Audit Coverage	Days	Outputs
Second Line Assurance	80	5
Opinion Assurance	154	13
Advice / Consultancy Assurance	45	0
Counter Fraud Assurance	12	4
Certification Assurance	15	1
Total	306	23
External Clients (Notts Fire & Rescue Service)	57	
Grand Total	363	

25. The chart below shows the trend in the number of actual days delivered in recent terms, excluding the External Clients.



Other Options Considered

26. The Audit Section will work to the Public Sector Internal Audit Standards during 2021/22. This report meets the requirement of the Standards to produce a risk-based plan and to report the outcomes of Internal Audit's work. No other option was considered.

Reason/s for Recommendation/s

27. To set out the report of the Group Manager – Assurance for Term 2 of 2020/21, and to propose the planned coverage of Internal Audit's work in Term 1 of 2021/22, providing Members with the opportunity to make suggestions for its content.

Statutory and Policy Implications

28. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance finance, human resources, human

rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

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

Financial Implications

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

RECOMMENDATIONS

- 1) Arising from the content of this report, Members determine whether they wish to see any actions put in place or follow-up reports brought to a future meeting.
- 2) That Members consider whether the planned coverage of Internal Audit's work in Term 1 of 2021/22 will deliver assurance to the Committee in priority areas.

Nigel Stevenson

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

For any enquiries about this report please contact:

Rob Disney

Group Manager - Assurance

Constitutional Comments (KK – 11/03/2021)

29. The proposals in this report are within the remit of the Governance & Ethics Committee.

Financial Comments (RWK - 10/03/2021)

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

Background Papers and Published Documents

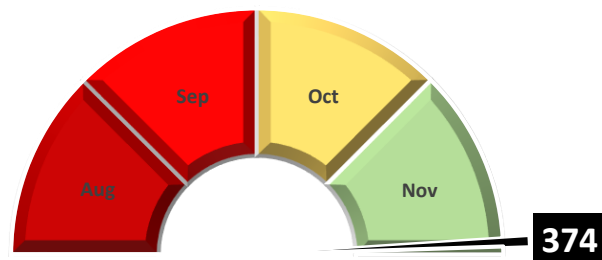
Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- None

Electoral Division(s) and Member(s) Affected

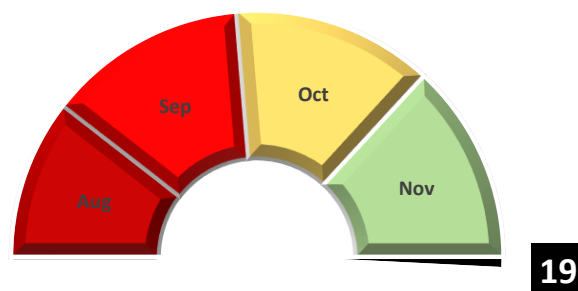
- All

Term 2 – Inputs – Days Delivered



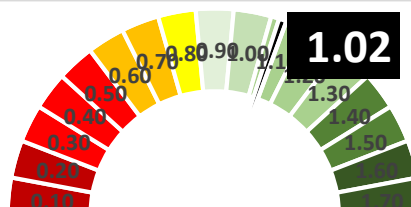
Term 2 Days target - 382
Position as at 30/11/2020

Term 2 – Outputs – Jobs Completed



Term 2 Jobs target: 19
Position as at 30/11/2020

Term 2 – Productivity Indicator



Term 2
Productivity at 30/11/2020

Key Performance Indicators

Performance Measure/Criteria	Target	Outcome in Term 2
1. Risk-aware Council		
Completion of Termly Plan – Days	90%	✓ 98%
- Jobs	90%	✓ 100%
Regular progress reports to: <ul style="list-style-type: none"> - Departmental Leadership Teams. - Corporate Leadership Team. - Governance & Ethics Committee. 	1 per term 1 per term 1 per term	✓ Completed ✓ Completed ✓ Completed
Publication of periodic fraud/control awareness updates.	2 per annum	✓ Annual Fraud Report – Sept 2020
2. Influential Audit Section		
Recommendations agreed.	95%	✓ 100%
Engagement with the Transformation agenda.	Active in 5 key projects during the year.	✗ NAO Checklist and Programmes ongoing in Term 3 - 2020/21
3. Improved internal control & VFM		
Percentage of Priority 1 & Priority 2 recommendations implemented. (Position as at March 2021 – Action Tracking Report.) (To be updated Post pre-agenda meeting when Action Tracking Report Term completed.)	75%	✗ 68% Priority 1 ✗ 69% Priority 2
4. Quality measures		
Compliance with the Public Sector Internal Audit Standards. (PSIAS)	Compliance achieved	✓ Head of Internal Audit's self-assessment against PSIAS for 2019/20
Positive customer feedback through Quality Control Questionnaire (QCQ) scores.	Feedback good or excellent (where a score of 4 is excellent and a score of 3 is good)	✓ 3.975

Internal Audit Plan: 2021-22 - Term 1 (April 2021 - July 2021)
APPENDIX 2

Area of Assurance Coverage	Priority Level (if risk assessed)	Job count	Other 3rd Line Assurance	Assurance from audit coverage and planned days					Potential scope or area of assurance coverage
				2nd Line Assurance Role	Opinion Assurance	Advice/ Consultancy Assurance	Counter- Fraud Assurance	Certification Assurance	
Audit Risk Assessment - Assurance Requirements for Term 1			X	Rationale for Assurance Requirement					
Governance Framework	H	1							Core Council process - assurance that the framework continues to operate effectively under pandemic response and recovery
Continuous audit assurance				25					Continue the development of continuous assurance, to provide routine assurance that core processes are operating as intended, or identify areas for management attention.
Assurance Mapping				1	15				Delivery of Assurance Mapping 2020/21 report for Governance & Ethics Committee
Annual Governance Statement				1	10				Completion of the Annual Governance Statement to inform the completion of the Annual Financial Statements.
Risk Management	H	1						Core Council process - assurance that the framework strategic risk management is operating effectively under pandemic response and recovery	
Zurich Municipal Health check				X					Review of the Council's current approach to corporate risk management
Corporate Risk Management support				25					A report is being prepared for consideration by CLT which would change how strategic risk is managed by the Council. The likely scope of an audit would embrace this, in light of current standards and frameworks, including from the Institute of Internal Auditors.
County Council Elections	H			1	5				Provide operational risk management support as part of the working group for the administration of the County Council elections.
Health and Safety	H	X						Increased vulnerability arising from Covid and homeworking agenda. External assurance from British Standards Institute	
Cyber Security	H			X					Increased vulnerability and exposure from remote working, National Alerts in relation to Cyber Security - external assurance through PSN Compliance & Health check
Post-Covid19 recovery and renewal plans	H	1			25				Continuing effectiveness of the Council's response and recovery - assess alignment with national roadmap
Transformation and Change programme	H	1			20				Significant change in Council approach - to provide input on specific programmes and projects that have a particularly significant impact on the control environment, or those inviting a gateway review. This will follow on from a self assessment against NAO Guidance. For transformation and change
Alternative Service Delivery Models (ASDM) governance review	H	1			5				Public Interest Reports of vulnerability in other councils - continue the review commenced in Term 2 of the governance of ASDMs and Companies operated by the Council
Review of Service Provision - other external partners	H	1			10				Public Interest Reports of vulnerability in other councils - review of impacts on service provision
PPE stock control	H	1			5				Current high priority service provision for the pandemic - continue the review of stock control processes in place to protect the stock of PPE maintained by the Council.
Counter-fraud	H	1							Heightened risk of fraud during the pandemic
Fighting Fraud and Corruption Locally (FFCL) - Counter Fraud - NFI Reporting - Annual Fraud Report								5	

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Area of Assurance Coverage	Priority Level (if risk assessed)	Job count	Other 3rd Line Assurance	Assurance from audit coverage and planned days					Potential scope or area of assurance coverage	
				2nd Line Assurance Role	Opinion Assurance	Advice/ Consultancy Assurance	Counter- Fraud Assurance	Certification Assurance		
Pro-active counter-fraud – <i>NFI 2018-20 - Review of Matches and 2020-21 submissions</i>		1	X				5		Review and report on the completion of Recommended matches by the Key Contacts within departments for Cabinet Office.	
Counter Fraud Alerts - network dissemination		1					1		Review and dissemination of fraud alerts from national counter-fraud agencies.	
ACFS - Counter Fraud Case Reviews - financial irregularities		1					1		Regular liaison to address concerns of misuse of direct payments, and other possible financial abuse involving service users	
Post 16 Specialist Colleges Contracts	H	1			5				Continuation of advice in relation to budget overspends and the processes for contracted arrangements with Colleges.	
Advice - including an appraisal of Futures	H	1			4				Advice to client on financial and other controls, on request. Regarding an appraisal of Futures, which involves C&F and Place, this will take account of its inherent complexities, including due to Board structures and the Teckal exemption.	
Covid Contract Additional Payments to HPLT and Parkwood Leisure	H	1			5				CV19 related emerging risk - Continue to advise on the review of claims from contractors in relation to additional costs / lost income during Covid.	
Trading Standards Grants	H	1						15	Required certification - Audit certificates for use of NTSB grant funding for Regional Investigation Team and 3+ operations	
Vulnerable Children	H	1			15				Nationally emerging issues through lockdown - corporate risk register entry. Scope to be determined	
Vulnerable Adults	H	1			15				Nationally emerging issues through lockdown - corporate risk register entry. Scope to be determined	
Core Processes - Pensions Administration	H	1			15				Core processes to ensure robust corporate systems are operating effectively	
Post-Brexit Impact	H	1			15				National and local impact across departments to address emerging risk to procurement, supply chain, workforce etc.	
Value for Money Arrangements	H	1			15				National financial pressures and changing external audit focus bring a renewed importance to ensure that Value for Money (VFM) is obtained across the Council.	
Schools' control framework	H								Core process - continuing schedule of school visits to assess local controls, conducted by Financial Services Team for Schools	
Sub-totals					80	154	0	12	15	
Planning, reporting, client management										
Governance & Ethics Committee		0				10			Preparation of reports in accordance with the Governance and Ethics Committee annual work plan and attendance at meetings	
Client management		0				20			Planning and termly progress reports to Corporate Leadership Team	
Advice		0				15			Advice to client on financial and other controls, on request	
Sub-totals				0	0	45	0	0		
Grand Totals				80	154	45	12	15		
		23		306						
Forward Plan for assurance in subsequent Terms										
Post-Payment Reviews	H								National intelligence on emerging risks from changed procedures, administering new funding and counter fraud arrangements.	
Property Compliance	H								National intelligence on emerging risks from maintaining vacant properties, mothballing buildings and associated health risks.	

Area of Assurance Coverage	Priority Level (if risk assessed)	Job count	Other 3rd Line Assurance	Assurance from audit coverage and planned days					Potential scope or area of assurance coverage
				2nd Line Assurance Role	Opinion Assurance	Advice/ Consultancy Assurance	Counter-Fraud Assurance	Certification Assurance	
Culture	H								National intelligence on the importance of maintaining effective organisational culture to deliver quality services.
Workforce Strategy	H								National and Local developments to ensure effective strategies are developed.
Environmental Strategy	H								National and Local developments to ensure effective strategies are developed.
Cloud Migration	H								Ket development in the Council - Assurance that development in place are embedding and operating effectively.

31 March 2021

Agenda Item: 8

REPORT OF SERVICE DIRECTOR, FINANCE, INFRASTRUCTURE & IMPROVEMENT

FOLLOW-UP OF INTERNAL AUDIT RECOMMENDATIONS

Purpose of the Report

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

Information

2. Internal Audit carries out regular follow-up work to obtain assurance that the actions proposed by management in response to Internal Audit's recommendations are being taken. This assurance is obtained in two phases, as set out below:

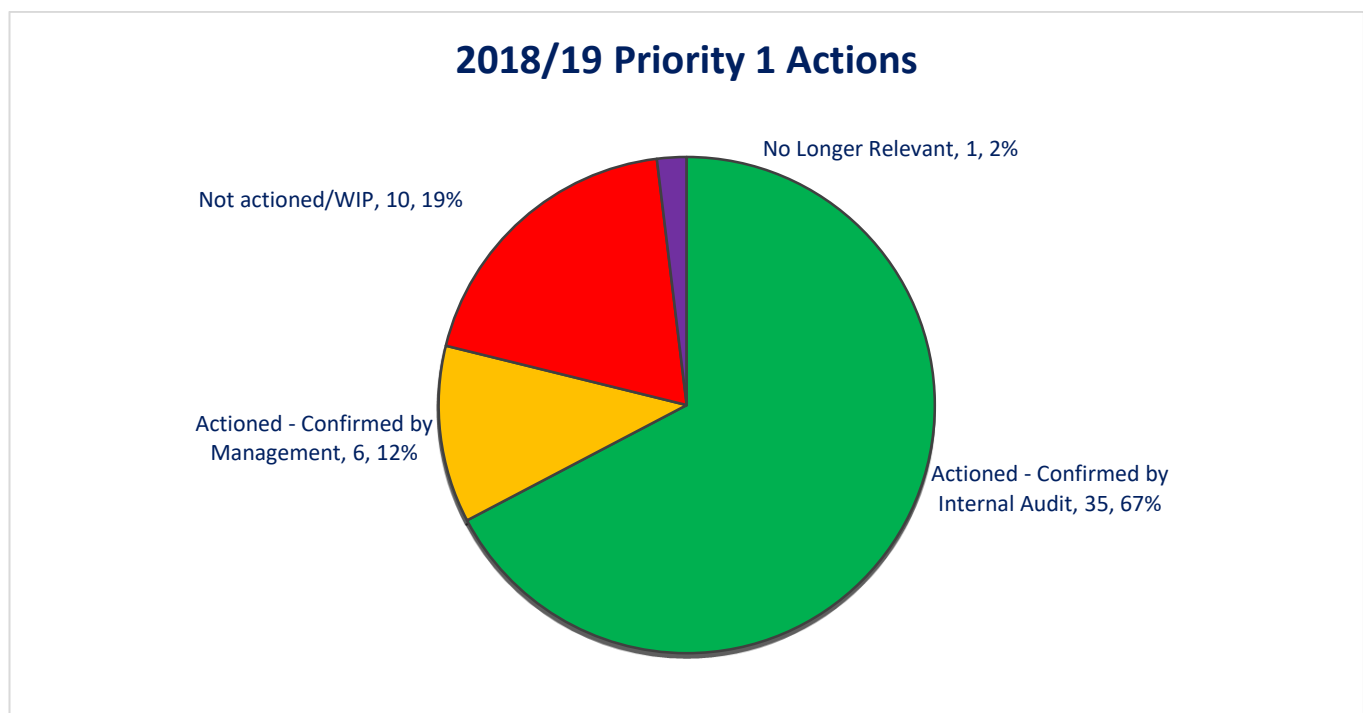
Priority rating of recommendation	Management assurance	Internal Audit assurance
Priority 1	Assurance is sought from management that all agreed actions have been taken	Compliance testing scheduled to confirm all agreed actions relating to high priority recommendations are carried out consistently.
Priority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

3. Internal Audit carries out the following work to provide an update on progress on a 6-monthly basis:
 - For recommendations agreed in audit reports issued since the date of the previous meeting, seeking assurance from management that agreed actions have been taken in accordance with the proposed timescales.
 - For actions previously confirmed to have been taken by management, carrying out compliance testing to confirm satisfactory implementation.
4. Since the commencement of the Covid19 Pandemic the Council has continued to prioritise the delivery of front-line services and refocused the service delivery within all departments. This has involved the reprioritisation of services and redeployment of staff which has continued

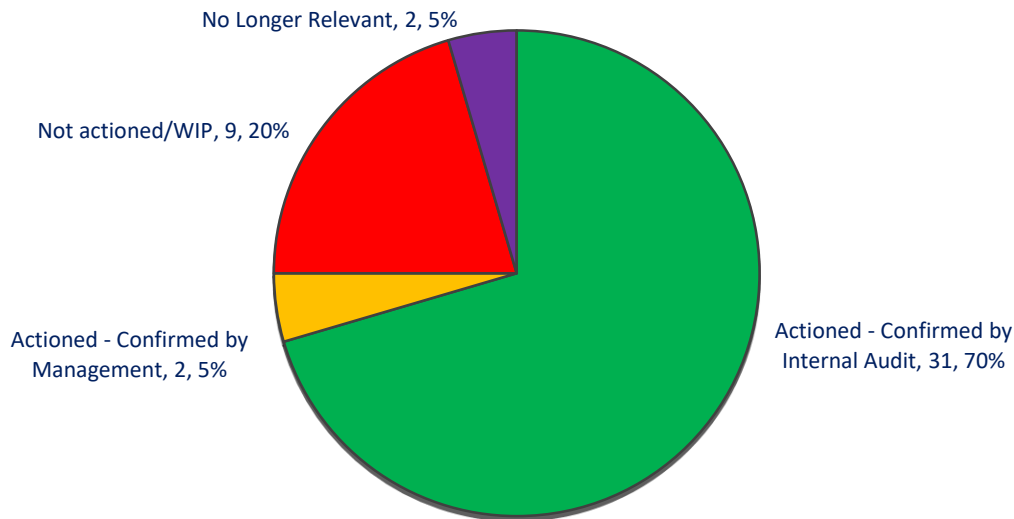
to impact on resources available to implement planned actions, however some progress has been made with the implementation of actions. Progress continues with functionality developed within Internal Audit's automated system to enable action owners across the Council to capture updates directly however completion of testing has been frustrated and delayed due to Covid19 priorities.

Priority 1 Actions

5. **Appendix 1** sets out the updated position with the Priority 1 actions that are being cleared through the follow-up process. This sets out details of the agreed management actions, the management assurances received and the outcome of Internal Audit's follow-up testing to date. The categorisation we follow as regards the Red-Amber-Green (RAG) rating included in the appendix is:
 - Red – the implementation date has passed but the action remains in progress – based either on management's update or on Internal Audit's own testing;
 - Amber – management has confirmed that the action has been completed; and
 - Green – Internal Audit's testing confirms the action is operating consistently.
 The appendix also indicates the proposed timing for follow-up testing by Internal Audit in future periods. It has been updated since the previous update to Committee as follows:
 - Actions previously confirmed as implemented by Internal Audit have been removed
 - New actions agreed in recently issued reports have been added.
6. The previous updates to Committee moved on to focus on actions agreed for 2018/19 and 2019/20 which continues in this report with 2020/21 actions featuring in subsequent reports. It should be noted that any Priority 1 actions which are still outstanding remain listed on Appendix 1 until their implementation has been confirmed.
7. The current status with the implementation of Priority 1 actions agreed from audits carried out in 2018/19 and 2019/20 are summarised in the following charts:



2019/20 Priority 1 Actions



8. Follow-up testing by Internal Audit since the previous update in October 2020 has been completed across several audits, including the following areas:

- a.) 2018-51 – ASCH Department: Home commissioning and contract management – The recommendation in relation to contingency plans has been implemented and our testing has demonstrated this working during testing.
- b.) 2018-109 – CF Department: Community Short Breaks – Satisfactory information and evidence has been received and testing completed.
- c.) 2018-77 – CEX Department: Contract Management - A new contract management toolkit was launched in October 2020, and an e-learning module is being developed to complement it. This has been progressed alongside urgent work that Corporate Procurement had to do in response to COVID-19, including to ensure continuity of services and supplies.
- d.) 2017-91 – Cross Cutting: Agency Staff and Consultants – The recommendation related to the automation of management information has been implemented, evidence has been provided in the form of an SLT report and the new contract has been in operation since September 2020.
- e.) 2016-57 – Cross Cutting: Employee Recruitment – The implementation related to automation around contract creation has been confirmed through testing.
- f.) 2018-113 – Cross Cutting – Procurement of Tree Survey Works – Recommendations have been actioned in relation to obtaining quotes for work and this has been confirmed by testing.
- g.) 2020-29 – Cross Cutting – Financial Resilience – All four recommendations have been actioned and our testing has been completed to confirmed implementation.

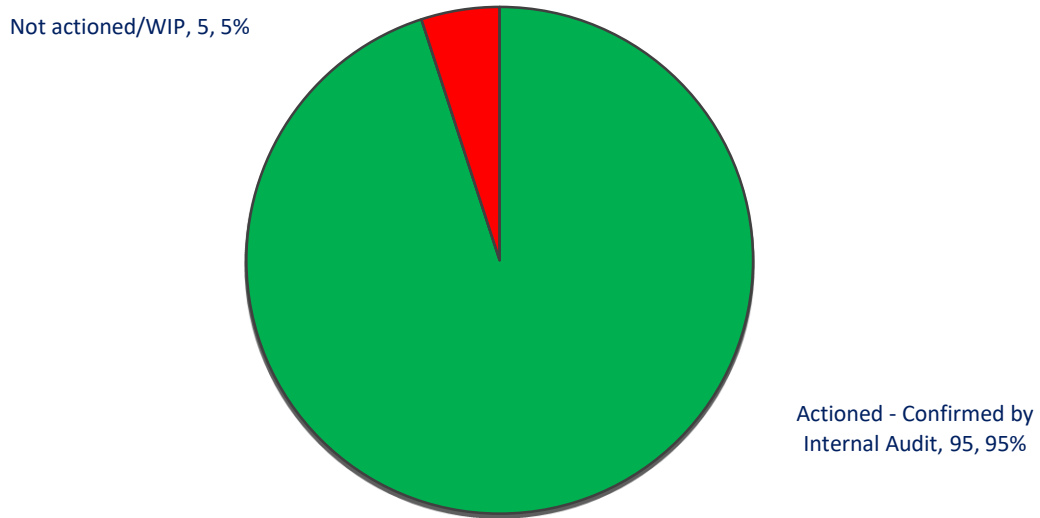
Covid19 continues to impact on the resources available for the implementation of actions and our subsequent testing across all departments especially in relation to Services to Self-Funders, External Day Care Providers, Continuing Healthcare and Joint Funding, Health and Safety, Ethical Framework and Business Continuity Planning. Despite Covid19 the implementation of agreed audit recommendations is critical to ensuring effective governance and we have identified below audits where implementation of recommendations remains a priority.

Audit Title	Recommendation Descriptions
Health& Safety	Mandatory training; Emergency response team training; Emergency response provision.
Commissioning	Alignment with corporate and service strategies and objectives; Commissioning project management; Commissioning training and quality control; Databases and data analysis; governance arrangements.
Business Continuity	Training; Business continuity plans on SharePoint; Annual review of business continuity plans.
Covid19 – Phase 1	Business continuity/Risk management; Critical services.
Council-wide Budget Forecasting	Training around budget forecasting and authorisation; Training.
External Day Care Providers	Service providers tendering and contracting; Contract compliance - performance
Continuing Healthcare and Joint Funding	Formal approval by health partners; Form completion by social workers.
Ethical Framework	Register of staff gifts and hospitality; Staff declaration of interest.
Sickness Absence Management	Completion of mandatory training
Information Governance Improvement Programme	Follow up of actions in previous report
Complaints Service	Follow up actions

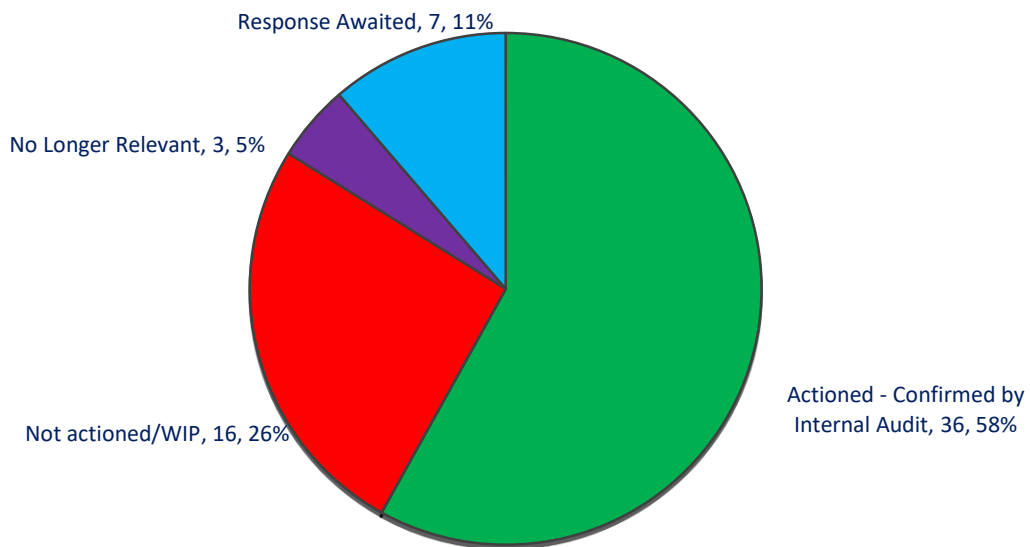
Priority 2 Actions

9. Similarly, with the Priority 1 actions previous reports moved on to focus on actions agreed for 2018/19 and 2019/20 which continues in this report with 2020/21 actions featuring in subsequent reports.
10. Progress with implementation of the 2018/19 and 2019/20 Priority 2 actions are summarised in the following charts:

2018/19 Priority 2 Actions



2019/20 Priority 2 Actions



11. The position above for Priority 2 actions relates primarily to the assurance updates received from management and this continues to provide a positive level of assurance that improvements to the Council's system of internal control are being made as a result of Internal Audit's work.

Management updates to the Governance & Ethics Committee

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

Other Options Considered

13. No other options for obtaining the required assurances were considered at this time.

Reason for Recommendation

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

Statutory and Policy Implications

15. 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.

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

RECOMMENDATION

- 1) The progress detailed in the report and its appendix are considered, and the Committee determines whether it wishes to receive further and more detailed updates on progress from relevant managers in any of the areas of activity covered by this report.

Nigel Stevenson

Service Director – Finance, Infrastructure and Improvement

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

Constitutional Comments (KK 11/03/2021)

The proposals in this report are within the remit of the Governance & Ethics Committee.

Financial Comments (RWK 10/03/2021)

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

APPENDIX 1					
Action Description	Implementation date (original & revisions)	Management Update	Internal Audit follow-up status	Internal Audit follow-up outcome / testing	Action Status
Adult Social Care and Health					
Direct Payments - monitoring and auditing					
Repeat Recoups and Care Reassessments - Action to prevent repeated excess balances and recoups to be more effective.	31/03/2018, revised to 30/04/2019 and 2020.	A new Mosaic ACFS Alert has been created and is raised for cases where a DP surplus recoup has been identified in two or more consecutive Audits. ACFS Auditors are flagging these alerts up and front line teams are required to review the packages where this type of alert is now raised.	Complete	Testing confirmed that more robust and effective measures are in place to identify and prevent over payments leading to repeat recoups.	Confirmed by Internal Audit (GREEN)
Non-payment of Service-user Contributions - To have a robust method of ensuring that service user contributions are made in full into their direct payment account.	31/03/2018, revised to 30/06/2019 and 2020	A new workflow exists in Mosaic which will show where Alerts are open to workers. ACFS have established a process whereby they raise an Alert and log this on our Audit spreadsheet to track responses. If an Alert is sent back to ACFS without a response or without a satisfactory resolution the Alert is re-raised to the Social Worker (SW) or an email sent to the SW with copy to Team Manager (TM). Our spreadsheet allows us to easily track Alerts sent (for whatever reason) and whether a response was received, and when.	An audit of direct payments is planned and will include further testing of the measures implemented.	Examination of the monitoring spreadsheets currently indicate that alerts for non-payment of contributions are being raised and tracked. However, from a sample of 67 alerts raised, responses had only been received in 29/67 (43%) of cases and only 18/67 (27%) cases had been resolved.	Confirmed by Internal Audit as Partly Implemented (AMBER)
Procurement of adult social care suppliers and providers					
Day services transport - To be under review with the Category Manager who is looking at procurement approaches.	30/04/2018	Partly actioned. Two providers were mentioned in our original report. One is now competitively procured. For the other, a tendered framework agreement planned for 2020 was cancelled because of Covid-19. The department is conducting a full review of Day Opportunities, and the impact of Covid-19 has resulted in different solutions. The outcome of this review is awaited.	Further management update to be obtained; testing to be scheduled.	We have confirmed that one of the two providers has been competitively procured.	Confirmed by Internal Audit as Partly Implemented (AMBER)
County Enterprise Foods: specialist food products - To be under review with the Category Manager who is looking at procurement approaches.	30/04/2018	The supplier mentioned in our report met unique requirements. A competitively procured NCC food contract was awarded in October 2019. Some spending was transferred to this, but not all. Because of Covid-19 food suppliers have been struggling with supply and working arrangements. So it was not a good time to address this and further work is planned later in 2021.	Further management update to be obtained; testing to be scheduled.		Implementation remains in progress (RED)
Services to self-funders					
Data collection and reporting self-funder numbers - There is an option in Mosaic to note down that a service user is 'a previous self-funder' however this is not currently mandatory. Part of the wider mapping work of changes required to Mosaic includes consideration of steps required to improve data collection.	31/03/2020, no revised date can be set at present time. Now revised to 30/06/2021	The department will remain in an emergency response mode until at least June 2021 and we will not be looking to progress the work - the recording of self-funders in mosaic - before then.	Testing to be scheduled once changes to Mosaic complete.		Implementation remains in progress (RED)
Homecare commissioning and contract management					

Action Description	Implementation date (original & revisions)	Management Update	Internal Audit follow-up status	Internal Audit follow-up outcome / testing	Action Status
Outstanding risks: Contingency plans to be kept under review and tested as necessary.	31/03/2019	August 2020 update: Contingency arrangements activated in response to Covid-19 in March. Portals closed and brokerage system implemented and Mosaic workflow re-designed. Portals reactivated in August 2020 and now accommodate both old and emergency workflows should a further Covid spike arise.	Evidenced through successful operation during Covid.	Audit review of pre-Covid interim arrangements provided adequate assurance that contingency arrangements in place were effective.	Confirmed by Internal audit (GREEN)
Care Home fees investigation - Gedling Village					
Contract rate adjustments - new element in Mosaic If commissioners want to reduce cost of a banded home, to be a new element in Mosaic called a 'Contract Rate adjustment'.	not confirmed - reset to 31/03/2021.	From the Mosaic Development Team perspective, they have created the new element but it has not been released for testing in the Systems review area. As the problem has not arisen again since the decision it has lost its place in priorities. They will make it live and give guidance on use, they are unsure when they will have time to test this so will update Internal Audit at a later date.	On hold.		Implementation remains in progress (RED)
Contract rate adjustments - annual uplift in Mosaic To be a new process to manually change these packages on uplift to ensure amount agreed remains the same with the percentage uplift applied.	not confirmed - reset to 31/03/2021.	See above	On hold.		Implementation remains in progress (RED)
Direct Payment Support Services					
DPSS Contract Monitoring - More robust and formalised arrangement need to be in place and monitored.	30/11/2019 - Contract terms to be amended with new tender in March 2021.	The tender for a new model of DPSS, in partnership with Nottingham City Council and the CCGs within the Nottingham and Nottinghamshire Integrated Care System (ICS) is now complete. The service is due to go live on 15th March 2021. The service specification includes a list of the monitoring information requirements.	Testing to be scheduled later in the year.	Audit confirmed that the service specification includes more formal contract monitoring measures.	Confirmed by management (AMBER)
DPSS Liability - Liability of the DPSS for client monies needs to be clarified and agreed.	30/11/2019 - amended to 31/03/2021.	The new DP agreement, incorporating the new clauses is a live document and is available in Total Mobile and Mosaic. The clauses are reflected in the service specification for the new service. The contract arrangements for the new service are still being developed through Legal Services.	Further evidence to be obtained; testing to be scheduled.	Audit confirmed the DP agreement has been updated. Awaiting new contract to confirm terms have been included.	Implementation remains in progress (RED)
Service User Contribution Underpayments - The DPSS accreditation agreement does not set out responsibilities for setting up and monitoring service user contributions.	30/11/2019 - amended to 31/03/2021.	The additional clauses defining the DPSS responsibilities in relation to service user contributions (setting up, monitoring and raising alerts) have been added to the service specification for the new service. It is also hoped to develop a tracking system for alerts with the Mosaic Development Team in 2020 where contributions are not being paid.	Complete	Evidence of the revised wording is noted as included in the service specification document.	Confirmed by Internal Audit (GREEN)
Accreditation Agreement - Lack of evidence of signed agreements with existing providers.	30/11/2019 revised to 31/3/2021.	The Direct Payment agreement will be signed by the Provider, the Service User and the referring agency, setting out the roles and responsibilities of all parties.	Complete	Testing confirmed that new providers selected through the tender process have or are in the process of signing the framework agreement.	Confirmed by Internal Audit (GREEN)

Action Description	Implementation date (original & revisions)	Management Update	Internal Audit follow-up status	Internal Audit follow-up outcome / testing	Action Status
Contractual Arrangement with Non-Accredited Providers - Formalising contractual arrangements for non-approved DPSS providers.	30/11/2019 - amended to 31/03/2021.	New providers will not be able to be added to the framework agreement. SUs can choose to use an alternative provider but if a managed account is being used, the Provider would need to sign the DP agreement, therefore accepting the terms within the agreement including those around liability for Client monies.	Complete	Requirements of the DPSS are set out in the DP agreement, service specification and framework agreement.	Confirmed by Internal Audit (GREEN)
Accredited Provider Checks - Appropriate checks of approved providers should be carried out and evidenced.	30/11/2019 - amended to 31/03/2021.	Verification checks on a range of issues relating to the providers' operational policies and practices are included in the service specification for the new service, including the insurance requirements. Remedies for non-compliance and the consequences of breach of the new framework agreement terms are set out in the service specification. Verification checks of DPSS providers' insurance documents were carried out during recent site visits.	Complete	Evidence of the revised wording is noted as included in the service specification document, including method of measurement and consequences of any breaches.	Confirmed by Internal Audit (GREEN)
Financial Safeguards - Separation of duties between carer and support provider.	30/11/2019 - amended to 31/03/2021.	The audit recommendation has been included within the specification for a new service. Legal Services have advised that there is nothing in the Care Act to say that DPSS providers can not also act as care providers. Providers who provide both DPSS and care services must keep them organisationally separate and make available to the Council all records that are needed to carry out checks in this area.	Complete	Internal Audit can confirm that the service specification includes clauses where companies provide both DPSS and care services and requires these functions to be kept organisationally separate.	Confirmed by Internal Audit (GREEN)
Bank Statements - Separate bank accounts and statements should be used for direct payment recipients managed by a DPSS.	30/11/2019 - amended to 31/03/2021.	The audit recommendations have been incorporated into the specification for the new service, together with the requirement for real time account reporting. ACFS auditing processes do already incorporate the checking of supporting documentation.	Complete	Internal Audit have confirmed that the service specification requires that the Provider should open a bank account in the Service User's name, to which they are a third-party.	Confirmed by Internal Audit (GREEN)
External Day Care Providers					
Service provider tendering and contracting A competitive process to select external day care providers to be undertaken (instead of ASCH Commissioning annually extending contracts beyond duration of framework agreement that expired Mar-16).	planned for 30/04/20; revised because of Covid-19 to 30/06/21	The tender was prepared and due to go live in Mar-20 but was pulled due to Covid. The impact Covid has on the ability vulnerable people have to meet together in congregate settings means that there is a need to review the future service delivery model and specification and we will not simply be able to go live with the previous specification. There's a lot of work to do so current best estimate for new procurement is probably June 2021. However, that would be for the procurement exercise so new contract issuing would be after that.	On hold.		Implementation remains in progress (RED)
Contract compliance – performance The relevant key performance indicators (KPI's) and quality standards to be a contractual requirement.	planned for 30/04/20; revised because of Covid-19 to 30/06/21.	KPI's will be in new contract – see above re timeline issue.	Further update to be obtained; testing to be scheduled.		Implementation remains in progress (RED)
Continuing healthcare and Joint Funding					

IMPLEMENTATION STATUS OF HIGH PRIORITY RECOMMENDATIONS

APPENDIX 1

Action Description	Implementation date (original & revisions)	Management Update	Internal Audit follow-up status	Internal Audit follow-up outcome / testing	Action Status
Formal approval by health partners ASCH Commissioning and ASCH Finance to continue to engage with health partners to reduce backlog of Continuing Care Package Review forms, with expectation they will start using Council's SharePoint system too.	1/4/20 and ongoing originally; now 31/03/21	Covid-19 has had a major impact on work flows. The work to update the Continuing Healthcare Panel Outcome Step is now underway, a follow up request has been suggested for the end of March. In terms of the Health interface, this is an ongoing, long-term goal, with no prospect of being discussed currently due to Covid-19.	On hold.		Implementation remains in progress (RED)
Form completion by social workers ASCH Commissioning and ASCH Finance to continue to engage with social workers and team managers to improve the Care Package Review form submission process and first-time completion levels.	1/4/20 and ongoing originally; now 30/06/21	See above.	On hold.		Implementation remains in progress (RED)

Action Description	Implementation date (original & revisions)	Management Update	Internal Audit follow-up status	Internal Audit follow-up outcome / testing	Action Status
Children and Families					
School expansion & pupil place planning					
Use of forecasting model to prioritise pupil place demand pressures between planning areas - A standardised scoring methodology/model evaluation template for planning areas to be developed to ensure that all relevant factors are evaluated, subject to challenge and outcomes ranked in order of priority.	31/12/2018	February 2021 Planning data refined and projection tool developed based on actual admission numbers. Draft data quality strategy developed..	Testing to be scheduled.	Committee reports and Projects and Transformation team confirm	Confirmed by management (AMBER)
Expansion business case accuracy and completeness - Business cases to explicitly address standardised set of criteria so all relevant factors can be identified and evaluated. Impacts on planning areas (including school estate) to be evaluated as standard element of business cases. Full audit trail of decisions to be maintained. Ofsted reports to be included as factor in expansion business cases.	31/12/2018	February 2021: Business case and options appraisal template developed by Projects and Transformation Team incorporating standardised and weighted factors.	Testing to be scheduled.		Confirmed by management (AMBER)
Specialist Education Provision					
Individual placement agreements (IPAs) with alternative providers (APs) in Mosaic - To record in Mosaic the completed IPAs for all AP education placements.	Previously implemented	IPAs, which form the contract for Alternative Provision (AP) placements, are now recorded in MOSAIC, and have been for some time . Hence the recommendation has been fully implemented for contracts with AP Providers.	Audit testing to be scheduled.		Confirmed by management (AMBER)
Contracts with independent and non-maintained schools (INMs) in Mosaic - To record in Mosaic the completed contracts with all INM education placements.	31/12/2018 - revised implementation date of 01/06/2021.	The Mosaic step is now in operation, having been thoroughly reviewed in order to address some identified earlier data issues. The production of the National Schools and Colleges (NASS) contracts will be enabled from June 2021.	Further update to be obtained; testing to be scheduled.	The issuing of contracts through Mosaic remains in progress.	Implementation remains in progress (RED)
Quality Assurance - Provider Visits Visits to all INM and AP providers should be carried out in accordance with the provision set out in the contract with schools.	01/04/2019	A comprehensive programme of quality assurance visits has now been established and, together with other QA and contract management activity, will help inform overall provider performance moving forward.	Complete	Evidence of the agreed action was provided.	Confirmed by Internal Audit (GREEN)
Community short breaks offer for C&YP with disabilities					
Recovery of overpayments or misspending – reconciliation of manual records with BMS - Regular month-end reconciliation is now carried out, helped by reduction of profit centres from three to one.	30/06/2019 - revised implementation date of 03/09/2020	Month-end reconciliation being applied, and more work is to be done to improve recording. >10% quality assurance check carried out and findings acted upon.	Complete	Satisfactory information and evidence received; no further testing is required.	Confirmed by Internal audit (GREEN)

Action Description	Implementation date (original & revisions)	Management Update	Internal Audit follow-up status	Internal Audit follow-up outcome / testing	Action Status
Disparity of income collected by Children's Commissioning to what is recorded in SAP - The Children's Commissioning Team should reconcile the amounts noted as having been received on the Children's Commissioning Audit Officers spreadsheet since 2016 to what has been recorded in SAP. In the event of any anomalies, appropriate actions need to be taken.	31/08/2019 - revised implementation date of 01/04/2019	Regular month-end reconciliation is carried out by the Commissioning Officers and income is logged on the budget sheets. From April 2019, the Short Break budget alignment has been changed. Only one profit centre will be used for all direct payments, income will be allocated to one code on one profit centre, it is currently recorded across three profit centres. The Children's Commissioning Audit Officer receives a monthly report from the income team which is reconciled against his workbook. All income has been reconciled and the Team Manager – Specialist Education & Short Breaks Commissioning will do a 10% Quality Assurance against the cases since 2016.	Complete	Satisfactory information and evidence received; no further testing is required.	Confirmed by Internal audit (GREEN)
Place					
Vacant property management					
Various Recommendations - The audit completed in 2017 contained 15 recommendations (Eight Priority 1 and Seven Priority 2) covering a range of actions required.	Various Dates.	The Governance and Ethics Committee have received assurance from the Service Director, Place and Communities that all recommendations had been implemented in a separate report. These were considered alongside the Turner & Townsend review of Property Services.	Testing has been undertaken on the majority of actions with input from officers within Property, Risk & Insurance and Health & Safety. Work continues on five actions that were linked to the Turner & Townsend review of Property Services.	We have commenced testing on the implementation of all the recommendations and work continues with completion of the testing.	Confirmed by management (AMBER)
Trading Standards Enforcement and Sanctions					
Policies and guidance: Vetting checks - All team members should be subject to vetting checks.	30/06/2020 - implementation date 26/06/2020	Vetting has been undertaken for the majority of Trading Standards Team members. 4 employees remain to be vetted.	Process implemented, 4 remaining to be done. Testing to be scheduled.		Confirmed by management (AMBER)
Transport & Travel Services					
Authorisation of De Minimis payments to operators - All variations should be approved by an officer independent of the contract variation negotiating process and a Financial Regulations Waiver approval obtained.	24/06/2020	February 2021: No new De minimis contracts have been commissioned. Agreed process of Financial Waivers will be used in any future commissioning of services that do not use a competitive procurement process.			Confirmed by management (AMBER)
Chief Executive's					
Pensions Administration					
04.1 - Reconciliation of pension payments to pension system.		February 2021: For pension non-recurring payments, for example refunds, lump sum payments and transfers, Pensions Administration have now implemented a single payments process, where payments can be made directly from the Pensions Administration System through BACS. The payments are then posted directly into the BMS system.	Testing to be scheduled.		Confirmed by management (AMBER)
05.1 - Periodic reconciliation of Pension UPM and Pension Payroll data sets.		February 2021: Payroll data has now been loaded into the pension system and discrepancies and payroll data will be matched to pension calculation data over the coming months.	Testing to be scheduled once reconciliation is completed.		Implementation remains in progress (RED)
Payroll (data analytics & deep dive review)					

Action Description	Implementation date (original & revisions)	Management Update	Internal Audit follow-up status	Internal Audit follow-up outcome / testing	Action Status
Overtime and other timesheet payments entered by, approved by and paid to the same person - A report is to be developed which will report where the inputter, the approver and the payee are the same individual. This report will be reviewed by the Payroll Manager and actioned accordingly.	31/07/2019	The first report was run in February 2021. Employees authorising claims for themselves is quite prevalent in schools. Communications will be drafted for schools. Two internal NCC employees also completed the action within the last year.	Testing to be scheduled later in the year.	Confirmed that the report has been produced. We have recommended to the Payroll Manager that this is continued on a regular basis and acted upon as appropriate.	Confirmed by management (AMBER)
Contract Management					
Guidance for Contract Managers - to develop guidance on contract management to replace and improve that in the contracts manual.	31/07/2020, now revised to Autumn 2020.	A new contract management toolkit was launched in October 2020.	Complete	Confirmed that the toolkit is available.	Confirmed by Internal audit (GREEN)
Awareness of Guidance - to publicise the availability of the above guidance, in particular to contract managers.	31/07/2020, now revised to Autumn 2020.	The above contract management toolkit was publicised and is readily accessible on the intranet. An e-learning module is being developed.	Awaiting introduction of e-learning module	Confirmed that the toolkit is publicised.	Confirmed by Internal audit (GREEN)
Alternative approaches to Contract Management - when developing the above guidance, to make use of best practice available from other relevant sources.	31/07/2020, now revised to Autumn 2020.	All current best practice models were reviewed in developing the above contract management toolkit.	Complete	Confirmed that the toolkit covers the aspects recommended in our audit.	Confirmed by Internal audit (GREEN)
Procurement - Occupational Health assessments and equipment					
Conflict of Interest - Review of areas to identify potential conflicts where suppliers fulfil more than one type of supply.	Implemented	Annual Procurement plans are now issued as part of the reporting or the new Procurement Strategy.	Complete	Procurement plans 2019-2020 version seen confirm action taken.	Confirmed by Internal audit (GREEN)
Contractual Arrangements - The need for formal contracts with suppliers in accordance with Financial Regulations.	Implemented	Updated spend reports have been developed from BMS. Regular spend analysis and category planning is undertaken.	Testing to be scheduled	Evidence of spend report seen, further testing to confirm contracts are place where required.	Confirmed by management (AMBER)
GDPR Compliance - The need to ensure that revised terms are included in all contracts.	Implemented	Category managers are well embedded into the departments and ensure full compliance of spend where possible. Where arrangements are in place where there is no agreed contract, discussions are taken place regarding GDPR, with liaison with legal and IG teams.	Complete	Evidence of action taken concerning contract variation in relation to GDPR was seen on the contracts register. Also, standard wording in relation to GDPR was seen in the revised contract template.	Confirmed by Internal audit (GREEN)
Best Value - Workplace Assessments - Contract monitoring procedures to identify cases where annual expenditure with a supplier exceeds payment thresholds.	Implemented	Online contract management toolkit has been developed and is operating.	Complete	Testing confirmed that contact management tool-kit is now live on the intranet.	Confirmed by Internal audit (GREEN)
Assessor Suitability -Ensuring sub-contractors have the relevant skills to carry out the requirement of the contract.	Implemented	Requirements included in the tender evaluation criteria.	Complete	No longer relevant as service delivered by main contractor.	Obsolete
Range of Products and Equipment Suitability - Ensuring specialist office equipment supplied is suitable for the intended purpose.	1st March 2020	Post-delivery assessment for the equipment previously provided under the COS contract has been carried out on a 1 in 4 sample and this identified no issues based upon the responses received back. This was undertaken by telephoning a sample of recipients.	Complete		Obsolete
Demonstration Charges - Monitoring of discounts applied.	1st March 2020	Demo charges and discounts will no longer be applied so checks in relation to this will not be required.	Complete		Obsolete

Action Description	Implementation date (original & revisions)	Management Update	Internal Audit follow-up status	Internal Audit follow-up outcome / testing	Action Status
Contract Monitoring - To ensure adequacy of the arrangements and compliance with agreed terms.	1st March 2020	Contract monitoring arrangements are in place and set out in the contract. The Senior Business Partner HR and Senior Occupational Advisor meet with the new provider and they are to produce a bi-annual report.	Response Awaited	A copy of the latest report has been requested and is awaited for verification of the monitoring procedures.	Implementation remains in progress (RED)
Cross-Cutting					
Agency Staff & Consultants					
Automation of management information: Build into future tendering exercises for this service the requirement to differentiate between the nature of agency placements.	Originally the end of the contract in November 2017, extended to September 2019. Revised date September 2020.	The new contract has been in operation since last September with a revised contract management model so the HR senior business partners discuss the departmental agency MI at the relevant SLTs. We haven't changed the vacancy control process because it is not deemed appropriate at this time but the facility to record whether a role is filled either employed or agency already exists.	Complete	Evidence of latest departmental MI reports was seen together with management information from Reeds which allows agency spend and tenure to be monitored direct from the booking system.	Confirmed by Internal audit (GREEN)
Employee recruitment					
Contract of employment - Development work to enable the production of contracts of employment at the point of formal offer. Original implementation date was September 2018.	30/09/2018 - delayed until January 2020. Extended to end of September 2020.	The build of the system of automation around contract creation has been completed and the system is now live.	Complete	A demonstration of the system was provided confirming implementation of the action in February 2021.	Confirmed by Internal audit (GREEN)
Health & safety					
Mandatory training - The facility and processes to identify and record mandatory training to operate effectively.	28/03/2018, now on-going post Covid.	Due to Covid, the actions have not been progressed as planned. The dashboard to record e-learning has been delayed and mandatory training is for the H&S Team only for the time being. Focus has been to support and enable frontline colleagues to continue to deliver or switch to alternative delivery models with the necessary risk assessments in place.	Testing to be scheduled once actions confirmed as taken.		Implementation remains in progress (RED)
Emergency Response Team training - Information recorded in the Designated Fire Officer System (DFO) to be up to date.	28/03/2018, now on-going post Covid.	As for training records this is a question for workforce learning and development, going forward we are restructuring H&S training following award of ISO45001 and a broader discussion is now required as to what's mandatory and refresher intervals.	Testing to be scheduled once actions confirmed as taken.		Implementation remains in progress (RED)
Emergency response provision - Staffing levels to be adequate in the event of an emergency.	28/03/2018, now on-going post Covid.	Covid has prevented close out of actions. Emergency arrangements during Covid have proved effective as verified by BSI and are proportionate at present to building usage. New factors will come in following reoccupation and will need a complete review of these procedures, together with changes from implementation of the new corporate landlord model and closure of receptions.	Testing to be scheduled once actions confirmed as taken.		Implementation remains in progress (RED)
Ethical framework					

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Register of Staff Gifts and Hospitality - A consistent form of register for gifts and hospitality to be devised for use by all departments. Original implementation date 31st March 2019.	31/03/2019, revised to 30/4/2021.	Whilst there has been some work started on this matter, due to Covid, it has not been possible to progress things as intended.	Testing to be scheduled once actions confirmed as taken.		Implementation remains in progress (RED)
Staff Declaration of Interest - staff declarations should be made annually. Original implementation date 31st March 2019.	31/05/2019, revised to 30/4/2021.	This will be undertaken when the guidance has been implemented.	Testing to be scheduled once actions confirmed as taken.		Implementation remains in progress (RED)
Sickness Absence Management					
Guidance on sickness absence recording and management - to review guidance and training to ensure they reflect current procedures.	31/07/2020	Managers are allowed to exercise judgement and discretion in taking action. Guidance will be reviewed on an ongoing basis as part of the Employee Health and Well-being Action Plan. Training, support, information & instructions have been issued.	Complete	We accept that references to forms and procedures that are no longer mandatory can remain in the guidance, as these can be used at the option of managers.	Confirmed by Internal audit (GREEN)
Completion of mandatory training - monitor the completion, by line managers, of mandatory training, to bring the completion rate to nearer 100%.	31/03/2020	Mandatory training for managers has not been prioritised because many are part of the ongoing frontline emergency response to Covid, and HR have focussed on supporting managers to deal with this by switching to virtual training and ensuring that employees and managers have the necessary skills and information to operate flexibly to facilitate emergency deployment.	Further update to be obtained; testing to be scheduled.		Implementation remains in progress (RED)
Use of the Time master system - Review the services that also use the Time master system, to ensure that they fully record sickness absence on BMS.	31/12/2019	The services using Time master have been engaged and the requirement to record absences of any kind on BMS has been reinforced. This is an essential requirement to ensure accurate recording of workforce availability to assist resource planning during the pandemic. This continues to be monitored but there is a greater degree of compliance having engaged senior officers in the relevant service areas.	Complete	We have seen evidence that the services using Time master have been engaged with, and that sickness absence is being recorded on BMS in these areas.	Confirmed by Internal audit (GREEN)
Information Governance Improvement Programme					
Follow up of actions in previous audit report - primarily relating to updating the information asset register, ensuring compliance with the rules for retention of records, and removal of leavers' personal h-drives.	31/03/2020	An exercise to assess the completeness and accuracy of Information Asset Registers is scheduled in 2021/22, and specific training will follow more general training for all staff. Retention of Records is in the approach to electronic document and records management (EDRM), to be piloted in Legal Services in March 2021, then evaluated whether to roll it out across NCC. Removal of leavers' personal h-drives awaits the lifting of the IICSA non-destruction order. The current migration to OneDrive will help identify h-drives for removal.	Testing to be scheduled once actions confirmed as taken.		Implementation remains in progress (RED)
Procurement of Tree Survey Works					

Action Description	Implementation date (original & revisions)	Management Update	Internal Audit follow-up status	Internal Audit follow-up outcome / testing	Action Status
Alternative Quotes for Works - Compliance with Financial regulations in obtaining quotes.	30/6/2019 and ongoing to September 2020.	Considerable work has been undertaken by relevant members of the team and colleagues in Procurement on the development of a Framework for arboricultural and other Green Spaces services. The Framework is now live and competitive quotes are being obtained from approved parties.	Complete	Evidence of compliance was reviewed by Internal Audit and confirms actions taken.	Confirmed by Internal Audit (GREEN)
Council-wide Budget Forecasting					
Training around Budget Forecasting and Authorisation - The need to review guidance material to ensure that it is up to date and reaffirms the roles and responsibilities of Finance staff, budget approvers and budget holders.	31/12/2020 - revised deadline is September 2021	Additional Covid 19 work has meant insufficient resources to progress this. Specific guidance is offered as required.	Further update to be obtained; testing to be scheduled.		Implementation remains in progress (RED)
Finance Team Forecasts Adjustments - The need to monitor and escalate cases where budget holders repeatedly submit inaccurate forecasts.	31/05/2020 - revised to 04/08/2020.	This is included in the CLT report above as stated.	Complete	Internal Audit reviewed the entry in the CLT report and were able to confirm this action had been taken.	Confirmed by Internal Audit (GREEN)
Forecast Validation - The need to use the online tool to record reasons for budget variations.	31/12/2020	Queries are directed to budget approvers in the first instance.	Testing to be scheduled.		Confirmed by management (AMBER)
Challenge Process - Escalation of cases where reporting errors remain uncorrected.	04/08/2020	This is included in the CLT report above as stated.	Complete	No issues in relation to uncorrected errors had been raised in the CLT report reviewed, however, the mechanism is now in place should the issue arise.	Confirmed by Internal Audit (GREEN)
Training - A review of guidance material on the intranet together with budget monitoring and forecasting training to be provided to budget holders.	30/09/2020 - revised deadline September 2021	Additional Covid 19 work has meant insufficient resources to progress this. . Specific guidance is offered as required.	Further update to be obtained; testing to be scheduled.		Implementation remains in progress (RED)
Consistency of Finance Business Model - Including sharing best practice in the context of the wider strategy.	30/06/2020 - revised to 30/12/2020.	Fortnightly meetings of all Senior Finance Business Partners are held and best practice is shared where appropriate. The Financial Resilience Group has been wound down and all issues are now either completed or incorporated in to business and usual.	Complete	The minutes of the FR group do indicate that they have reviewed revised ways of working arising out of the emergency and identify good practice that should be retained. This is supplemented by a standard task list for Finance teams.	Confirmed by Internal Audit (GREEN)
Financial Resilience (Council-wide)					
Independent Oversight and Delivery of Savings - A clear follow-up of the action plan for Children's department should be undertaken with a report taken to Committee on progress.	30/09/2020	Progress on the improving of effectiveness and efficiency of the Children's Services Plan is being reported to Children and Young People's Committee quarterly.	Complete	A review of Committee papers confirmed that progress against the Children's Services Plan is being reported upon quarterly as stated, from November 2020.	Confirmed by Internal Audit (GREEN)

Action Description	Implementation date (original & revisions)	Management Update	Internal Audit follow-up status	Internal Audit follow-up outcome / testing	Action Status
Identification of Savings - Savings gap - In addition to providing savings, senior managers should also seek to provide a balanced departmental budget. Where volatile budgets are identified, possible savings elsewhere to counteract this should be sought.	31/10/2020	Throughout the year, reports to Finance and Major Contracts Management (F&MCM) Committee set out the implications of Covid-19 upon our finances. The Corporate Finance Resilience (CFR) Group was established in April 2020 and completed its work in October 2020. The Revised Budget for 2020/21 was incorporated into the monthly Budget Monitoring Reports to F&MCM Committee for Period 6 (November 2020). The final work of the CFR Group has culminated in the Budget report to F&MCM Committee on the 8th February 2021.	Complete	Internal Audit were able to confirm that the mentioned reports went to Committee.	Confirmed by Internal Audit (GREEN)
Earmarked Reserves - The use of earmarked reserves should be reported upon on a regular basis, alongside other budgets to give a more accurate overall picture of financial performance.	31/10/2020 - revised to February 2021	Future reports to F&MCM Committee will include an update on the position of the Council's Reserves.	Complete	Earmarked reserves are now being reported upon as part of the F&MCM Committee and evidence of this was seen for February 2021.	
Trading and Commercial Activity - Quarterly or six-monthly reviews of NCC's revenue profits from its range of commercial and trading activities should be undertaken to assess the accuracy of the forecasts and the impact this is likely to have on the current and future years' budgets and reserves. Reports on performance should be taken to the Finance and Major Contracts Management Committee.	30/11/2020 - revised to March 2021	The impact of Covid-19 on our trading activities is recorded and included in the monthly returns to Government and in the budget monitoring reports to F&MCM Committee. Specific updates on the trading activities performance is to commence in March 2021.	Complete	Testing confirms that the budget monitoring report to F&MCM Committee for March 2021 includes reference to the trading income deficit and the impact this has on the overall budget.	
Complaints Service					
Follow Up Actions - the Complaints and Information team should follow-up activity to provide assurance that changes have been implemented by the appropriate department.	31/03/2020 revised to 31/02/2022 (see update from Group Manager Procurement)	From Group Manager CSC - Procurement exercise has been carried out (Aug-20 to Dec-20) slowed by Covid-19 and a replacement system is now procured for IG and C&T teams. From Group Manager Procurement - the current system has been extended for a year whilst they pilot a new one which is in the process of being implemented.	Further update to be obtained; testing to be scheduled.		Implementation remains in progress (RED)
Commissioning (Council-wide)					
Alignment with Corporate and Service Strategies and objectives - a schedule of commissioning activity is aligned to Dept strategies and progress is periodically reported. Consideration for developing Market Position Statements.	30/10/2020	February 2021: Following the disruption of Covid-19 and the conclusion of Newton Europe's phase 1 work, CLT have approved the scope of a series of cross-cutting transformation programmes of which strategic commissioning will be one. This will incorporate project workstreams addressing the audit recommendations raised.			Implementation remains in progress (RED)
Commissioning Project Management - That draft commissioning plans are circulated between departmental commissioning Boards, Panels and teams and also a cross departmental 'Expert Commissioner' group to identify areas of joint interest and potential synergy/collaboration.	30/10/2020	February 2021: Following the disruption of Covid-19 and the conclusion of Newton Europe's phase 1 work, CLT have approved the scope of a series of cross-cutting transformation programmes of which strategic commissioning will be one. This will incorporate project workstreams addressing the audit recommendations raised.			Implementation remains in progress (RED)

Action Description	Implementation date (original & revisions)	Management Update	Internal Audit follow-up status	Internal Audit follow-up outcome / testing	Action Status
Commissioning training and quality control - A framework of commissioning courses ranging from basic to advanced, sourced either internally or externally, should be established and rolled out across the organisation.	30/10/2020	February 2021: Following the disruption of Covid-19 and the conclusion of Newton Europe's phase 1 work, CLT have approved the scope of a series of cross-cutting transformation programmes of which strategic commissioning will be one. This will incorporate project workstreams addressing the audit recommendations raised.			Implementation remains in progress (RED)
Databases and data analysis - That Commissioning groups and teams review the data analytical skills required of staff and consider options for addressing skills gaps.	30/10/2020	February 2021: Following the disruption of Covid-19 and the conclusion of Newton Europe's phase 1 work, CLT have approved the scope of a series of cross-cutting transformation programmes of which strategic commissioning will be one. This will incorporate project workstreams addressing the audit recommendations raised.			Implementation remains in progress (RED)
Governance arrangements - That an 'Expert Commissioning Group' is formed and hosted by Corporate Procurement to promote best practice, provide peer review and develop a commissioning training structure for the organisation.	30/10/2020	February 2021: Following the disruption of Covid-19 and the conclusion of Newton Europe's phase 1 work, CLT have approved the scope of a series of cross-cutting transformation programmes of which strategic commissioning will be one. This will incorporate project workstreams addressing the audit recommendations raised.			Implementation remains in progress (RED)
Business Continuity Planning					
Training - The Emergency Planning Team should submit a report to the Risk, Safety & Emergency Management Board on training options and other matters arising from the returned questionnaires.	31/12/2020 revised to 31/03/2021	From Group Manager Emergency Management - progress has been prevented by Covid-19 response and recovery work, request IA to follow up again in March 2021	Further update to be obtained; testing to be scheduled.		Implementation remains in progress (RED)
Business Continuity Plans on SharePoint - Managers of Critical Services in the Adults Social Care & Health and Children & Families Departments need to produce Business Continuity Plans for the 10 Critical Services currently without one. Once completed they need to be uploaded onto SharePoint.	31/12/2020 revised to 31/03/2021	From Group Manager Emergency Management - progress has been prevented by Covid-19 response and recovery work, request IA to follow up again in March 2021.	Further update to be obtained; testing to be scheduled.		Implementation remains in progress (RED)
Annual Review of Business Continuity Plans - Managers of Critical Services need to ensure that Business Continuity Plans are reviewed, updated and exercised, given that some are over 4 years old and the confirmed exercise rate.	31/12/2020 revised to 31/03/2021	From Group Manager Emergency Management - progress has been prevented by Covid-19 response and recovery work, request IA to follow up again in March 2021	Further update to be obtained; testing to be scheduled.		Implementation remains in progress (RED)
Covid-19 - Organisational Planning - CIIA guidance					
Business Continuity/Risk Management - To update and maintain the Corporate Risk Register, this is being carried out currently by the Assurance Group, which assumed ongoing responsibility in 2020/21.	30/09/2020	The updated Corporate Risk Register was reported to G&E Committee in Sep-20, with a further update taken in Feb-21. Work on the revised approach to corporate risk management remains in progress. A trial approach to risk appetite, using a Key Risk Indicator approach is currently in flight.	Further update to be obtained; testing to be scheduled.		Implementation remains in progress (RED)

Action Description	Implementation date (original & revisions)	Management Update	Internal Audit follow-up status	Internal Audit follow-up outcome / testing	Action Status
Critical Services - To improve colleagues' understanding of the distinction between Urgent and Emergency Decisions by drawing the definitions and procedures outlined in the Constitution to the attention of Corporate Directors.	01/10/2020	The initial audit actions have not yet been completed, largely due to pressure of other work. However, the Group Manager is currently aiming to produce a draft for review by the Monitoring Officer with the target of having it agreed and dispatched before the end of Feb-21.	Further update to be obtained; testing to be scheduled.		Implementation remains in progress (RED)
Finance - To conduct sensitivity analysis and scenario planning COVID-19 budget data.	31/12/2020 (Ongoing)	The Group Manager, Financial Services reported that the Financial Resilience Group completed the review of all aspects of scenario planning and sensitivity analysis and has reported to the CLT.	Examined the 2021-22 budget and council tax proposals report.	In the report, additional costs and lost income directly associated with the crisis in 2020/21 were forecast to be £86m. It goes on to say that is not possible to forecast with any certainty the full impact of the pandemic in 2021/22. The COVID-19 and other risks will continue to be monitored through the usual budget monitoring processes with a particular focus on the known risk areas of Adult Social Care, Looked After Children, Home to School Transport, Schools Catering, Vulnerable Families and PPE. Central Government have announced that the Authority will receive a further COVID19 grant totalling £16.1m in 2021/22.	Confirmed by Internal audit (GREEN)

31 March 2021**Agenda Item:****REPORT OF SERVICE DIRECTOR – FINANCE, INFRASTRUCTURE AND
IMPROVEMENT.****EXTERNAL AUDIT – ANNUAL AUDIT LETTER 2019/20****Purpose of the Report**

1. To inform Members of the External Auditors' Annual Audit Letter 2019/20.

Information and Advice

2. The attached Annual Audit Letter from Grant Thornton (Appendix A) summarises findings from work carried out by the external auditors over the last financial year (2019/20).
3. At the November 2020 Governance and Ethics Committee the Audit Findings Report 2019/20 was presented to Members.
4. All Councils are subject to independent external review with the final conclusions and recommendations being presented to the Council in the Annual Audit Letter (AAL). The AAL provides a clear, readily understandable commentary on the results of the auditor's work and highlights any issues that the auditor wishes to draw to the attention of the public.
5. The report is presented to Members for their information. The Audit Director (Grant Thornton), John Gregory will be in attendance at the meeting to introduce the report and respond to Members' queries.

Reason/s for Recommendation/s

6. To provide information to Members on the External Auditors' Annual Audit Letter 2019/20.

Statutory and Policy Implications

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

RECOMMENDATION/S

- 1) That Members comment upon the External Auditors' Annual Audit Letter 2019/20.

Nigel Stevenson
Service Director – Finance, Infrastructure & Improvement

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

Constitutional Comments (KK 15/03/2021)

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

Financial Comments (GB 15/03/2021)

9. The total audit fees were £104,200 for Nottinghamshire County Council and £28,576 for the Nottinghamshire Pension Fund.

Background Papers and Published Documents

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

- None

Electoral Division(s) and Member(s) Affected

- All

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

Year ended 31 March 2020

31 March 2021



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Executive Summary

Purpose

Our Annual Audit Letter (Letter) summarises the key findings arising from the work that we have carried out at Nottinghamshire Council (the Council) and Nottinghamshire County Council Pension Fund (the Fund) for the year ended 31 March 2020.

This Letter is intended to provide a commentary on the results of our work to the Council and external stakeholders, and to highlight issues that we wish to draw to the attention of the public. In preparing this Letter, we have followed the National Audit Office (NAO)'s Code of Audit Practice and Auditor Guidance Note (AGN) 07 – 'Auditor Reporting'. We reported the detailed findings from our audit work to the Council's Governance and Ethics Committee as those charged with governance in our Audit Findings Report on 25 November 2020.

Respective responsibilities

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

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

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

Our work

Materiality	We determined materiality for the audit of the Council's financial statements to be £16.8m, which is 1.5% of the Council's gross cost of services. We determined materiality for the Pension Fund to be £40m, which equated to 1% of the Pension Fund's net assets for the year.
Financial Statements opinion	<p>We gave an unqualified opinion on the Council and Pension Fund's financial statements on 30 November 2020.</p> <p>We included an emphasis of matter paragraph in our reports on both the Council and the Fund's accounts in respect of the uncertainty over valuations of the Council's land and buildings and investment properties and the Fund's property assets, reflecting the valuation uncertainties expressed by valuers given the Coronavirus pandemic. This does not affect our opinion that the statements give a true and fair view of the Council and Pension Fund's financial positions and incomes and expenditures for the year.</p>
Whole of Government Accounts (WGA)	We completed work on the Council's consolidation return following guidance issued by the NAO.
Use of statutory powers	We did not identify any matters which required us to exercise our additional statutory powers.

Executive Summary

Value for Money arrangements	We were satisfied that the Council put in place proper arrangements to ensure economy, efficiency and effectiveness in its use of resources. We reflected this in our audit report to the Council on 25 November 2020.
Certificate	We will shortly complete our work on the Whole of Government Accounts return and at that point will certify that we have completed the audit of the financial statements of Nottinghamshire County Council.

Working with the Council

Restrictions for non-essential travel meant Council, Pension Fund and audit staff had to adapt to new remote working arrangements and remote auditing. This entailed remote accessing financial systems, video calling, sharing screens to review working papers. Consequently, more time was required to discuss and resolve audit queries and review audit work. All information and explanations requested from management were provided. The audit findings were reported to those charged with government, in the form of Governance and Ethics Committee, on 25 November 2020.

The audit team note their thanks to the finance team for the provision of working papers, evidence and explanations in what was an exceptional year.

Grant Thornton UK LLP
March 2021

Audit of the Financial Statements

Our audit approach

Materiality

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

We determined materiality for the audit of the council's financial statements to be £16.8m, which is 1.5% of the gross cost of services for the year ended 31 March 2020. We determined materiality for the audit of the Pension Fund's financial statements to be £40m, which is 1% of the Council's net assets for the year ended 31 March 2020. We used these benchmark as, in our view, users of the financial statements are most interested in where the Council has spent its revenue in the year and the balance of the Pension Fund's net assets.

We also set a lower level of specific materiality for the remuneration table of specific senior officers. This materiality was set at £100K.

For the Council, we set a lower threshold of £840K and for the Pension Fund we set a lower threshold of £2.7m. Any errors identified above these thresholds were reported to the Governance and Ethics Committee in our Audit Findings Report as 'non-trivial' errors.

The scope of our audit

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

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

We also read the remainder of the Statement of Accounts to check it is consistent with our understanding of the Council and with the financial statements included in the Statement of Accounts on which we gave our opinion.

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

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

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

Audit of the Financial Statements

Significant Audit Risks

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

Risks identified in our audit plan	How we responded to the risk (summary)	Findings and conclusions
<p>Covid-19 – Council and Pension Fund</p> <p>The global outbreak of the Covid-19 virus pandemic has led to unprecedented uncertainty for all organisations, requiring urgent business continuity arrangements to be implemented. We expect current circumstances will have an impact on the production and audit of the financial statements for the year ended 31 March 2020. We therefore identified the global outbreak of the Covid-19 virus as a significant risk, which was one of the most significant assessed risks of material misstatement.</p>	<p>As part of our audit work we have:</p> <ul style="list-style-type: none"> • worked with management to understand the impact Covid-19 had on the organisation's ability to prepare the financial statements and going concern, including forecasts • Considered whether changes to our materiality were warranted • liaised with other audit suppliers, regulators and government departments to co-ordinate practical cross-sector responses • evaluated the adequacy of disclosures in the financial statements • evaluated whether sufficient audit evidence could be obtained through remote technology • corroborate significant management estimates such as assets and the pension fund liability valuations • discussed with management the implications for our audit report • engaged an auditor's experts to support our review of asset valuations 	<p>Our audit work has not identified any significant issues in respect of Covid19, and the main impact has simply been on the time taken to complete the audit.</p>

Audit of the Financial Statements

Significant Audit Risks - continued

Risks identified in our audit plan	How we responded to the risk	Findings and conclusions
<p>Valuation of land and buildings - Council</p> <p>The Council revalues its land and buildings on a five-yearly basis. In the intervening years, such as 2019/20, to ensure the carrying value in the Council financial statements is not materially different from the current value or the fair value (for surplus assets) at the financial statements date, the Council carries out a desktop revaluation or requests a desktop valuation from its valuation expert to ensure that there is no material difference. This valuation represents a significant estimate by management in the financial statements due to the size of the numbers involved (£683 million) and the sensitivity of this estimate to changes in key assumptions.</p> <p>We therefore identified valuation of land and buildings as a significant risk, which was one of the most significant assessed risks of material misstatement.</p>	<p>As part of our audit work we:</p> <ul style="list-style-type: none"> evaluated management's processes and assumptions for the calculation of the estimate, the instructions issued to valuation expert and the scope of their work evaluated the competence, capabilities and objectivity of the valuation expert wrote to the valuer to confirm the basis on which the valuation was carried out to ensure the requirements of the Code were met challenged the information and assumptions used by the valuer to assess completeness and consistency with our understanding engaged our own valuer (auditor's expert) to assess the instructions to the Council's valuer, the valuers report and the assumptions that underpin the valuation tested a sample of revaluations made during the year to see if they had been input correctly into the Council's asset register evaluated the assumptions made by management for those assets not revalued during the year and how management has satisfied themselves that these are not materially different to current value at year end 	<p>Due to the outbreak of Covid-19, market activity was impacted in many sectors. The Council's valuers considered that less weight should be attached to previous market evidence in informing their opinions of valuation. They therefore reported to the Council a 'material valuation uncertainty'. The Council in turn disclosed the relevant wording within the Financial Statements in relation to material uncertainty, to give the reader a better understanding of the RICS guidance. We referred to this within our audit opinion, through an Emphasis of Matter paragraph, to draw this to the attention of the readers of the accounts. Our work did not identify other significant issues.</p>

Audit of the Financial Statements

Significant Audit Risks - continued

Risks identified in our audit plan	How we responded to the risk	Findings and conclusions
<p>Valuation of net pension fund liability - Council</p> <p>The Authority's pension fund net liability, as reflected in its balance sheet as the net defined benefit liability, represents a significant estimate in the financial statements. The pension fund net liability is considered a significant estimate due to the size of the numbers involved (£1bn in the Authority's balance sheet) and the sensitivity of the estimate to changes in key assumptions. Some elements of the valuation may also be affected this year by late changes associated with Brexit, leading to increased audit risk.</p> <p>The Council uses Barnett Waddingham to provide actuarial valuation to of the Council's assets and liabilities derived from the pension scheme. A full actuarial valuation is required every three years. The latest full actuarial valuation was completed in 2019. A roll forward approach is used in intervening periods, which utilises key assumptions such as life expectancy, discount rates, salary growth and investment returns. Given the significant value of the net pension fund liability, small changes in assumptions can result in significant valuation movements.</p> <p>We therefore identified valuation of the Authority's pension fund net liability as a significant risk, which was one of the most significant assessed risks of material misstatement.</p>	<p>As part of our audit work we:</p> <ul style="list-style-type: none"> • updated our understanding of the processes and controls in respect of the Council's pension fund net liability • evaluated the instructions issued by management to actuary for this estimate and the scope of the actuary's work; • assessed the competence, capabilities and objectivity of the actuary • assessed the accuracy and completeness of the information provided to the actuary • tested the consistency of the pension asset, liability and disclosures in financial statements to the actuarial report • assessed the reasonableness of the actuarial assumptions and performing additional procedures • Agreed the advance payment made to the pension fund for future years to the expected accounting treatment • obtained assurances from the auditor of Nottinghamshire County Council Pension Fund as to the controls surrounding the validity and accuracy of membership data; contributions data and benefits data sent to the actuary 	<p>A material valuation uncertainty was reported in respect of the Council's share of pension fund investment properties. We referred to this within our audit opinion, through an Emphasis of Matter paragraph, to draw this to the attention of the readers of the accounts. Our work did not identify other significant issues.</p>

Audit of the Financial Statements

Significant Audit Risks - continued

Risks identified in our audit plan	How we responded to the risk	Findings and conclusions
<p>Management override of controls – Council and Pension Fund</p> <p>Under ISA (UK) 240 there is a non-rebuttable presumed risk that the risk of management override of controls is present in all entities. The Council and Fund faces external scrutiny of its spending and this could potentially place management under undue pressure in terms of how they report performance.</p> <p>We therefore identified management override of control, in particular journals, management estimates and transactions outside the course of business as a significant risk for both the Council and Fund, which was one of the most significant assessed risks of material misstatement.</p>	<p>As part of our audit work we have:</p> <ul style="list-style-type: none"> evaluated the design effectiveness of management controls over journals analysed the journals listing and determined the criteria for selecting high risk unusual journals gained an understanding of the accounting estimates and critical judgements applied made by management and considered their reasonableness with regard to corroborative evidence evaluated the rationale for any changes in accounting policies, estimates or significant unusual transactions 	<p>Our audit work has not identified any issues in respect of management override of controls.</p>

Audit of the Financial Statements

Risks identified in our audit plan	How we responded to the risk	Findings and conclusions
<p>Valuation of level 3 investments – Pension Fund</p> <p>The Fund revalues its investments on an annual basis to ensure that the carrying value is not materially different from the fair value at the financial statements date.</p> <p>By their nature Level 3 investment valuations lack observable inputs. These valuations therefore represent a significant estimate by management in the financial statements due to the size of the numbers involved (£839 m) and the sensitivity of this estimate to changes in key assumptions.</p> <p>Under ISA 315 significant risks often relate to significant non-routine transactions and judgemental matters. Level 3 investments by their very nature require a significant degree of judgement to reach an appropriate valuation at year end.</p> <p>Management utilise the services of investment managers and custodians as valuation experts to estimate the fair value as at 31 March 2020.</p> <p>We therefore identified valuation of Level 3 investments, including property investments, as a significant risk, which was one of the most significant assessed risks of material misstatement.</p>	<p>As part of our audit work we:</p> <ul style="list-style-type: none"> gained an understanding of the Fund's process for valuing level 3 investments and evaluated the design of the associated controls; reviewed the nature and basis of estimated values and considered what assurance management have had over the year end valuations provided for these types of investments and ensured the requirements of the code were met for a sample of investments, tested the valuation by obtaining and reviewing the audited accounts (where available) at the latest date for individual investments and agreeing those to the fund managers reports at that date. Reconciled those values to the values at 31 March 2020 with reference to known movements in the intervening period for a sample of non-property investments, tested the valuation by obtaining and reviewing the audited accounts, (where available) at the latest date for individual investments and agreeing these to the fund manager reports at that date, or evaluated the competence, capabilities and objectivity of the valuation expert tested revaluations made during the year to see if they had been input correctly into the Pension Fund's asset register where available, reviewed investment manager service auditor reports on design effectiveness of internal controls for property investments, reviewed the arrangements under which such investments are valued and the assumptions used. 	<p>Our audit work has not identified any issues in respect of Level 3 investments.</p>

Audit of the Financial Statements

Audit opinion

We gave an unqualified opinion on the Council's financial statements on 25 November 2020.

Preparation of the financial statements

The Council presented us with draft financial statements in July at the commencement of the final audit visit, in accordance with the agreed timescale, and provided a good set of working papers to support them. The finance team responded promptly and efficiently to our queries during the course of the audit.

Issues arising from the audit of the financial statements

We reported the key issues from our audit to the Council's Governance and Ethics Committee on 25 November 2020.

In addition to the key audit risks reported above, we identified a small number of adjustments and areas for improvement of controls that we have asked the Council's management team to address for the next financial year. The adjustments did not impact on the Council's overall financial position and were primarily in respect of disclosure notes rather than the primary statements.

Annual Governance Statement and Narrative Report

We are also required to review the Council's Annual Governance Statement and Narrative Report. It published them on its website alongside the draft Statement of Accounts in June.

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

Pension fund accounts

We gave an unqualified opinion on the Nottinghamshire County Council Pension Fund accounts on 25 November 2020. We also reported the key issues from our audit of the pension fund accounts to the Council's Governance and Ethics Committee on 25 November 2020.

As with the County's accounts, we identified a small number of amendments needed to the accounts, but these did not impact on the overall reported financial position and related only to disclosure notes..

Whole of Government Accounts (WGA)

We carried out work in line with instructions provided by the NAO . We will issue our assurance statement shortly.

Other statutory powers

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

Certificate of closure of the audit

Once we have issued the WGA assurance statement, we will certify that we have completed the audit of the financial statements of Nottinghamshire County Council.

Value for Money conclusion

Background

We carried out our review in accordance with the NAO Code of Audit Practice, following the guidance issued by the NAO in April 2020 which specified the criterion for auditors to evaluate:

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

Key findings

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

The risk we identified and the work we performed is set out overleaf.

We did not need to make any VfM-related recommendations for improvement as part of our Audit Findings report agreed with the Council in November 2020.

Overall Value for Money conclusion

We are satisfied that in all significant respects the Council put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources for the year ending 31 March 2020.

Value for Money conclusion

Value for Money Risks

Risks identified in our audit plan	How we responded to the risk	Findings and conclusions
<p>Sustainable Resource Deployment – planning finances effectively to support delivery of strategic priorities and maintain statutory functions.</p> <p>This risk relates to the sub-criteria of Sustainable Resource Deployment. The Council continues to face similar financial pressures to those experienced by others in the Local Government sector. The council's latest financial monitoring report (M09) presented to the Finance and Major Contracts Management Committee indicates a net minor underspend of £35k forecast for the current financial year. However this masks the substantial overspend in Children & young peoples services with a forecast overspend of £9.6m. Furthermore the Council faces significant financial challenges over the medium term to keep its finances in balance.</p>	<p>As part of our work we have:</p> <ul style="list-style-type: none"> Reviewed performance in the period by comparing outturn position to budgeted for revenue and capital budgets Considered the MTFS and impact of Covid19 in terms of loss of income, cost pressures and use of reserves Considered the planned level and actual use of reserves by the council during 2019/20. Made enquiries of key officers to understand the process in place for medium term financial planning 	<p>The Council applies a stringent monitoring regime to ensure issues can be identified and addressed in a timely manner. The MTFS is monitored and aligned to the vision of the Council and adjustments made when necessary. The Council's strong overall reserves position before Covid-19 is enabling it to cope better than some other authorities with the increased pressures now being faced.</p> <p>On the basis of this evidence we have concluded that the Council had appropriate arrangements in place to secure Value for Money through Sustainable Resource Deployment during 2019/20.</p>

A. Reports issued and fees - Council

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

Reports issued

Report	Date issued
Audit Plan	4 March 2020
Audit Findings Report	25 November 2020
Annual Audit Letter	31 March 2021

Fees - Council

	Planned £	Actual final fee £
Statutory audit	90,624	104,200
Total fees	90,624	£104,200

Audit fee variation

As outlined in our audit plan, the 2019-20 scale fee published by PSAA of £75,624 assumed that the scope of the audit would not significantly change. There are a number of areas where the scope of the audit has changed, which has led to additional work. We agreed these with you at the start of the audit and they are reflected in the planned fee above, with the exception of the impact of Covid-19. Details are set out in the following table, and are subject to final PSAA approval.

PSAA Agreed Fee Variation	Reason	Fee agreed
Raising the bar	The Financial Reporting Council (FRC) has highlighted that the quality of work by all audit firms needs to improve across local audit. For major audits such as Nottinghamshire County Council, we reduced the materiality level, reflecting increased sample testing.	£4,000
Pensions – IAS 19	The Financial Reporting Council highlighted that quality of work by audit firms in respect of IAS 19 needs to improve across local government audits. Accordingly, we have increased the scope and coverage of IAS 19 testing this year to reflect this.	£2,500
PPE Valuation – work of experts	As above, the Financial Reporting Council has highlighted that auditors need to improve the quality of work on PPE valuations across the sector. We have increased the volume and scope of our audit work to reflect this.	£7,500
New Standards and developments	PSAA's original scale fee for this contract was set in March 2018, so any new developments since that time need to be priced in, additional work will be required for IFRS16 implementation and corresponding disclosure required in 19/20 under IAS8.	£1,000
Covid19 delay and impact on audit duration	There has been a recognition that audits have taken significantly longer due the inherent complexities of remote auditing. To date, we estimate time taken on audits has increased by 25%, in some cases higher. Discussions with the ICAEW and PSAA indicate this is similar to other firms.	£13,676
Total		£28,576

A. Reports issued and fees – Pension Fund

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

Fees

	Planned £	Actual final fees £
Audit of Pension Fund	27,293	31400
Total fees	£27,293	£31,400

PSAA Scale Fees

As outlined in our audit plan, the 2019-20 scale fee published by PSAA of £23,043 assumed that the scope of the audit would not significantly change. There are a number of areas where the scope of the audit has changed, which has led to additional work. We agreed these with you at the start of the audit and they are reflected in the planned fee above, with the exception of the impact of Covid-19. Details are set out in the following table, and are subject to final PSAA approval.

Fee variation	Reason	Fee proposed
Pensions – IAS 19	The Financial Reporting Council (FRC) has highlighted that the quality of work by all audit firms needs to improve across local audit. This necessitated additional audit work in areas such as journals, estimates, financial resilience and information provided by the entity. For major audits such as this, we reduced the materiality level, reflecting the higher profile of local audit. This increased scoping and greater sample testing.	£2,500
Valuation of level 3 investments	As above, the Financial Reporting Council has highlighted that auditors need to improve the quality of work on PPE valuations across the sector. We have increased the volume and scope of our audit work to reflect this.	£1,750
Covid19 delay and impact on audit duration	There has been a recognition that audits have taken significantly longer due the inherent complexities of remote auditing. To date, we estimate that the issues highlighted above are increasing the time taken on audits by an average of 25%, in some cases higher. We understand from discussions with the ICAEW and PSAA that this is similar to other firms.	£4,107
Total		£8,357

A. Reports issued and fees continued

Non- audit services

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

The non-audit services set out below are consistent with the Council's policy on the allotment of non-audit work to your auditor.

Fees for non-audit services

Service	Fees £
Audit related services (Council)	
- Certification of Teachers Pension Claim	£3,500
Non-Audit related services (Pension Fund)	
- Provision of IAS 19 Assurances to Scheme Employer auditors	£6,000
Non-Audit related services (Council and Pension Fund)	
- CFO insights	£16,000

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31 March 2021**Agenda Item: 10****REPORT OF SERVICE DIRECTOR FOR FINANCE, INFRASTRUCTURE &
IMPROVEMENT****LOCAL AUTHORITY FINANCIAL REPORTING AND EXTERNAL AUDIT:
GOVERNMENT RESPONSE TO THE INDEPENDENT REVIEW****Purpose of the Report**

1. To provide members with an update on following the publication of the Government response to the recommendations arising from the Independent Review into the Oversight of Local Audit and the Transparency of Local Authority Financial Reporting.

Background

2. The responsibilities for the framework within which local authority audits are conducted is the Local Audit and Accountability Act 2014. When the Government abolished the Audit Commission and its centralised performance and inspection regimes it put in place a new localised audit regime, refocussing local accountability on improved transparency. Now the Act has been fully implemented, the Government had a commitment to review its effectiveness by undertaking a post implementation review of the audit framework and financial reporting elements of the Act.
3. In June 2019, the Government commissioned Sir Tony Redmond to undertake an independent review of the effectiveness of local audit and the transparency of local authority financial reporting. The findings from Sir Redmond's report were published on 8 September 2020. The Review did not look at the broader issues of local authority finances and sustainability.
4. The guiding principles of the review were accountability and transparency. How are local authorities accountable to service users and taxpayers and how are auditors accountable for the quality of their work; and how easy is it for those same individuals to understand how their local authority has performed and what assurance they can take from external audit work.
5. The Committee received a report in October 2020 which set out the recommendations arising from the review. The Government published its response to the recommendation arising from the report on 17 December 2020 and this report updates Members on that response.

Summary of Key Findings from the Review

6. The Redmond Review highlighted 3 key problems:
- a. **Current local audit arrangements do not meet the policy objectives underpinning the Local Audit and Accountability Act 2014.** In particular, the Review identified weaknesses in the functioning and value of local audit, the timeliness of its findings and how these are considered and managed by local authorities;
 - b. **Market fragility.** Sir Tony Redmond highlighted how local audit is an unattractive market for audit firms and individual auditors to operate within. He indicated that “without prompt action... there is a significant risk that the firms currently holding local audit contracts will withdraw from the market”.
 - c. **Absence of system leadership.** The introduction of the localised audit framework in the 2014 Act spread roles and responsibilities for local audit across multiple organisations. Sir Tony Redmond argues this has contributed to a lack of coherency and makes resolving the weaknesses in the system challenging
7. In addition, the Redmond Review highlighted that the statutory accounts prepared by local authorities are widely agreed to be ‘impenetrable to the public’, limiting how effectively taxpayers can judge the performance of their authority.
8. Further evidence emerged after the Review when in October 2020, the Financial Reporting Council (FRC) issued its first inspection findings into the quality of major local audits. The FRC reviewed 15 audits across the seven largest audit firms, covering both the financial statement opinion and value for money conclusion, and found that 60% required improvement.

Summary of the Government Response to the Review

9. The Redmond Review made 23 recommendations relating to the quality, timeliness and sustainability of local audit, and the transparency of local authority accounts. The response from the Ministry of Housing, Communities and Local Government (MHCLG) grouped its response into 5 themes:

a) **Action to support immediate market stability**

The department recognises the Redmond Review’s findings regarding the fragility of the local audit market and agrees that urgent action is required. The department accepts that the actions to support immediate market stability will not by themselves solve these problems, but they will help to alleviate some of the immediate funding and timing pressures facing audit firms and local authorities.

Subject to consultation, the department will review and reform regulations to provide the appointing person with greater flexibility to ensure the costs to audit firms of additional work are met. This could include enabling the appointing person to allow a fee scale to be set or changed in-year (subject to consultation with the auditor and the audited body), and/or enabling the appointing person (subject to appropriate consultation) to set additional fees across groupings of audited bodies in-year where there is clear evidence of additional work that affects those groupings.

In addition, the department will provide the sector with £15 million of additional funding in the 2021/22 financial year to support affected local bodies to meet the anticipated increase in auditor fees and to meet new burdens on councils as a result of new reporting requirements. The department will continue to monitor the financial impact of auditor fees on local government in future years.

The Review highlighted the high entry criteria for Key Audit Partners (KAPs), exacerbating staffing supply issues and making it difficult for new firms to enter the market. Consequently, the department will seek to work with the FRC and Institute of Chartered Accountants in England and Wales (ICAEW) to review entry requirements for KAPs within the scope of the existing regulatory framework, noting that again an appropriate balance needs to be struck between ensuring quality and market sustainability. Depending on the results of this work, the department will consider whether legislative change may be required.

The department will consult in the new year on how best to amend the existing regulations, with a view to having revised regulations in place before the 2021 summer recess which will set out the requirement to produce audited accounts to the 30 September from 31 July each year.

b) Consideration of system leadership options

The Review's central proposal, through a number of recommendations, was the establishment of a new independent regulator for local audit – the Office of Local Audit and Regulation (OLAR)

The department anticipates that the measures outlined elsewhere in their response will help to tackle the immediate risks in the local audit system. Early action to reform fee regulations, extend the audited account publication deadline, improve auditor training and review the KAP entry criteria are all possible within the existing local audit framework. So too is improving the transparency of local authorities' accounts and how audit outcomes are considered by local authorities.

However, the creation of a new overarching body would mark a significant departure from the 2014 Act. The Department remains committed to a locally-led audit regime which enables genuine local accountability by residents and taxpayers. Consequently, the department does not wish to re-create the costly, bureaucratic and over-centralised Audit Commission. It is government's long-standing intention not to create new arms-length bodies. Unless there is an exceptional reason for a new body, government should look to explore other options for delivering new services or functions and are not currently persuaded that a new arms-length body is required.

The Department will also consider what reporting they would expect to receive and how that could inform and strengthen the department's framework for seeking assurance that financial sustainability in each local authority in England is maintained. They particularly note the potential value in the regular production of analysis highlighting trends in local audit findings across England.

Noting the significance of this work to the future operation of the local audit framework, the department plans to engage widely across both the local audit sector and Government on

these questions. The department intends to make a full response on the above recommendations by spring 2021.

c) Enhancing the functioning of local audit, and the governance for responding to its findings

The department agrees with Sir Tony Redmond's judgment that the effectiveness of audit is, in part, reliant on the arrangements in place to ensure that concerns are effectively considered and acted upon by local authorities. The department is grateful to Sir Tony Redmond for identifying a number of practical ways in which the profile and operation of audit can be raised within local public bodies, noting that, in some instances, existing governance arrangements fail to appropriately escalate concerns identified by external audits.

The department strongly agrees with the Review's recommendation that the external auditor be required to present an annual audit report to a Full Council meeting, irrespective of whether the accounts have been certified. Although it is noted that many local authorities feel existing reporting arrangements to audit committees are sufficient, the department believes that presentation to Full Council is an important opportunity for potential risks or concerns to be escalated in a timely way and that this should be best practice. The department will explore options with relevant stakeholders including the Local Government Association (LGA) and the National Audit Office (NAO) as to how this can best be achieved, and whether the 30 September milestone is most appropriate. If a legislative opportunity arises, the department will consider enshrining this in statute.

d) Improving transparency of local authorities' accounts to the public

The department agrees with the recommendations that all local authorities be required to prepare an audited standardised statement of service information and costs. These should be short and accessible, for example one or two pages. Standardised statements should be communicated to all taxpayers and service users, and the department will explore how this can be done, for example, alongside or with council tax bills from 2022.

The ambition is for the standardised statements to be introduced as soon as possible. The department will work closely with the Chartered Institute for Public Finance and Accountancy (CIPFA) as they lead on the development and consultation with local government to produce a product, with a view to rolling statements out in 2021/22. As part of this work the department is considering whether there is a need to change regulations to mandate the inclusion of the statement alongside the accounts. The department will also engage with the NAO on the required changes to the Code of Audit Practice.

Finally, the department agrees that this is an opportunity for CIPFA/LASAAC (Local Authority (Scotland) Accounts Advisory Committee) consider whether there is scope to simplify the presentation of local authority accounts by removing disclosures that may no longer be considered to be necessary. The earliest that simplification could be reasonably incorporated into the main accounts is through the 2022/23 Accounting Code, and the department will work with CIPFA LASAAC to determine what can feasibly be achieved in that time scale. Depending on the ambition, significant changes to the accounts may require a phased approach. The department will consider further with CIPFA LASAAC.

e) Action to further consider the functioning of local audit for smaller bodies

The department welcomes the finding that no serious concerns were identified with the functioning of local audit for smaller bodies.

The department notes the recommendations to review the proportionality of external audit for smaller bodies, current arrangements for managing persistent complaints against parish councils and the transparency of the Annual Governance and Accountability Return (AGAR). The Department would welcome action by Smaller Authorities' Audit Appointment (SAAA) and Joint National Association of Local Councils (JPAG) on these recommendations.

In its consideration of options as to how best to establish strong systems leadership for local audit, the department will consider the implications for the functioning of local audit for smaller bodies, not least because smaller bodies are regulated by the same Code of Audit Practice. This will include consideration as to how any new systems leader for local audit should work with SAAA to examine assurance levels and fees if a body's turnover exceeds £6.5 million.

Other Options Considered

10. The report presents members with an update on the Government responses to the recommendations from the Independent Review into the Oversight of Local Audit and the Transparency of Local Authority Financial Reporting. No other options were considered.

Reason/s for Recommendation/s

11. To present members with the opportunity to consider the content of the Government responses to the Independent Review into the Oversight of Local Audit and the Transparency of Local Authority Financial Reporting.
12. A number of the responses point to further consultations that will appear either directly with local government or other relevant government bodies over the coming year.

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 consider whether there are any actions they require in relation to the Government responses to the recommendations arising from the Independent Review into the Oversight of Local Audit and the Transparency of Local Authority Financial Reporting.

Nigel Stevenson

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

For any enquiries about this report please contact:

Nigel Stevenson

Constitutional Comments (KK 18/03/2021)

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

Financial Comments (NS 26/02/2021)

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

Background Papers and Published Documents

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

- None

Electoral Division(s) and Member(s) Affected

- All

31 March 2021**Agenda Item: 11****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 MARCH 2021)

<u>Report Title</u>	<u>Brief summary of agenda item</u>	<u>Lead Officer</u>	<u>Report Author</u>
23 June 2021			
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

Add in item on review of virtual meetings and impact on public engagement (viewing figures etc) as agreed at February meeting

