



23 November 2018

Dear Sir/Madam

A meeting of the Governance, Audit and Standards Committee will be held on Monday, 3 December 2018 in the New Council Chamber, Town Hall, Foster Avenue, Beeston NG9 1AB, commencing at 7.00 pm.

Should you require advice on declaring an interest in any item on the agenda, please contact the Monitoring Officer at your earliest convenience.

Yours faithfully

Chief Executive

|                 |                           |              |
|-----------------|---------------------------|--------------|
| To Councillors: | E H Atherton (Vice-Chair) | J M Owen     |
|                 | S A Bagshaw               | J C Patrick  |
|                 | T P Brindley              | K E Rigby    |
|                 | J C Goold                 | R S Robinson |
|                 | J W Handley (Chair)       | P J Owen     |

## AGENDA

1. APOLOGIES FOR ABSENCE

2. DECLARATIONS OF INTEREST

Members are requested to declare the existence and nature of any disclosable pecuniary interest and/or other interest in any item on the agenda.

3. MINUTES

PAGES 1 - 4

The Committee is asked to confirm as a correct record the minutes of the meeting held on 24 September 2018.

4. INTERNAL AUDIT PROGRESS REPORT PAGES 5 - 16  
To inform the Committee of the recent work completed by Internal Audit.
5. INTERNAL AUDIT REPORT AND FOLLOW-UP - SUNDRY DEBTORS PAGES 17 - 20  
To inform the Committee of the management progress made in respect of the action agreed following an audit of sundry debtors.
6. PROCUREMENT AND CONTRACT MANAGEMENT PAGES 21 - 26  
To inform the Committee of the management progress made in respect of procurement and contract management.
7. RISK MANAGEMENT STRATEGY PAGES 27 - 34  
To approve the new Risk Management Strategy for the Council.
8. STATUTORY REPORT OF THE INTERIM MONITORING OFFICER PAGES 35 - 46  
The Local Government Ombudsman has made a finding of maladministration and injustice in respect of the cancellation the complainant's trial to trade within a town centre.
9. MEMBER INDUCTION - MAY 2019 ONWARDS PAGES 47 - 50  
To ask the Committee to consider the arrangements for and content of a member induction programme to be offered following the elections on 2 May 2019.
10. REVIEW OF POLLING DISTRICTS AND POLLING PLACES PAGES 51 - 56  
To ask the Committee to consider the issues arising from the review of polling districts and polling places.
11. WORK PROGRAMME PAGES 57 - 58  
To consider items for inclusion in the Work Programme for future meetings.

## GOVERNANCE, AUDIT AND STANDARDS COMMITTEE

**24 SEPTEMBER 2018**

Present: Councillor J W Handley, Chair

Councillors: E H Atherton  
S A Bagshaw  
M Brown (substitute)  
D Elliott (substitute)  
J C Goold  
J C Patrick  
J M Owen  
P J Owen (substitute)

Apologies for absence were received from Councillors T P Brindley, R I Jackson, M Radulovic and R S Robinson.

15. DECLARATIONS OF INTEREST

Councillor Patrick declared a non-pecuniary interest in respect of proposals for the future of the Town Hall, minute no \* refers.

16. MINUTES

The minutes of the meeting held on 23 July 2018 were confirmed and signed, subject to the addition of apologies from Councillor J C Patrick.

17. ANNUAL AUDIT LETTER 2017/18

The Committee considered the annual audit letter issued by the Council's external auditors, KPMG, for 2017/18.

The following comments were made:

- (i) In respect of the Procurement Officer post, an interim appointment was the most appropriate solution for the time being given the difficulty in making a permanent appointment. The salary scale of the post would be considered before the interim contract ended to encourage interest from high calibre applicants to the established post.
- (ii) A report would be submitted to a future meeting of this Committee on the improvements which had been made in respect of contract management and the plans for developing the service going forward.

18. INTERNAL AUDIT PROGRESS REPORT

The Committee noted a report on the recent work completed by Internal Audit and progress against the agreed Internal Audit Plans for 2018/19.

The following points were raised:

- (i) Serious organised crime is a risk and should be included in the risk register. A risk and impact assessment was not required.
- (ii) The risk of fraud had already been identified and included in the register.
- (iii) The on-going issue of the number of cases and the total value of outstanding debt not being reconciled was of concern. The Business Support Unit was therefore looking into this and a report would be submitted to the next meeting on progress which should demonstrate the progress which was being made.
- (iv) The Head of Public Protection has responsibility for Houses in Multiple Occupation as they are private sector dwellings.

19. REVIEW OF STRATEGIC RISK REGISTER

The Committee considered amendments to the Strategic Risk Register and the action plans which had been recommended to mitigate risks.

The following comments were made:

- (i) A copy of the Strategic Risk Register was available in the members' room and on the intranet. This contained full details of key controls, risk indicators and action points for each risk.
- (ii) A report would be submitted to the Finance and Resources Committee in October on the latest position of the Council's finances. Further information would be given to this Committee at its meeting in December.
- (iii) The risks as listed in the report were not in order of significance. This would be changed in future reports.

**RESOLVED that the amendments to the Strategic Risk Register and the action plans to mitigate risks as set out in the appendix to the report be approved.**

20. VOTER ID PILOTS 2019

The Committee were informed of the voter ID pilots run in May 2018 and the opportunity to take part in further pilots in May 2019. A formal application had been submitted to Cabinet Office on the basis of voters being required to produce poll cards before they can vote. It was recommended however that the application should be for a photographic pilot to prevent personation.

**RESOLVED that the application to take part in the 2019 voter ID pilots be approved on the basis of a photographic pilot.**

21. LOCAL GOVERNMENT OMBUDSMAN AND HOUSING  
OMBUDSMAN SERVICE ANNUAL REVIEW LETTERS

The Local Government Ombudsman's and the Housing Ombudsman Service's annual review letters to the Council were presented. It was noted that further detail on the complaints considered by the Ombudsmen would be submitted to the next meeting of the Committee.

Reference was made to an outstanding decision from the Ombudsman. It was explained that at this stage, only a draft decision had been issued and the Council had been asked to submit comments on it. Full details would however be included in the report to the December meeting.

22. WORK PROGRAMME

The Committee considered the Work Programme for future meetings.

**RESOLVED that the Work Programme be approved, subject to the inclusion of the items referred to above.**

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## Report of the Chief Audit and Control Officer

**INTERNAL AUDIT PROGRESS REPORT**1. Purpose of report

To inform the Committee of the recent work completed by Internal Audit.

2. Detail

Under the Council's Constitution and as part of the overall corporate governance arrangements, this Committee is responsible for monitoring the performance of Internal Audit.

A summary of the reports issued and progress against the agreed Internal Audit Plan for 2018/19 is included at appendix 1. A brief narrative of the work completed by Internal Audit since the previous meeting of this Committee is also included.

Internal Audit has undertaken a review of progress made by management in implementing agreed actions within six months of the completion of the respective audits. Details of this follow-up work is included at appendix 2. Where agreed actions to address significant internal control weaknesses have not been implemented this may have implications for the Council. A key role of the Committee is to review the outcome of audit work and oversee the prompt implementation of agreed actions to help ensure that risks are adequately managed.

Further progress reports will be submitted to each future meeting of this Committee. A final report will be prepared for members' consideration after the end of the financial year detailing the overall performance and productivity of Internal Audit for 2018/19.

**Recommendation**

**The Committee is asked to NOTE the report.**

Background papers

Nil

## APPENDIX 1

## INTERNAL AUDIT REPORTS ISSUED SINCE APRIL 2018

| No | Audit Title                               | Report Issued   | Assurance Opinion  | Actions Significant | Merits Attention |
|----|---|-----------------|--------------------|---------------------|------------------|
| 29 | Gas Safety Servicing and Maintenance      | 20/04/18        | Substantial        | 0                   | 1                |
| 01 | Erewash BC – Risk Management              | 24/04/18        | -                  | -                   | -                |
| 02 | Erewash BC – Crematorium                  | 04/05/18        | -                  | -                   | -                |
| 30 | Financial Resilience 2017/18              | 14/05/18        | Substantial        | 0                   | 0                |
| 31 | CDM Regulations 2017/18                   | 18/05/18        | Reasonable         | 1                   | 0                |
| 32 | Human Resources 2017/18                   | 22/05/18        | Substantial        | 1                   | 1                |
| 03 | Procurement                               | 07/06/18        | LIMITED            | 1                   | 1                |
| 33 | Benefits 2017/18                          | 12/06/18        | Reasonable         | 1                   | 0                |
| 34 | Risk Management 2017/18                   | 25/06/18        | Substantial        | 0                   | 3                |
| 04 | Cemeteries                                | 25/06/18        | Substantial        | 0                   | 1                |
| 4a | Erewash BC – Cemeteries                   | 25/06/18        | n/a                | -                   | -                |
| 35 | Parks and Grounds Maintenance 2017/18     | 28/06/18        | Substantial        | 0                   | 1                |
| 36 | Choice Based Lettings 2017/18             | 30/06/18        | Substantial        | 0                   | 1                |
| 05 | LAHS Return                               | 31/08/18        | n/a                | -                   | -                |
| 37 | Serious and Organised Crime 2017/18       | 05/09/18        | Reasonable         | 0                   | 6                |
| 06 | Right to Buy                              | 06/09/18        | Substantial        | 0                   | 3                |
| 07 | Asset Register                            | 06/09/18        | Substantial        | 0                   | 0                |
| 08 | Legionella Prevention and Testing         | 11/09/18        | Reasonable         | 0                   | 5                |
| 09 | Sundry Debtors                            | 14/09/18        | Reasonable         | 1                   | 0                |
| 10 | Creditors and Purchasing                  | 18/09/18        | Reasonable         | 0                   | 2                |
| 11 | <b>Commercial Props/Industrial Units</b>  | <b>04/10/18</b> | <b>Substantial</b> | <b>0</b>            | <b>1</b>         |
| 12 | <b>Special – Right to Buy Application</b> | <b>05/10/18</b> | <b>n/a</b>         | <b>-</b>            | <b>-</b>         |
| 13 | <b>Transport (Fleet Management)</b>       | <b>16/11/18</b> | <b>Substantial</b> | <b>0</b>            | <b>2</b>         |
| 14 | <b>Energy (including Procurement)</b>     | <b>16/11/18</b> | <b>LIMITED</b>     | <b>1</b>            | <b>1</b>         |
| 15 | <b>Garden Waste Collection</b>            | <b>16/11/18</b> | <b>Substantial</b> | <b>0</b>            | <b>1</b>         |
| 16 | <b>Cash Receipting</b>                    | <b>16/11/18</b> | <b>Reasonable</b>  | <b>0</b>            | <b>4</b>         |
| 17 | <b>Bramcote Leisure Centre</b>            | <b>21/11/18</b> | <b>Reasonable</b>  | <b>0</b>            | <b>3</b>         |

## REMAINING INTERNAL AUDIT PLAN 2018/19

| No | Audit Title                             | Progress                     |
|----|---|------------------------------|
|    | Payroll (including Officers Allowances) | Draft report issued          |
|    | Safeguarding                            | Draft report issued          |
|    | Events (including Play Leadership)      | Draft report issued          |
|    | Treasury Management                     | Draft report issued          |
|    | Licensing (including Taxi Licences)     | Ongoing (Nearing completion) |
|    | Information Governance                  | Ongoing (Nearing completion) |
|    | Section 106 Agreements                  | Ongoing (Nearing completion) |
|    | Electrical Testing                      | Ongoing                      |
|    | Computer/ICT                            | Expected to commence in Q3   |



**REMAINING INTERNAL AUDIT PLAN 2018/19 (CONTINUED)**

| No | Audit Title                         | Progress                     |
|----|-------------------------------------|------------------------------|
|    | Commercialisation/Business Strategy | Expected to commence in Q3   |
|    | Corporate Governance (incl. Ethics) | Expected to commence in Q3   |
|    | Tenancy Management (incl. ASB)      | Expected to commence in Q3   |
|    | Beeston Town Centre Redevelopment   | Expected to commence in Q3   |
|    | Lifeline (Aids and Adaptations)     | Expected to commence in Q3   |
|    | Homelessness                        | Expected to commence in Q3/4 |
|    | Risk Management (Risk Assessment)   | Expected to commence in Q3/4 |
|    | NNDR                                | Expected to commence in Q3/4 |
|    | Rents (including Evictions)         | Expected to commence in Q3/4 |
|    | Choice Based Lettings               | Expected to commence in Q4   |
|    | Bank Reconciliation                 | Expected to commence in Q4   |
|    | Key Reconciliations                 | Expected to commence in Q4   |
|    | Benefits                            | Expected to commence in Q4   |
|    | Council Tax                         | Expected to commence in Q4   |
|    | Human Resources                     | Expected to commence in Q4   |

**COMPLETED AUDITS**

A report is prepared for each audit assignment and issued to the relevant senior managers at the conclusion of a review that will:

- include an overall opinion on the adequacy of controls within the system to provide assurance that risks material to the achievement of objectives are adequately managed – the opinion being ranked as either ‘Substantial’, ‘Reasonable’, ‘Limited’ or ‘Little’ assurance;
- identify inadequately addressed risks and non-effective control processes;
- detail the actions agreed with management and the timescales for completing those actions, and
- identify issues of good practice.

The recommendations made by Internal Audit are risk assessed, with the agreed actions being categorised accordingly as follows:

- Fundamental – urgent action considered imperative to ensure that the Council is not exposed to high risks (breaches of legislation, policies or procedures)
- Significant – action considered necessary to avoid exposure to significant risk.
- Merits Attention (Necessary Control) – action considered necessary and should result in enhanced control or better value for money.
- Merits Attention – action considered desirable to achieve enhanced control or better value for money.

The following audit reports have been issued with key findings as follows:

1. Commercial Property and Industrial Units Assurance Opinion – **Substantial**

Internal Audit reported that the Council has an appropriate framework in place for the administration of its commercial property, industrial units and craft workshops portfolio. It was pleasing to note that previous recommendations made in respect of the letting of retail units at The Square, Beeston had been actioned as agreed.

One 'Merits Attention' recommendation was suggested in respect of the efficiency of the annual billing process for insurance recharges. The Estates Manager agreed that combined rent and insurance bills will be established for new tenancies and for existing tenants at the point of periodic rent reviews. This action will be reviewed in 12 months to consider whether turnover has created an opportunity for implementing a wholesale change.

2. Special Investigation – Right to Buy Application

Internal Audit investigated a significant credit balance on a rent account in advance of completing a 'Right to Buy' sale. This investigation was undertaken at the request of the Chief Solicitor and Deputy Monitoring Officer.

Internal Audit assessed the risk of fraud and money laundering activity in this case and sought to ensure that controls were in place to mitigate these risks. A review of the financial history of the tenant's rent account and related notes was undertaken, in addition to discussing the case with the relevant officers.

The overall conclusion was that no further investigation was deemed necessary and the sale should be allowed to proceed towards completion. The findings were reported to senior management including the Interim Senior Housing Manager, Head of Revenues and Benefits Shared Service and the Chief Solicitor and Deputy Monitoring Officer.

More generally, whilst a tenant may build up a small credit balance on a rent account, the build-up of significant credit balances is not considered reasonable and unnecessarily exposes the Council to the risk of money laundering activity and related offences. As such, Internal Audit recommended that a regular and detailed review of all rent accounts (*and other accounts such as council tax, business rates etc.*) with consistently high credit balances should be conducted. This risk of fraud and money laundering activity should be assessed and, where the risk is considered low, a refund should be made in order to return the rent account balance to a more reasonable position.

3. Transport (Fleet Management) Assurance Opinion – **Substantial**

In addition to providing assurance that operations are properly accounted for in line with the appropriate legislation and the Council's Standing Orders and Financial Regulations, the specific audit objectives sought to confirm whether adequate management control exists to provide assurance that:

- Driver hours are adequately and accurately recorded, monitored and controlled
- Provision of transport services to departments is accurately costed and recharged
- Driver records (including licences and insurance details) are maintained for all employees who drive as part of the Council's business operations
- Material fleet acquisitions and disposals are appropriately authorised.

Internal Audit reported that the Council has an appropriate framework in place for the administration of operations in respect of its transport fleet. The review did indicate areas for improvement. Two 'Merits Attention – Necessary Control' actions were proposed relating to fleet drivers completing a fresh declaration regarding any additional driving duties and to thoroughly review the 'grey fleet', with a view to ensuring that all employees who use their own vehicles whilst driving on Council business submit a Car User Database form.

The actions were duly agreed by the Head of Environment and the Transport and Stores Manager.

#### 4. Energy Assurance Opinion – **Limited**

This was the first separate review of energy. Internal Audit sought to confirm whether adequate management control exists to provide assurance that:

- Contracts for the supply of energy were subject to appropriate procurement processes
- Billing and metering processes were appropriately monitored and subject to scrutiny
- All external reporting obligations are met
- Performance management processes are operating effectively.

Whilst the Council has an energy management framework in place, the review did indicate areas for improvement and further recommendations were proposed in order to ensure that the processes and controls in place are effective. There was one 'Significant' action relating to the need to make operational improvements in terms of the risk-based prioritisation of meter reading, bill checking and analysis and payment processes, as follows:

##### Objective

Internal Audit sought to ensure that the billing and metering processes are appropriately monitored and subject to scrutiny; that all external reporting obligations are met; and that performance management processes are in place and operating effectively.

### Findings – Efficiency Improvements

Presently, most of the Energy Officer's time is dedicated to checking energy bills, negotiating with suppliers and obtaining meter readings. This has resulted in a number of areas falling behind, including the update and implementation of the Council's Carbon Management Plan.

A review of processes in place for meter readings, bill checking and payment of energy supplies has given rise to a number of potential efficiency improvements which would free up time for the Energy Officer to devote to other key areas. These improvements could include:

- Adoption of a risk-based approach to individual meters. The majority of the energy meters within the Council attract low value monthly bills. Only a small number of meters (such as those for the Council Offices, leisure centres and the crematorium) generate significant monthly bills.
- Analytical review of monthly billing. The initial high-level review of bills as they are received to ascertain consistency with previous bills, bills from comparable sites and similar analytical techniques, would lead to greater efficiency by precluding the need to check every bill as it is received. This would also assist in quick identification of potential credit balances and refunds. A dedicated Energy Database (and/or developed spreadsheets) would prove an excellent tool for such work and would provide improved reporting functionality beyond the current database.
- Devolution of meter reading duties. Where meters are located at various sites, arrangements could be made with the appropriate officers at relevant sites to provide meter readings to the Energy Officer.

### Agreed Actions (Significant)

A risk-based approach will be considered for the billing and checking process adopting the potential improvements outlined above.

The analytical review of monthly billing could be facilitated by the procurement of an Energy Database, which would enable a greater and faster analysis and payment of the incoming invoices. Analysis of usage and charges on each site could be undertaken for both abnormal usage and comparison previous years bills and weather conditions, enabling greater efficiency of identifying potential refunds and credits, and helping to prevent overpayment.

This greater efficiency will free up some of the current time spent on bill checking and processing by the Energy Officer to progress other proactive tasks such as updating the Carbon Management Plan, looking at further ways to reduce energy consumption and CO<sub>2</sub> emissions.

### Managers Responsible

Head of Property Services

Estates Manager, Energy Officer

Target Date: 31 March 2019

The review also indicated an area for improvement, with a 'Merits Attention' action being proposed in respect of the need to review the current procurement framework for the supply of electricity (including consideration of alternative frameworks/suppliers) prior to the renewal of the contract.

The actions were agreed by the Head of Property Services, the Estates Manager and the Energy Officer.

5. Garden Waste Collection Assurance Opinion – **Substantial**

The specific audit objectives sought to confirm whether adequate management controls exist to provide assurance that the garden waste scheme is appropriately priced and charged to service users; collections are only made at properties with a current subscription; collection routes are calculated to ensure efficient use of vehicles and employees; adequate arrangements exist for the storage and transfer of garden waste; and income reconciliations are completed in an accurate and timely manner.

Internal Audit reported that the Council has an appropriate framework in place for operating the garden waste collection scheme. The review indicated an area for improvement with one 'Merits Attention – Necessary Control' action proposed relating to the need to reinstate the income reconciliation process.

An action plan was duly agreed by the Head of Environment and the Environmental and Business Development Manager.

6. Cash Receipting (Payment Kiosk) Assurance Opinion – **Reasonable**

Internal Audit sought to confirm whether adequate management controls exist to provide assurance that policies and procedures are in place in respect of the payment kiosk; security is robust; monies paid through the kiosk are appropriately accounted for, banked and reconciled; and the ongoing usage of the facility is reviewed.

The Council has an appropriate framework in place for cash receipting (payment kiosk). The review did indicate areas for improvement and recommendations were made in order to ensure that processes and controls in place are effective. Four 'Merits Attention – Necessary Control' actions were proposed relating to the need to:

- Produce internal procedural guidance for reference, including business continuity arrangements in the event of the unit malfunctioning.
- Further improve security arrangements including an updated risk assessment, review of the physical security of the kiosk and back-office; and providing panic alarms and improved glass filter/roller blind for the access door.

- Further strengthening of key controls associated with cash handling, supported by the procedural guidance, to reduce the risks associated with the lack of direct supervision.
- Review usage of the kiosk to identify regular users and encourage those customers into using alternative cost efficient and effective provisions (with management reconsidering alternative external solutions).

An action plan was duly agreed by the Head of Administrative Services, the Head of Revenues, Benefits and Customer Services, the Business Support Team Leader and the Senior Support Officer.

7. Liberty Leisure – Bramcote Leisure Centre Assurance Opinion – **Reasonable**

Internal Audit reviewed the systems and procedures operating at Bramcote Leisure Centre. The terms of reference were agreed with the Liberty Leisure Managing Director and the Centre Manager prior to the commencement of the audit. The cost of this work will be recharged to Liberty Leisure.

Internal Audit sought to confirm whether adequate management control exists to provide assurance that:

- Cash receipting and reconciliation processes are sufficiently robust and efficient.
- Amounts due for the hire of sporting facilities and similar services are efficiently collected.
- Purchasing is undertaken in an appropriate and efficient manner.
- Lifeguards are appropriately qualified.
- Recharges for services provided to the company are prepared and presented in an appropriate manner.
- Legionella testing procedures are carried out in the correct manner.

It was pleasing to report that Liberty Leisure continues to maintain an appropriate framework for the administration of operations at Bramcote Leisure Centre. The review did identify areas for improvement and four recommendations were made for management's consideration. These actions related to the need to:

- Conduct a review of the processes for raising debtor invoices and the collection of monies due, including the systems for monitoring and recording progress with debt recovery.
- Fully utilise the corporate purchasing system to ensure that all purchase ordering is carried out electronically and in accordance with the company's Financial Regulations.
- Consider the findings of Internal Audit when reviewing the cashing-up and banking process at all Liberty Leisure sites to improving efficiency.

The proposed actions were agreed by the Liberty Leisure Managing Director and the Leisure Centre Manager.

Further reviews in respect of Events (including Play Leadership), Electrical Testing, Information Governance, Licensing, Payroll (including Officers Allowances), Safeguarding, Section 106 Agreements and Treasury Management are ongoing and the reports have yet to be finalised. These will be included in the next progress report to the Committee.

### **Current Audit Performance**

Overall 54% of planned audits for 2018/19 are near to completion. This level of performance slightly improved to what was achieved at this stage in the previous year and the target of 90% is expected to be achieved.

## APPENDIX 2

**INTERNAL AUDIT FOLLOW-UP**

Internal Audit has undertaken a review of progress made by management in implementing agreed actions within six months of the completion of the audit.

The table below provides a summary of the progress made with agreed actions for internal audit reports issued between October 2016 and May 2018 (i.e. within six months of completion), excluding clearance reports. Those audits where all actions have previously been reported as completed have also been excluded from this list.

| No | Audit Title                           | Report Issued | Opinion        | Number of Actions (Significant in brackets) | Progress      |
|----|---------------------------------------|---------------|----------------|---|---------------|
| 12 | Members Allowances 2016/17            | 06/10/16      | Substantial    | 3   | Completed     |
| 18 | Housing Repairs 2017/18               | 22/01/18      | Reasonable     | 3 (1)                                       | 2 Outstanding |
| 20 | HiMO Licences 2017/18                 | 23/01/18      | Substantial    | 4   | 1 Outstanding |
| 21 | Stores 2017/18                        | 31/01/18      | <b>LIMITED</b> | <b>3 (2)</b>                                | 1 Outstanding |
| 29 | Gas Servicing and Maintenance 2017/18 | 20/04/18      | Substantial    | 1   | Completed     |
| 31 | CDM Regulations 2017/18               | 18/05/18      | Substantial    | 1 (1)                                       | Completed     |
| 32 | Human Resources 2017/18               | 22/05/18      | Substantial    | 2 (1)                                       | Completed     |

Further details of progress being made with agreed actions that have not yet been fully implemented are included below along with comments from management reflecting any updates on progress. Evidence of implementation will not be routinely sought for all actions as part of this monitoring process. Instead, a risk-based approach will be applied to conducting further follow-up work.

Where the agreed actions to address significant internal control weaknesses have not been implemented this may have implications for the Council. A key role of the Committee is to review the outcome of audit work and oversee the prompt implementation of agreed actions to help ensure that risks are adequately managed.



**OUTSTANDING ACTIONS**

| 1. HOUSING REPAIRS  |  | January 2018, Reasonable Assurance, Agreed Actions – 3 (including 1 ‘Significant’) |
|---|--|--|
| <b>1.1 Performance Management Framework</b>   |  | <b>Progressing</b>   |
| <p><u>Agreed Action</u> (Merits Attention – Necessary Control)</p> <p>The new Performance Management Framework produced for Housing Repairs is being considered for wider adoption by the Housing department to support the link into its business planning processes.</p> <p>Whilst some points have already been adopted by Housing Repairs, it is anticipated that the new framework will be finalised, approved and scheduled for implementation by the target date.</p> <p><u>Managers Responsible</u><br/>Interim Senior Housing Manager; and Housing Repairs Manager</p>   | <p><u>Management Progress Report of the Interim Senior Housing Manager</u></p> <p>The target remains to implement the new Performance Management Framework by the end of Quarter 3.</p> <p>The implementation of an upgraded Open Housing system will greatly assist performance monitoring across the repairs service. Phase 1 of the project (which includes Repairs Total Mobile) is due for completion in early December 2018.</p> |  |
| <b>1.2 Overdue Contract Tenders</b>   |  | <b>Progressing</b>   |
| <p><u>Agreed Action (Significant)</u></p> <p>All expired and soon-to-be expiring contracted works will be reviewed and subject to the appropriate tender at the earliest opportunity.</p> <p>Significant progress has been made in priority areas in terms of contract/ design specification, schedule of rates and consultations on the suitability of tending through established frameworks. The support of the new Procurement and Contracts Officer will be important for the priority and high-complexity tenders. A suitable timetable for completing the review and renewal of these contracts will be agreed with the Procurement team.</p> <p><u>Managers Responsible</u><br/>Interim Senior Housing Manager; and Housing Repairs Manager<br/>Procurement and Contracts Officer</p> | <p><u>Management Progress Report of the Interim Senior Housing Manager</u></p> <p>Progress has been made and a corporate timetable for contract procurement is being developed in partnership with the Interim Procurement and Contracts Officer.</p> <p>The new Cleaning contract is in place and the procurement of the minor works contract has been progressed using the Efficiency East Midlands Procurement Framework.</p>       |  |

**2. HOUSES IN MULTIPLE OCCUPANCY LICENCES** **January 2018, Substantial Assurance, Agreed Actions – 4**

**2.1 Licence Fees - Charging Regime** **Progressing**

|   |   |
|---|---|
| <p><u>Agreed Action (Merits Attention)</u></p> <p>The current cost of providing the service will be ascertained and the appropriate licence fee determined. This review will be linked to the changes to legislation that are anticipated during 2018.</p> <p><u>Managers Responsible</u><br/>                 Head of Public Protection<br/>                 Senior Private Sector Housing Officer</p> <p style="text-align: right;">Target Date: 31 December 2018</p> | <p><u>Management Progress Report of the Head of Public Protection</u></p> <p>Benchmarking of fees charged has been undertaken against other local authorities. The Housing Committee has considered a report on new legislation relating to Houses in Multiple Occupancy that will require more properties to be licensed. A new appointment will support the additional work that will be required. A review of licence fees is underway and this will be completed in time for the review of fees and charges as part of the annual budget setting process.</p> |
|---|---|

**3. STORES** **January 2018, Limited Assurance, Agreed Actions – 3 (including 2 ‘Significant’)**

**3.1 Procurement of Stores Items** **Progressing**

|  |   |
|--|---|
| <p><u>Agreed Action (Significant)</u></p> <p>Management will review all procurement and purchasing activity relating to Stores with a view to establishing a programme of retendering work to ensure that requirements are met in full.</p> <p>There will be consideration of using established procurement frameworks for these contracts. The support of the new Procurement and Contracts Officer will be important for the priority and high-complexity tenders. A suitable timetable for completing the review and renewal of these contracts will be agreed with the Procurement team.</p> <p><u>Managers Responsible</u><br/>                 Head of Environment<br/>                 Transport and Stores Manager</p> <p style="text-align: right;">Target Date: 30 June 2018</p> | <p><u>Management Progress Report of the Transport and Stores Manager</u></p> <p>Work is ongoing to review all Stores related procurement activity and to retender contract opportunities where appropriate to ensure compliance with the Council’s Standing Orders and procurement regulations. The Interim Procurement and Contracts Officer is currently benchmarking the top ten stores item pricing with current ESPO framework agreements.</p> |
|--|---|

## Report of the Chief Audit and Control Officer

**INTERNAL AUDIT REPORT AND FOLLOW-UP – SUNDRY DEBTORS**1. Purpose of the report

To inform the Committee of the management progress made in respect of the action agreed following an audit of Sundry Debtors.

2. Detail

Members will recall considering the outcome of the audit of Sundry Debtors as part of the Internal Audit Progress Report presented to this Committee on 24 September 2018. The Internal Audit report included a significant action relating to the ongoing failure to complete an adequate reconciliation between the Civica Legal module and Sundry Debtors system. A summary of the audit findings is provided in the appendix.

Internal Audit expressed concern at the lack of a complete and regular reconciliation between the two interfaced systems. The attention of the Committee was drawn to the fact that this was a long-outstanding matter that had been carried forward from earlier audits.

At the request of members, Internal Audit completed an early follow-up exercise to review progress made by management. A summary of the outcome of this testing, including a management progress report provided by the Chief Solicitor and Deputy Monitoring Officer, is also provided in the appendix.

This summary shows that the agreed action has been completed, at least in the short-term. It is pleasing to note that this matter is finally showing signs of being satisfactorily resolved longer-term, following the significant assistance of the Business Support Team Leader.

Internal Audit is satisfied with the recent progress that has been made. It will continue to monitor the ongoing compliance with the agreed action and feedback to the Committee as appropriate.

**Recommendation**

**The Committee is asked to NOTE the progress made in respect of the agreed management action following the audit of Sundry Debtors.**

Background papers

Nil

## APPENDIX

**SUNDRY DEBTORS AUDIT AND AUDIT FOLLOW-UP**Audit Objectives

Internal Audit completed a review of the systems and procedures operating in respect of Sundry Debtors.

The main purpose of the audit was to confirm that there are adequate internal controls in place to provide assurance that operations are properly accounted for in line with the appropriate legislation and the Council's Standing Orders and Financial Regulations, including the adequacy of supporting documentation and record keeping. The specific audit objectives, agreed with management as part of the Audit Terms of Reference, sought to confirm whether adequate management control exists to provide assurance that:

- Invoices were being raised correctly
- Invoiced amounts were efficiently collected and accounted for correctly
- Credit notes and write-offs were valid and authorised.

Audit Findings

The Internal Audit report was formally issued to the Chief Executive and other relevant senior managers on 14 September 2018.

Internal Audit found that the Council has an appropriate framework in place for the administration of operations in respect of Sundry Debtors and considered that controls within the system provide reasonable assurance that risks material to the achievement of the system's objectives are adequately managed.

The review did indicate an area for improvement and made a one significant recommendation. This related to need to complete a regular, prompt and adequate reconciliation between the Civica Legal module and the Sundry Debtors system, which was reported as follows:

Recommendation – Reconciliations

"Internal Audit has previously expressed concerns about the failure to complete an adequate reconciliation between the Civica Legal module and Sundry Debtors system.

The failure to reconcile the number of cases and value of individual debt on the two systems could result in a case not being identified where recovery action has been suppressed. It could also lead to a failure to identify cases where costs and receipts have not been allocated to the correct accounts.

Internal Audit is still not satisfied that the number of cases and the total value of outstanding debt on both systems align. The continuing failure to complete a formal reconciliation means that the affected cases have not been identified and corrected.

There are clearly issues with accounts, some of which date back to the implementation of the Civica Legal module in 2014. The current difference in the total outstanding debt figure between the systems is around £1,500. This variation is likely to include individual cases where:

- Legal costs included within Civica Legal are not being fully recognised in individual accounts in Sundry Debtors
- The value of individual write-offs in Sundry Debtors not being fully replicated in Civica Legal (likely due to the costs allocation issues)
- There were potentially errors in the original transfer of data from the former legal ARMS system.

Work is continuing to resolve these matters. Going forward, there should be a reduction in caseload appearing on Civica Legal as a result of the decision to now refer all cases to collection agents as part of recovery action. More cases may now be written-off at this stage, without referral to Legal Services for court action to be considered. A major case review is ongoing and write-offs are now being proposed for approval on a quarterly basis. Any differences should be highlighted and actioned as part of this review work and the ability to reconcile the two systems thereafter should be an easier process.”

#### **Agreed Action (Significant)**

**A full review of outstanding debt on the Civica Legal module is being undertaken by the Business Support Leader (with co-operation from the Recovery team) and progress is being made. Any remaining differences between the Civica Legal module and the Sundry Debtors system should be identified, investigated and corrected.**

**Thereafter, a regular monthly reconciliation will be promptly completed by the Business Support Team with the statements being reviewed and approved by an appropriate senior officer in Legal Services.**

#### **Managers Responsible**

**Chief Solicitor and Deputy Monitoring Officer**

**Sundry Debtors Performance Group**

**Target Date: 31 March 2019**

#### Progress Report

Internal Audit requested an update from the Chief Solicitor and Deputy Monitoring Officer who provided the following summary of progress made to 31 October 2018 in respect of the agreed action:

*“The Business Support Team Leader and others have worked very hard to complete this action. The current work has identified and resolved all of the variances and, going forward, the monthly reconciliation should be a much easier process.”*

Audit Follow-Up

Having completed its own reviews, Internal Audit is satisfied with the recent progress that has been made.

The Business Support Team Leader has experienced some difficulties in reconciling the respective systems and considerable one-for-one checking was necessary to identify the individual variances. Many of the variances identified were as described in the Internal Audit report.

Officers are working with the software supplier to improve the processes in order to make the reconciliation process easier. While earlier issues with system interfaces have made the reconciliation process more difficult than it should be, management is satisfied that the systems were able to be effectively balanced.

The reconciliation process does need further refinement in terms of the efficiency of its production and the effectiveness of the report output. The summary figures used in the spreadsheet are extracted from the Civica Legal module manually. Ideally, running totals should also be calculated by the spreadsheet to provide some validation checks.

As an additional safeguard when the reconciliation has occurred, it is emailed to the respective senior managers for review, which provides a further degree of independent scrutiny. There is additional positive aspect in that the Business Support Team Leader does not have a direct role in debt recovery, so is providing a degree of independent scrutiny.

Internal Audit will continue to monitor ongoing compliance with the agreed action and feedback to Committee as appropriate.

**Joint report of the Interim Deputy Chief Executive and the Chief Audit and Control Officer****PROCUREMENT AND CONTRACT MANAGEMENT UPDATE**1. Purpose of the report

To inform the Committee of the management progress made in respect of procurement and contract management.

2. Detail

The Council's procurement arrangements, including the adequacy of its contracts register, have been separately identified by Internal Audit and the Council's external auditors as being in need of improvement following a prolonged period of officer vacancy. Members requested an update on the progress made since the completion of the earlier audit work.

An Interim Procurement and Contracts Officer was appointed and their key priorities include:

- Updating and expanding the contracts register
- Assisting officers in meeting their procurement and tendering obligations
- Assisting with the review of the Council's Constitution (Financial Regulations – Contract Standing Orders)
- Refreshing the Procurement and Commissioning Strategy
- Establishing a robust framework for contract management
- Developing e-procurement and contract management systems.

A summary of the progress made is considered in the appendix. This summary shows that progress continues to be made to bring the Council back towards a fully compliant position. Management will continue to monitor the progress through regular updates reports on procurement activity to the general Management Team (GMT).

Going forward, the Council will be reviewing its needs and considering the most effective way of providing suitable procurement expertise. This work will include benchmarking procurement arrangements with other authorities across the region and considering the adequacy of the current established Procurement and Contracts Officer post in terms of its job description, person specification and salary grade.

**Recommendation**

**The Committee is asked to NOTE the report.**

Background papers

Nil

## APPENDIX

## PROCUREMENT UPDATE

Background

The Council's procurement arrangements and the adequacy of its contracts register were identified separately by Internal Audit and its external auditors as being in need of improvement following a prolonged period of officer vacancy from June 2017 to May 2018.

Internal Audit provided only a limited assurance opinion following a procurement audit in which it identified the need for management to comprehensively review and update the Council's procurement activity. Similarly, the external auditors recommended that the Council should ensure that it has robust contract monitoring arrangements in place to retrospectively review contracts that expired in 2017/18 and for those contracts due to expire to be able to proactively initiate competitive tenders where applicable.

Key Tasks and Priorities – Interim Procurement and Contracts Officer

In order to mitigate the risks, the Council appointed an Interim Procurement and Contracts Officer in May 2018 with significant knowledge and expertise. The post-holder was assigned a number of responsibilities and key priorities were agreed by the General Management Team, as follows:

1. Procurement – Contracts Register

Working with senior management and in conjunction with Legal Services to ensure that there is a transparent register of contracts and a robust retendering work schedule covering all significant value transactions (and strategically important) for all Council activities.

- Review the Contracts Register with focus upon expired/soon to expire contracts
- Consider opportunities for efficient and effective procurement
- Identify suitable procurement frameworks and collaborative contract arrangements (where appropriate) to enable contracts to be reviewed, retendered and awarded at the earliest opportunity.
- Identify further opportunities through procurement routes to deliver savings, maximise income and deliver continued improvement.
- Ensure compliance with the law in relation to its procurement activity.
- Ensure that the Contracts Register is comprehensive.
- Further investigation and analysis of management information to evaluate potential efficiencies/savings and identify areas of spend which should be awarded under contract following a competitive tendering exercise.



## 2. Refresh the Commissioning and Procurement Strategy

Develop and advise on procurement, commissioning and contract management strategies. Identify opportunities for better procurement and develop modern procurement and contract management practices.

- Update the existing strategy to ensure compliance with the Public Contracts Regulations (PCR) 2015 and current corporate requirements.
- Refresh the associated guidance documents on the Intranet and website.

## 3. Review of Constitution – Financial Regulations/Contract Standings Orders

Support the current review of the Constitution and undertake a wider 'root and branch' review of Contract Standing Orders to ensure that these remain fit for purpose and effectively support the Council's procurement activity and incorporating the requirements of the PCR.

## 4. Contracts Management

Ensure and develop corporate adherence to best practice contract monitoring procedures to ensure that contractors are achieving and evidencing key tasks, outcomes and performance targets set by the Council and have the appropriate work programmes to support them.

- Establish a suitable framework for contract management.
- Liaise with Heads of Service to identify key contracts over £25,000 and consider how monitoring of them and operational performance management could be improved.
- Create a template for providing periodic reports to GMT outlining contract, procurement and monitoring activity, including financial and contractual performance aspects.
- Develop strategic contract management processes for key contracts.

## 5. System Development

Promote the most efficient means of procurement activity and develop the e-procurement systems/processes and contract management systems, including testing and implementation, liaising with commissioners/suppliers resolving queries and providing user training.

### Progress Report

A summary of progress made has been provided by the Interim Procurement and Contracts Officer as follows:

1. The **Contracts Register** continues to be subject to ongoing review and update and the work programme has been prioritised to meet need.

The updated Contracts Register, which shows details of existing contracts and future opportunities, is published on the Council's website each quarter. A more definitive version of the Register is being published on the Intranet for internal reference. Stakeholders are being chased for updates on the status of current and new categories.

The focus has been on developing and ensuring that robust and compliant processes are in place to ensure value-for-money.

Previously, some small procurement exercises were carried out by stakeholders, without expert knowledge or experience. On occasion this has led to multiple contracts for the same category but using different suppliers (e.g. having two separate contracts for lone worker devices and three separate arrangements for Legionella testing).

Stakeholders have been encouraged to come to the Procurement and Contracts Officer for support and advice with drafting tender and contract documentation, developing a performance driven specification, appropriate terms and conditions, suitable assessment criteria/methodology and a robust auditable process using the Proactis (formerly Due North) e-tendering system. This engagement with stakeholders has also allowed the Procurement and Contracts Officer to identify other stakeholders with similar requirements which could be aggregated.

All tender exercises are now conducted using the Proactis e-tendering portal ensuring a robust process and using predetermined evaluation methodology.

The Contracts Register current lists 116 contracts, which are being systematically reviewed and developed. The Procurement and Contracts Officer is currently engaged on eight projects, including Temporary and Agency Staff and Beeston Square Phase 2. Two more procurement exercises are imminent, with 32 further procurement exercises to be conducted in the short-term (3 to 6 months) and 35 contract opportunities listed for consideration in the medium-term (6 to 12 months). The remaining balance of contracts on the list (39) is scheduled more than 12 months away.

Active steps are being taken to aggregate some of the 23 expired or soon to expire contracts with a combined value of around £800,000 with a view to achieving better value for money through procurement. It is anticipated that ten of these will be obtained from EEM (Efficiency East Midlands) and/or other consortia Framework Agreements. Two contract opportunities will be formally tendered and five others are software solutions which are being reviewed. The remaining contracts are considered as being low value/low risk and will be considered in due course.

Five of the expired/soon to expire contracts relate to stores materials, valued at around £250,000 per annum. The Council is working with EEM who are conducting a benchmarking exercise. The EEM Framework Agreements will allow the Council to obtain the same materials from largely the same providers via their Frameworks, whilst making some financial savings.

2. An updated **Commissioning and Procurement Strategy** is being produced to incorporate procurement legislation, national strategies, current best practice and internal governance requirements. This work includes refreshing associated guidance documents on the intranet and website. The updated Commissioning and Procurement Strategy is programmed to be considered by the Policy and Performance Committee on 6 February 2019.

Work is ongoing with reviewing the **Council's Constitution** and aligning this with the above strategy. This work involves cross-reference to the Public Contracts Regulations 2015, developing e-Tendering systems and tender opening processes and reviewing value thresholds to determine the prescribed procurement process. A map of the procurement process has been requested and is being developed.

The **Purchase Order Terms and Conditions** (T&Cs) have been updated for both the Council and Liberty Leisure. The revisions have been agreed with Legal Services and the updated T&Cs will be published on the respective websites.

The '**Guide to Doing Business with Broxtowe Borough Council**' document has been revised in line with current legislation and best practice, for publication on the Council's website.

The Interim Procurement and Contracts Officer has also supported the Commercial Manager with procurement related advice in developing the Commercial Awareness Workshop that is due to take place later this month.

3. The Contracts Register is updated on a quarterly basis and published on the Council's website as part of **Government Transparency** requirements for the publication of all procurement exercises over £5,000. This also provides data to encourage local businesses to seek contract opportunities with the Council.

### Summary and the Future

The progress made over the past six-months has been considerable in terms of bringing the Council towards achieving a robust, compliant and cost-effective procurement and contract management solution. Management continues to monitor progress through regular updates reports on procurement activity to GMT.

Going forward, the Council will be reviewing its needs and considering the most effective way of providing suitable procurement expertise. This work will include benchmarking procurement arrangements with other authorities across the region and considering the adequacy of the current established Procurement and Contracts Officer post in terms of its job description, person specification and salary grade.

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## Report of the Interim Deputy Chief Executive

**RISK MANAGEMENT STRATEGY**1. Purpose of the report

To approve the new Risk Management Strategy for the Council.

2. Detail

The Risk Management Policy Statement and Strategy was last approved by this Committee on 20 June 2016. Following feedback from both management and members of this Committee, the Strategic Risk Management Group has reviewed the Council's risk management framework.

The Council's insurers, Zurich Municipal (ZM), were engaged to support the review of the risk management framework. ZM put forward suggestions based upon their risk expertise and knowledge of the latest thinking and best practice in the insurance and risk management environment.

A key outcome of the review is the production of a new Risk Management Strategy, which is attached in the appendix. The strategy sets out the five key steps within the risk management process (identification; analysis; treatment; updating of the risk register; and monitoring, reporting and review) as well as the roles and responsibilities across the Council in terms of risk management.

The strategy also includes a '5x5' risk map matrix for assessing both the threats and opportunities for each strategic risk in terms of both the likelihood and impact. This extended matrix would more accurately reflect the direction of travel in terms of the effect of the mitigation measures implemented to help manage a particular risk compared to the '3x3' matrix that the Council presently uses. It would also assist the Council to direct risk management resources to the areas where they will have the most influence. It is intended to introduce this for financial year 2019/20.

A supporting Risk Management Handbook is being prepared for publication once the updated strategy is approved.

The Strategic Risk Management Group members welcomed the proposed documents and the insight that ZM was able to provide. It agreed that the Risk Management Strategy should be updated to reflect the issues identified and presented to this Committee for formal approval.

**Recommendation**

**The Committee is asked to RESOLVE that the new Risk Management Strategy be approved.**

Background papers

Nil

## APPENDIX

**RISK MANAGEMENT STRATEGY****Foreword**

The Broxtowe Borough Council Risk Management Strategy, revised in December 2018, aims to improve the effectiveness of risk management across the Council. Effective risk management will allow the Council to:

- have increased confidence in achieving its priorities and outcomes
- constrain threats to acceptable levels
- take informed decisions about exploiting opportunities
- ensure that it gets the right balance between rewards and risks
- improve partnership working arrangements and corporate governance.

Ultimately, effective risk management will help to ensure that the Council maximises its opportunities and minimises the impact of the risks it faces, thereby improving its ability to deliver priorities, improve outcomes for residents and mitigating legal action and financial claims against the Council and subsequent damage to its reputation.

The Risk Management Strategy provides a comprehensive framework and process designed to support both Members and Officers in ensuring that the Council is able to discharge its risk management responsibilities fully. The Strategy outlines the objectives and benefits of managing risk, describes the responsibilities for risk management, and provides an overview of the process that the Council has in place to manage risk successfully. Detailed information on how to implement this policy and tools to assist in the implementation are provided in the Broxtowe Borough Council Risk Management Handbook.

The Council will review the Risk Management Strategy in line with Corporate Plan review dates. Any variations from this Strategy will be agreed by the Governance, Audit and Standards Committee.

**Introduction**

Whilst risk management is a statutory requirement, it is not simply a compliance exercise. It is an indispensable element of good management and corporate governance, which is essentially the way that an organisation manages its business, determines strategy and objectives and goes about achieving its goals.

Risk management will help identify and deal with the key risks facing the Council in the pursuit of its goals. Its implementation is crucial to the Council and essential to its ability to discharge its various functions as a strategic partner, deliverer and commissioner of public services, custodian of public funds and significant employer.

The risk management process outlined within this Strategy should be used to identify and manage all risks to the Council's ability to deliver its priorities. This should cover both strategic priorities, operational activities (e.g. delivery of actions identified in business plans and service plans) and the delivery of projects or programmes.

Broxtowe Borough Council defines a risk as:

*“The chance of something happening that may have an impact on objectives”.*

A risk is an event or occurrence that would prevent, obstruct or delay the Council from achieving its objectives or failing to capture business opportunities when pursuing its objectives.

Positive consequences or opportunities are the possibility that an event will occur and positively affect the achievement of objectives. Opportunities can be channelled back into objective setting and business planning processes, formulating plans to seize those opportunities.

### Risk Management

Risk management involves adopting a planned and systematic approach to the identification, evaluation and control of those risks which can threaten the objectives, assets, or financial wellbeing of the Council. It is a means of minimising the costs and disruption to the Council caused by undesired events.

Risk management covers the whole range of risks and not just those associated with finance, health and safety and insurance. It can also include risks as diverse as those associated with public image (reputation), environment, technology and breach of confidentiality amongst others.

The benefits of successful risk management include:

- **Improved service delivery** –  
Fewer disruptions, efficient processes, improved controls
- **Improved financial performance and value for money** –  
Increased achievement of objectives, fewer losses, reduced impact and frequency of critical risks
- **Improved corporate governance and compliance systems** –  
Fewer legal challenges, robust corporate governance, fewer regulatory visits
- **Improve insurance management** –  
Lower number/level of claims, lower impact of uninsured losses and reduced insurance premiums.

### Risk Management Process

The Council's risk management process has five key steps as outlined below. Further information on the process and its use is outlined within the Risk Management Guidance Document that will be made available on the intranet.



| Process Step   | Description   |
|--|---|
| <b>Risk Identification</b>                           | Identification of risks which could significantly impact the Council’s aims and objectives – both strategic and operational.  |
| <b>Risk Analysis</b>                                 | Requires consideration to the identified risks potential consequences and likelihood of occurring. Risks should be scored against the Council’s risk matrix                           |
| <b>Risk Treatment</b>                                | Treat; Tolerate; Transfer; Terminate – Identify which solution is best to manage the risk (may be one or a combination of a number of treatments)                                     |
| <b>Completing the Risk Register</b>                  | Document the previous steps within the appropriate risk register. Tool for facilitating risk management discussions. Standard template to be utilised to ensure consistent reporting. |
| <b>Monitoring, reporting and reviewing the risks</b> | Review risks against agreed reporting structure to ensure they remain current and on target with what is expected or manageable.  |



Broxtowe Borough Council Risk Matrix

|            |                    | Risk – Threats    |           |              |           |                  |
|------------|--------------------|-------------------|-----------|--------------|-----------|------------------|
| Likelihood | Almost Certain - 5 | 5                 | 10        | 15           | 20        | 25               |
|            | Likely – 4         | 4                 | 8         | 12           | 16        | 20               |
|            | Possible - 3       | 3                 | 6         | 9            | 12        | 15               |
|            | Unlikely - 2       | 2                 | 4         | 6            | 8         | 10               |
|            | Rare – 1           | 1                 | 2         | 3            | 4         | 5                |
|            |                    | Insignificant – 1 | Minor – 2 | Moderate – 3 | Major – 4 | Catastrophic – 5 |
|            |                    | <b>Impact</b>     |           |              |           |                  |

Roles and Responsibilities

| Group / Individual                                     | Roles and Responsibilities  |
|--|---|
| <b>Full Council / Policy and Performance Committee</b> | <ul style="list-style-type: none"> <li>• The Policy and Performance Committee has overall responsibility for many of the Council’s policies.</li> <li>• Full Council delegated responsibility for risk management to the Governance, Audit and Standards Committee.</li> </ul>  |
| <b>Governance, Audit and Standards Committee</b>       | <ul style="list-style-type: none"> <li>• Understanding of risk management and the Council’s risk management framework.</li> <li>• Review and approve the Risk Management Strategy.</li> <li>• Review and challenge the content of the Strategic Risk Register and the adequacy of associated risk management arrangements.</li> <li>• Approve risk tolerance levels, the Council’s “risk appetite” i.e. definition of high(red), medium(amber) and low(green) risks as recommended by General Management Team.</li> <li>• Promote risk management within the Council.</li> <li>• Support and encourage wider risk management training and briefings to maintain corporate knowledge.</li> </ul> |

|  |  |
|--|--|
| <b>Other Committees</b>                | <ul style="list-style-type: none"> <li>• Review and challenge strategic risk information.</li> <li>• Challenge risk management information provided to the Policy and Performance Committee and Finance and Resources Committee as part of decision making.</li> <li>• Promote the benefits of embedded risk management process and open culture of challenge and review.</li> </ul>   |
| <b>Elected Members</b>                 | <ul style="list-style-type: none"> <li>• Responsible for governing the delivery of services to the local community and a responsibility to understand the risks facing the Council and be aware of how these risks are being managed. One way of gaining assurance that identified risks are being effectively managed is by robust and constructive challenge and scrutiny.</li> <li>• Requesting sight of corporate risk registers as appropriate, and challenging the robustness of risk assessments in Committee reports.</li> </ul>   |
| <b>Chief Executive</b>                 | <ul style="list-style-type: none"> <li>• Overall responsibility for ensuring that strategic risks are effectively managed within the Council.</li> <li>• Provide an annual governance statement to include assurance on strategic risks.</li> </ul>  |
| <b>General Management Team (GMT)</b>   | <ul style="list-style-type: none"> <li>• Promote understanding of the management of risk in accordance with best practice, throughout the Council.</li> <li>• Preparing and recommending changes to the Risk Management Policy and Strategy.</li> <li>• Propose the 'risk appetite' of the Council i.e. the definition of high, medium and low risks.</li> <li>• Reporting key strategic risks to the Governance, Audit and Standards Committee.</li> <li>• Approving the report on risk management provided by Strategic Risk Management Group.</li> <li>• Ensure that 'key decision' reports include a section to demonstrate that arrangements are in place to manage any risks (where appropriate).</li> </ul> |
| <b>Strategic Risk Management Group</b> | <p>The Strategic Risk Management Group is pivotal in the promotion and embedding of risk management by managing a culture change within the Council. It is responsible for managing strategic risks, as well as supporting services in their individual areas of responsibility.</p> <p>The group is chaired by the Head of Finance Services and attended by Heads of Service and the Chief Audit and Control Officer as 'Risk Champions'.</p>   |

|  |   |
|--|---|
|  | <p>Its key tasks are to:</p> <ul style="list-style-type: none"> <li>• Review the Council’s approach to risk management and supporting processes and recommend for approval any subsequent changes.</li> <li>• Recommend any appropriate changes to the Risk Management Strategy to GMT and Members.</li> <li>• Overall responsibility for identifying, analysing and scoring strategic and service risks.</li> <li>• Determine and prioritise action on strategic risks, allocating individual ownership of the key risks.</li> <li>• Monitor progress of risk arrangement activities as part of existing performance management approach.</li> <li>• Preparing, monitoring and reviewing the Strategic Risk Register and report periodically to GMT and Governance, Audit and Standards Committee on strategic risk.</li> <li>• Consider escalated operational risks and recommend mitigating actions.</li> <li>• Promote a risk aware culture and embedded risk management throughout the Council.</li> <li>• Ensure that the Council has robust and effective processes and procedures in place that are consistently applied for the management of operational risks, including health and safety risks.</li> </ul> |
| <p><b>Head of Finance Services</b></p> | <ul style="list-style-type: none"> <li>• Corporate risk management champion.</li> <li>• Overall responsibility for implementing the risk management framework and embedding risk management throughout the Council.</li> <li>• Oversight of the Insurance and Risk Management team.</li> </ul>  |
| <p><b>‘Risk Champions’</b></p>         | <p>Risk Champions identified across the Council are typically Heads of Service with responsibility to support risk management process within their service area.</p> <ul style="list-style-type: none"> <li>• Act as point of contact for officers within the directorate to assist in the application of risk management.</li> <li>• Attend the Strategic Risk Management Group to provide updates on strategic and operational risks from within their service area.</li> <li>• Responsibility for supporting the Council in its aim of embedding risk management across the organisation.</li> <li>• Identifying areas of non-compliance with the Risk Management Strategy.</li> </ul>   |

|                         |  |
|-------------------------|--|
| <b>Heads of Service</b> | <p>The primary role is to:</p> <ul style="list-style-type: none"> <li>• Contribute towards the identification and management of operational risks within their service area.</li> <li>• Maintain awareness of and help promote the approved risk management strategy to all employees.</li> <li>• Ensure that risks which have been identified are addressed and mitigated and that any high risks are addressed urgently.</li> <li>• Ensure that risk management is incorporated into Business Plans and project plans.</li> </ul>  |
| <b>All Employees</b>    | <p>All employees have a responsibility to:</p> <ul style="list-style-type: none"> <li>• Manage risk effectively in their job and to report opportunities and risks to their service managers.</li> <li>• Participate in risk assessment and action planning where appropriate.</li> <li>• Adhere to Council policies and procedures.</li> <li>• Attend training and development sessions as appropriate.</li> </ul>  |
| <b>Project Leaders</b>  | <p>Ensure that the risks associated with projects are identified, recorded and regularly reviewed as part of the project management process.</p>   |
| <b>Internal Audit</b>   | <p>Internal Audit's role is to maintain independence and objectivity. Internal Audit is not responsible or accountable for risk management or for managing risks on behalf of management. Internal Audit will:</p> <ul style="list-style-type: none"> <li>• Audit the risk management process.</li> <li>• Assess the adequacy of the mechanisms for identifying, analysing and mitigating key risks.</li> <li>• Provide assurance to management and members on the effectiveness of controls.</li> <li>• Use corporate risk registers to drive the Audit Plan and ensure that resources are used on the areas of highest risk and where the need for assurance is greatest.</li> </ul> |

## Report of the Interim Monitoring Officer

**STATUTORY REPORT OF THE INTERIM MONITORING OFFICER**1. Purpose of report

The Local Government Ombudsman has made a finding of maladministration and injustice in respect of the cancellation of a complainant's trial to trade within a town centre and the Council need to consider the findings and recommendations.

2. Detail

In summary, the complainant's trial to trade within a town centre in the borough was cancelled in 2017 without proper notice and without an explanation being provided. The explanation for the cancellation of the trial was provided a week after it was cancelled. These issues were investigated by the Council and the complaint was upheld at the stage 2 response. The complainant was offered £200 compensation and had been previously refunded the rent for the plot, equating to £96.

The complainant did not accept the offer presented by the Council and subsequently contacted the Local Government Ombudsman (LGO) for a further review of the complaint.

The LGO found that the Council had not provided the complainant with a sufficient explanation for the cancellation of the trial and that the Council had failed to provide satisfactory communication to the complainant in regards to the cancellation.

As part of the LGO's investigation wider issues surrounding this complaint were investigated, such as the Council's overall communication with the complainant since 2016, the Council's handling of the trial period and the Council's policy for allowing town centre trading. The LGO found fault with the above issue and as such their decision as '*maladministration and injustice.*'

A full copy of this report is attached as the appendix.

3. Outcome

The LGO recommended that the Council pay £600 compensation to the complainant, a senior officer offer the complainant a personal apology and that the complainant receive an update as to the Council's investigation into the Town Councillor.

To date the Council has provided the response in respect of the complaint about the Town Councillor and paid the £600 compensation. The Council has also offered to make a personal apology.

**Recommendation**

**The Committee is asked to NOTE the report.**

Background papers

Nil

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24 August 2018

**Complaint reference:**  
17 015 321

**Complaint against:**  
Broxtowe Borough Council

## The Ombudsman's final decision

Summary: Ms B complains the Council unreasonably frustrated her attempts to trade from a town centre location. We have upheld the complaint finding several faults in how the Council dealt with this matter. This caused injustice to Ms B in the form of distress and putting her to unnecessary time and trouble pursuing her complaints. The Council has agreed to undertake a series of actions to remedy the complaint, including undertaking a comprehensive review of its existing practice for dealing with requests to trade from its town centres.

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## The complaint

1. I have called the complainant, 'Ms B'. One of her local Ward Councillors, who I will call 'Councillor X' supports her complaint. They complain the Council has unreasonably frustrated attempts by Ms B to trade from one its town centres.
2. Ms B has a mobile hot food business. In both November 2016 and July 2017, the Council agreed to let Ms B trade, as a trial, at a town centre location. Ms B complains the Council:
  - cancelled the planned trial in November 2016 without explanation;
  - cancelled the second trial in July 2017 after three weeks without explanation;
  - while it later provided reasons for cancelling the second trial these are not satisfactory;
  - handled poorly her complaints about these matters;
  - failed to adequately consider complaints she has about a local Town Council and a Town Councillor.

## The Ombudsman's role and powers

3. We investigate complaints about 'maladministration' and 'service failure'. In this statement, I have used the word fault to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. I refer to this as 'injustice'. If there has been fault which has caused an injustice, we may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1), as amended*)

4. 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. Before issuing this draft decision I considered:
- Ms B's complaint to us made by telephone and further information gathered from her by telephone and in a face to face meeting also with Councillor X.
  - Correspondence exchanged between Ms B and the Council about the issues covered by her complaint and pre-dating our investigation.
  - Information provided by the Council in reply to my written enquiries. This included relevant Council policies and its scheme of delegation for officers.
  - Comments and further evidence provided by Ms B, Councillor X, Councillor Y and the Council in response to an initial draft decision statement.

## What I found

### The key facts

#### Ms B's first trial

6. The events covered by this complaint began in October 2016 when Ms B approached the Council with a request to trade one day a week from a town centre location. After some preliminary email exchanges covering details such as the site pitch, details of her vehicle and so on, the Council agreed a trial could begin in November 2016.
7. Before the trial began the Council sent an email to the three local Ward Councillors covering the town. I will call them Councillors 'X', 'Y' and 'Z'. It invited their comments. Councillor X said he had no objections. Councillor Y objected. There is no record of Councillor Z responding.
8. Councillor Y objected because of concern about the potential impact of Ms B's business on existing food businesses located in the town centre. The Council's Head of Property Services replied to Councillor Y saying they perceived benefits to the town centre by allowing the trial. They suggested it would continue. However, 24 hours later the Council cancelled the trial.
9. Ms B received an email from the Council the day before she was due to trade telling her this. The officer sending the email apologised for the short notice and said it was for "*unforeseen circumstances*". When Ms B later pressed for an explanation or a review of the decision the officer said they had no further instructions from senior officers
10. I have seen no contemporaneous record of who, how or why the Council took this decision. However, I have seen two explanations given after the event. A draft report for the Council's Jobs and the Economy Committee for September 2017 (not seen by the committee for reasons explained below) said the trial was put "on hold" because "*concerns were raised during consultation about unfair competition with existing businesses*". But a reply to Ms B's complaint given in November 2017 said the Council cancelled the trial "*to allow time for consideration by members of the Council at the appropriate committee meeting.*"



**Ms B's second trial**

11. Frustrated at the Council's decision and lack of explanation, Ms B approached Councillor X for help. Councillor X arranged a meeting with the Council's Chief Executive to discuss what had happened. He supported Ms B's proposal and wanted to secure a trial for her business.
12. The Chief Executive suggested that a decision on Ms B's trial trading go to the Council's Jobs and the Economy Committee. But before that, in April 2017, the Council's Head of Property Services sent an email to Councillors Y and Z asking if they still had objections to Ms B trading in the Town Centre. Councillor Y replied saying that under Council policy officers decided whether to allow a trial, so this was not a decision for Councillors.
13. So, in June 2017, after liaison between Council officers and Ms B, the Council agreed a second trial for her business. Ms B would trade one day a week. The trial would last for 12 weeks. Either side could cancel it by giving a week's notice.
14. The agreed location was on Council owned land in the town centre. To access the land any trader must cross a pavement which forms part of an adopted highway and so belongs to the County Council. Ms B was not the first trader to use the land. For several years markets traded on the land. Each year there is also a Christmas tree placed on the land. The Council has fitted bollards to help prevent unauthorised access on to its land.
15. On the first day Ms B went to trade she could not do so. She found padlocks fitted to the bollards preventing her access. Council officers arranged to cut off the padlocks. A chronology of events provided by one of its officers suggests that Town Councillors knew about the locks and Councillor Y says they had been there for a long time. While enquiring into the padlocks the Council records receiving an enquiry from a Town Councillor who queried the location of a concrete stone planter. This was nearby, but not on, the location agreed for Ms B to trade.
16. During that first week of the trial the Council says it contacted the local highways authority (the County Council which contracts that service). It says this was to ensure the authority had no objections to Ms B parking her vehicle at the agreed location.
17. On the second week Ms B went to trade she found the stone planter had moved. It was now in the place agreed for her parking. The Council gave consent for Ms B to park nearby, so she could begin trading. Later it moved the planter to give her access to the agreed location for her vehicle.
18. At the beginning of the third week of the trial, Councillor Y sent an email to the Council's former Director of Legal and Planning Services. Councillor Y said that they and Councillor Z had canvassed local businesses to check the impact of Ms B's trading and one business reported a downturn in trade. Councillor Y said that when Ms B's trial ended they wanted to see a "*full report on the benefits to the town centre*" of such trading. They also said the Town Council was unhappy at moving the planter and had concerns for potential damage to decorative tiles at the agreed location. A few days later the Town Council also contacted the Council expressing concern for the decorative tiles.
19. In reply to Councillor Y's email, the Council's Former Director of Legal and Planning Services sent an email saying they would ask for Ms B's vehicle to be re-located '*straight away*'. They also said any decision on future trading would be "*focused heavily*" on the town centre. Over the next few days that officer

exchanged emails with other officers to discuss an alternative trading location for Ms B. However, it would not appear the Council took a final decision to approve this.

20. During that week, the Council had exchanged emails with Ms B about the potential impact of her vehicle on the decorative tiles. Ms B said she could park in a way that her vehicle was not on the tiles. She has photographs which show her vehicle parked close to, but not on the tiles. Ms B also explained she has insurance for her business in case of accidental damage to any person or property.
21. At the end of the third week of the trial, the Council sent an email to Ms B saying that it had cancelled her trial. It gave no reasons.
22. The following week the Council received advice from the County Council's highways contractor. The contractor said it had no objection in principle to Ms B trading. But it wanted this subject to certain conditions. One of these conditions was the Council should extend a dropped kerb at the location, which gives access over the adopted highway.
23. One week after the cancellation the Council sent Ms B an email giving reasons for cancelling the trial. It said there was no agreement with the County Council giving her access over the adopted highway to the agreed trading location. It also said there were concerns for the safety of the decorative tiles. The Chief Executive said the Council would consider what to do next at a meeting of its Jobs and the Economy Committee in September. They noted that both Councillors X and Y sat on the committee and this would be an opportunity for them to air differing views on the perceived benefits of Ms B's trading.
24. As I noted earlier, the Council drafted a report for that committee meeting, although the matter did not proceed. This was because in August 2017 Ms B complained (see below). When making her complaint Ms B said she did not want the committee considering this matter. Ms B says this is because Councillor Y sits on the committee. She feared Councillor Y would influence colleagues to prevent her trading.
25. The draft report intended asking Members for a decision on future trading in the town centre. It said this was to "*ensure the best outcome for the vitality and viability of existing businesses*".
26. The report did not name Ms B but referred to her business and said it had struggled to trade because of "*difficulties with access*". It explained the work needed to extend the dropped kerb. It said the work would cost around £1600. It also mentioned concerns about the decorative tiles, without commenting on whether there was any evidence Ms B's vehicle had damaged those. In comments in reply to my enquiries the Council says its officers had been to the site and did not see any damage to the tiles.
27. The report proposed giving Members a choice about the following:
  - a) Allowing trading from the agreed location subject to carrying out the highway improvements.
  - b) Stopping trading from the location, which could also have implications for the annual Christmas tree and any other use of the land.
  - c) Adjusting trading policy to restrict traders whose businesses competed with those in the Town. The report set out potential difficulties in defining how such

control could work. It also pointed out that planning laws do not restrict competing uses for shops trading in the town centre.

28. While not referred to in the draft report, it would appear officers had also undertaken their own research into the potential impact of Ms B's trading on local food businesses. They canvassed eight businesses. Five reported no impact while three reported trading suffering as a result of the increased competition.

### **Ms B's complaint**

29. After the Council cancelled her second trial, Ms B again approached Councillor X for help. In August 2017, Councillor X met with two senior officers from the Council. Councillor X set out his and Ms B's dissatisfaction with the Council's actions in cancelling Ms B's trials. They understood an investigation would follow and sent an email to those officers the same day saying they would "*await contact*". But there was no further contact from those officers before Ms B decided to make a complaint.
30. Ms B's complaint followed at the end of August 2017. In that, she asked the Council to cancel the proposed agenda item for the Jobs and Economy committee meeting in September. The Council acknowledged receipt of the complaint and promised a reply in 15 working days. But by the end of September 2017 Ms B had received no reply. Both she and Councillor X chased a response.
31. Alongside her complaint Ms B made a subject access request under the Data Protection Act asking the Council disclose all "*emails, file notes and documents [...] that relate to myself and my business*".
32. Ms B also made a separate complaint against the Town Council. In late July she had made a complaint by telephone. She now repeated it in writing. She complained at:
- The padlocks fitted to the bollards.
  - The moving of the planter.
  - The conduct of one Town Councillor who she said had been aggressive in front of her customers and told her to "get lost".
  - That businesses in the town were approached to see if her business impacted their trade.
33. The Council replied to Ms B's complaint in early October 2017. It repeated the explanation that Ms B's trial had cancelled because there was no agreement with the County Council over access. Also, because of concerns her vehicle might damage tiles. It offered an apology for not giving Ms B one week's notice as previously agreed.
34. Unhappy with that reply and on the day of its receipt, Ms B asked for her complaint to go to the second stage of the Council's complaint procedure. Ms B said there was no need to link the dropped kerb issue to the question of whether she should trade as proposed at the Jobs and Economy Committee. She reiterated that she had not damaged decorative tiles and had insurance to cover any damage if she did. Ms B said the Council had not justified cancelling her trial at short notice.
35. In mid-November 2017, the Council replied to Ms B under stage two of its complaint procedure. It reiterated its apology for not giving her one week's notice. It also apologised for not giving reasons at the time. It also addressed why it cancelled the first trial in November 2016, giving the reasons quoted at paragraph

10 above. It said a senior manager had met Councillors Y and Z in November 2016 to discuss business in the town centre. It said this was “*part of a wider project and did not specifically relate to your business*”.

36. As part of its response the author of the letter (a complaints manager) also said they could not comment on why Councillor X had not received further contact after his meeting in early August. The author said that they were “unaware” such a meeting had taken place.
37. Having recognised mistakes, the Council offered Ms B £200 as a goodwill gesture. It said this took account of the four- week rent she paid to the Council to trade (around £100). Also for any loss of earnings for cancelling trading without a week’s notice.
38. It is not clear Ms B received a separate response to her request for information. During this investigation the Council has disclosed several emails relating to her requests to trial her business, which she had not seen previously.
39. The Council says it passed Ms B’s complaint about the Town Council to the County Council’s monitoring officer, as they were the Council’s acting monitoring officer. However, the Council now has its own Monitoring Officer in post, who will consider Ms B’s complaint.

## **Our findings**

### **On the cancelled trials**

40. I considered first what policies the Council has covering street trading in its town centres. The Council says it has a policy but has referred only to the terms and conditions it gives street traders in town centre locations. I do not consider this is the same as having a comprehensive policy. This is because the terms and conditions do not address certain key matters. For example, they do not explain who within the Council decides whether to consent street trading. They do not explain the role (if any) of local Councillors or committees. They do not provide officers with checklists of relevant considerations before approving street trading; such as checking if the trader needs consent from the highways authority or any other body.
41. The lack of clear policy may have led to confusion from the outset in dealing with Ms B’s application to trade from a town centre. First, over the role of Councillors, committees and different officers. When Ms B first sought permission in October 2016 the Council consulted Ward Councillors. It is unclear if it intended this merely as a courtesy or a chance to make objections.
42. Twice the Council has suggested the Council’s Jobs and the Economy Committee decide whether to allow Ms B to trade from the town centre as well as consider the wider question of trading from that location. When I look at the stated brief of that committee I cannot obviously see this covers town centre street trading, although I accept its brief may be wide enough to encompass this. While the Council’s scheme of delegated authority says responsibility for street trading rests with its Head of Property Services who reports to its Director of Housing, Leisure and Property Services. But the decisive intervention which led to Ms B’s second period of trading cancelling appears to have come from its Director of Legal and Planning Services.
43. The Council has since clarified this Directorate took over managing town centres from the Director of Housing. So, the issue here is the scheme of delegation is not up to date. Another issue a comprehensive policy might address is that of record

- keeping. It is fault for the Council not to have a contemporaneous record of why it cancelled either of Ms B's trial trading periods.
44. Another consideration for any policy is that of communication. The Council may want to reserve the right to cancel trial periods of trading but good administrative practice is to provide reasons. In this case, as the Council recognises, it gave Ms B neither satisfactory notice nor any reasons for cancelling her trials.
  45. I consider the lack of clear policy, confusion over roles of Members and Officers, the lack of record keeping and poor communications in this case all justify a finding of fault against the Council.
  46. I have gone on to consider the consequences of these faults. To do so, I have asked if the Council had any justification for cancelling either trial. That leads me to consider the reasons given by the Council to Ms B for the cancellations.
  47. I considered first the circumstances where the first trial cancelled. I dismiss the explanation given to Ms B that this cancelled because of the planned referral to the Jobs and the Economy committee. I find there was no suggestion the committee would look at Ms B's case before February 2017, following her meeting with the Chief Executive. I find the more credible explanation for the cancellation is in the draft report to the Jobs and Economy Committee in September 2017. Which said the Council cancelled the trial because of concerns about the impact on other businesses. This appears to cross-reference Councillor Y's objection to the trial. I can see no basis for a Councillor's objections on this matter to carry more weight than an officer's judgment. So, this could not provide a satisfactory justification for cancellation. Part of Ms B's injustice is therefore the Council should not have cancelled her trading for this reason.
  48. Turning to the Council's cancellation of her second trial, it says it acted on the advice of the highways authority. But I am clear the Council only received that advice *after* it cancelled the trial.
  49. The Council also cited concerns about the decorative tiles. I accept that both Councillor Y and the Town Council raised concerns about these. I also note that photographs show Ms B's vehicle parked close to the tiles. But there is no evidence Ms B damaged them and the Council's officers say there was no evidence for that. It is also reasonable for Ms B to point out other vehicles have parked on the tiles during previous markets or when erecting the Christmas Tree. So, I did not find the reasons the Council advanced for cancelling the second trial convincing either.
  50. Instead I considered the trigger for cancelling the trial arose when Councillor Y contacted the Council's former Head of Legal and Planning Services. I note Councillor Y did not ask for Mrs B's trial to stop, but for consideration of its impact after the event. But still the Council went on to cancel the trial, although the emails sent around that time also suggest it looked for an alternative location for Mrs B's business. It is therefore unclear why the second trial cancelled.
  51. However, while I am doubtful about the reasons given by the Council for cancelling the trial I accept it cannot ignore the highway authority's position. I consider the Council should seek its consent for any trader to cross the adopted highway to the trading location (or to stage any other event or activity there). The Council should have considered this before Ms B ever began trading.
  52. I find therefore the Council should not have cancelled either trial in the way it did. But I also find it should not have consented it until it had considered and resolved the highways considerations. Consequently, I find Ms B's injustice is that of

distress. This arises from the confusion, poor communications and poor decision making leading to uncertainty about why she could not trade. This has also added to her time and trouble pursuing this complaint.

53. The short notice of the cancellations also put Mrs B to unnecessary expense. She prepared for a day's trading and bought supplies accordingly. She also could not trade elsewhere at short notice. She estimates the combination of these expenses and loss of trading cost her something in the region of £100 a day.

#### **The Council's complaint handling**

54. The Council compounded the failings in its handling of Ms B's trading requests with poor complaint handling. First, it was not clear what outcome it agreed after the meeting Councillor X had with senior officers in August 2017. Councillor X clearly left under the impression the Council would investigate concerns and emailed to that effect, but the Council did not respond. It should have clarified its intentions. Although I do not find the Council has sought to deny a meeting took place. I consider it credible its complaint officer knew nothing of the meeting. As they were not there and the officers who were evidently did not take further action after meeting with Councillor X.
55. Second, the Council then delayed by around a month in answering Ms B's first stage complaint. Both she and Councillor X had to chase the Council for a reply.
56. Third, there was also some delay, although less significant, in answering Ms B's second-stage complaint.
57. Fourth, I find the Council's replies have not been candid for reasons that should be obvious from the analysis I have provided above. I do not consider it adequately considered the reasons why either trial cancelled. It is also evident it did not disclose all relevant documents in response to Ms B's information request.
58. This combination of faults has led to a further injustice for Ms B. It added to her time and trouble in pursuing this complaint.

#### **The complaint against the Town Council**

59. It is not part of our role to investigate complaints about Town Councils or Councillors. However, local authorities have a monitoring role to ensure complaints about Town Councillors are investigated. In this case I can understand Ms B's concerns as she found literal obstacles put in the way of her trading which she understood was due to the actions of the Town Council. Council officers worked with Ms B to overcome these but they appear to have offered her little support or help when she wanted to make a complaint about the Town Council or its members. Not until we investigated this complaint did Ms B receive any acknowledgment the Council knew of her complaint or did it provide any update on how it dealt with it.
60. I find the Council at fault here. It should signpost individuals as appropriate when they wish to complain about Town Councils or Councillors. It should also ensure timely investigation into complaints about standards and keep the complainant updated. It is regrettable the Council was without a monitoring officer for a time. But it still had responsibility to ensure it carried out these duties.
61. This too has caused some injustice to Ms B in adding again to her time and trouble in pursuing her complaint.

## Agreed action

62. The Council accepts these findings. To remedy the injustice caused to Ms B identified in paragraphs 51, 52, 57 and 61 it has agreed that within 20 working days of a decision on this complaint it will:
- a) Arrange for Ms B to receive an apology from a senior officer. Ms B has said she would value that apology in person and in all the circumstances of this complaint I consider that reasonable.
  - b) Provide a financial remedy of £600 to Ms B. This is broken down as follows: £200 to reflect the distress caused to Ms B by the Council's actions; £200 for her unnecessary time and trouble and £200 for her costs in cancelling the trials at the last minute.
  - c) Provide her with an update of its investigation into the complaint referred to its Monitoring Officer. The Council should clarify which of the matters referred to in paragraph 32 it is investigating. It should give clear advice on how the investigation will proceed and a clear timescale for how long it foresees the investigation taking.
63. Within three months of a decision on this complaint the Council has also agreed that it will:
- a) Complete a review of its existing practice for town centre trading and introduce a comprehensive policy that will avoid the mistakes identified in this investigation. I will not be prescriptive about all that policy might contain. But it should clearly explain the roles of officers, elected members and committees. It should provide officers with a clear checklist of considerations before granting approval, including highways considerations.
  - b) Decide whether it wishes to continue allowing town centre trading in the location covered by this complaint. The Council should consider first which individual or body should take that decision given its current constitution and scheme of delegation. It should let us know in writing what it decides here. A decision about approving locations for trading maybe incorporated within the policy proposed at a) above. As might be a decision about the cost of necessary highways alterations.
64. When the actions set out in paragraph 64 have completed the Council should write to Ms B to let her know. If applicable, it should also invite her to re-apply for a trading license in the town centre.

## Final decision

65. For reasons explained above I have upheld Ms B's complaint finding fault by the Council causing an injustice to her. The Council has accepted this finding and agreed action to remedy that injustice. Consequently, I can now complete my investigation satisfied with its actions.

## Investigator's decision on behalf of the Ombudsman

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## Report of the Interim Strategic Director

**MEMBER INDUCTION – MAY 2019 ONWARDS**1. Purpose of report

To ask the Committee to consider the arrangements for and content of a member induction programme to be offered following the elections on 2 May 2019.

2. Background

An induction day was held on a Saturday after the elections in 2015. This was well supported, with 22 members attending. The morning focussed generally on the Council, how it operates and what would be expected of members in their new role. The day concluded with a tour of the borough. Those members participating (about half of those attending the induction day) found the tour to be useful and informative.

Following on from this, a programme of events was offered including briefings on:

- data protection
- using social media
- budget setting and preparation
- treasury management
- safeguarding
- domestic violence
- emergency planning and councillors

A mock Council meeting was also held to go through the order of business at meetings and amendments in particular, and an evening offered on developing presentation skills.

In addition to specific sessions on more detailed subjects such as the Core Strategy, briefings were arranged before Council meetings and these tended to have higher attendances. Bite-size events enabled members to attend briefings on two topics on the same evening, each lasting between 45-60 minutes. Compulsory training for those members on the Planning and Licensing and Appeals Committees was given at the start of the first meeting of those committees.

A suggested programme for an induction day and on-going programme for 2019 is attached at the appendix. It is suggested that specific site visits be arranged as part of the on-going programme, such as to the HS2 and Chetwynd Barracks sites, rather than a full tour of the borough on induction day.

3. Financial implications

The cost of the induction day and on-going programme in 2015/16 was around £4,500. The cost of the proposals for 2019 (£5,000) can be contained within the existing training budgets.

**Recommendation**

**That the Committee RESOLVES that the proposed induction programme for members following the elections in May 2019 be approved.**

Background papers: Nil

## APPENDIX

**Suggested Programme**  
**Induction Day – Saturday, 11 May 2019**

| Time           | Programme   |
|----------------|---|
| 9.00am onwards | <ul style="list-style-type: none"> <li>❖ Photos (if not taken previously)</li> <li>❖ Signing of declaration of acceptance of office</li> <li>❖ Collection of ID badges</li> <li>❖ Corporate DVD/departmental display boards available</li> <li>❖ Coffee</li> </ul>  |
| 10.00am        | Welcome & introduction/outline of day – Chief Executive   |
| 10.05am        | <ul style="list-style-type: none"> <li>❖ Now you're elected .....</li> </ul> <p style="margin-left: 20px;">How the Council works:<br/> the role of councillors<br/> code of conduct<br/> register of interests, gifts and hospitality<br/> member/officer relationships<br/> members' allowances and pensions</p> |
| 11.15am        | <ul style="list-style-type: none"> <li>❖ Coffee/departmental display boards</li> </ul>  |
| 11.30am        | <ul style="list-style-type: none"> <li>❖ Arrangements for Annual Council Meeting</li> <li>❖ CAT meetings</li> <li>❖ Member training and development – forward programme</li> <li>❖ ICT issues</li> </ul>  |
| 12.15pm        | <ul style="list-style-type: none"> <li>❖ Any questions?</li> <li>❖ Lunch/departmental display boards</li> </ul>   |

**Induction Programme**

- Dates to be arranged for the following briefings before meetings of Council or as bite-size evenings:
  - HS2 development and site visit
  - development of Chetwynd Barracks site and site visit
  - visit to L Leisure centres and D H Lawrence Museum
  - housing services
  - data protection
  - using social media
  - Council finances, financial plan, commercialisation and budget setting
  - treasury management
  - safeguarding
  - domestic violence
  - mental health
  - dementia awareness
  - emergency planning and councillors
  
- Training to be held before the start of the first meeting following Annual Council on:
  - Planning
  - Licensing and Appeals

All members of the Planning and Licensing and Appeals Committees must undertake training before they attend their first meeting of those committees.

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**Report of the Interim Strategic Director**

**REVIEW OF POLLING DISTRICTS AND POLLING PLACES**

1. Purpose of report

To ask the Committee to consider the issues arising from the review of polling districts and polling places.

2. Background

A review of polling districts and polling places was carried out between 1 October and 11 November 2018. Although not required, polling stations were also included. Details of the review were published on the Council’s website and comments were invited from members of the Council, the Acting Returning Officers for the Broxtowe and Ashfield Parliamentary Constituencies, the MPs for the Broxtowe and Ashfield Constituencies, members of the Disability Forum and local political parties. Comments were submitted by the Acting Returning Officer for the Broxtowe Constituency including a suggested change to two polling district boundaries, one in Greasley and one in Kimberley, and a revised approach to the designation of polling places. The only other comments received were:

1. in support of the use of Changes Gym in the BCT2 polling district, rather than Bramcote Hills Primary School;
2. regarding changes to Stapleford ward boundaries which cannot be considered as boundary changes, other than to polling districts, are outside the scope of the review.

Further details are given in the appendices. If approved by the Committee, the recommendations in respect of the changes to the two polling district boundaries and the delegation to the (Acting) Returning Officer will need to be ratified by Council at its meeting on 19 December 2018.

3. Financial implications

There are no financial implications arising from the proposed changes.

**Recommendations**

**The Committee is asked to RECOMMEND to Council that:**

1. **The proposed changes to the polling district boundaries between GRE2 and GRE3 and KIM4 and KIM5 respectively as set out in appendix 1 be approved.**
2. **That polling places for the Broxtowe Parliamentary Constituency and the part of the Ashfield Constituency within the Broxtowe Borough area be designated as set out in appendix 2.**
3. **That authority be delegated to the (Acting) Returning Officer to make any changes necessary to polling stations at short notice before an election, with any permanent changes being approved by Full Council.**

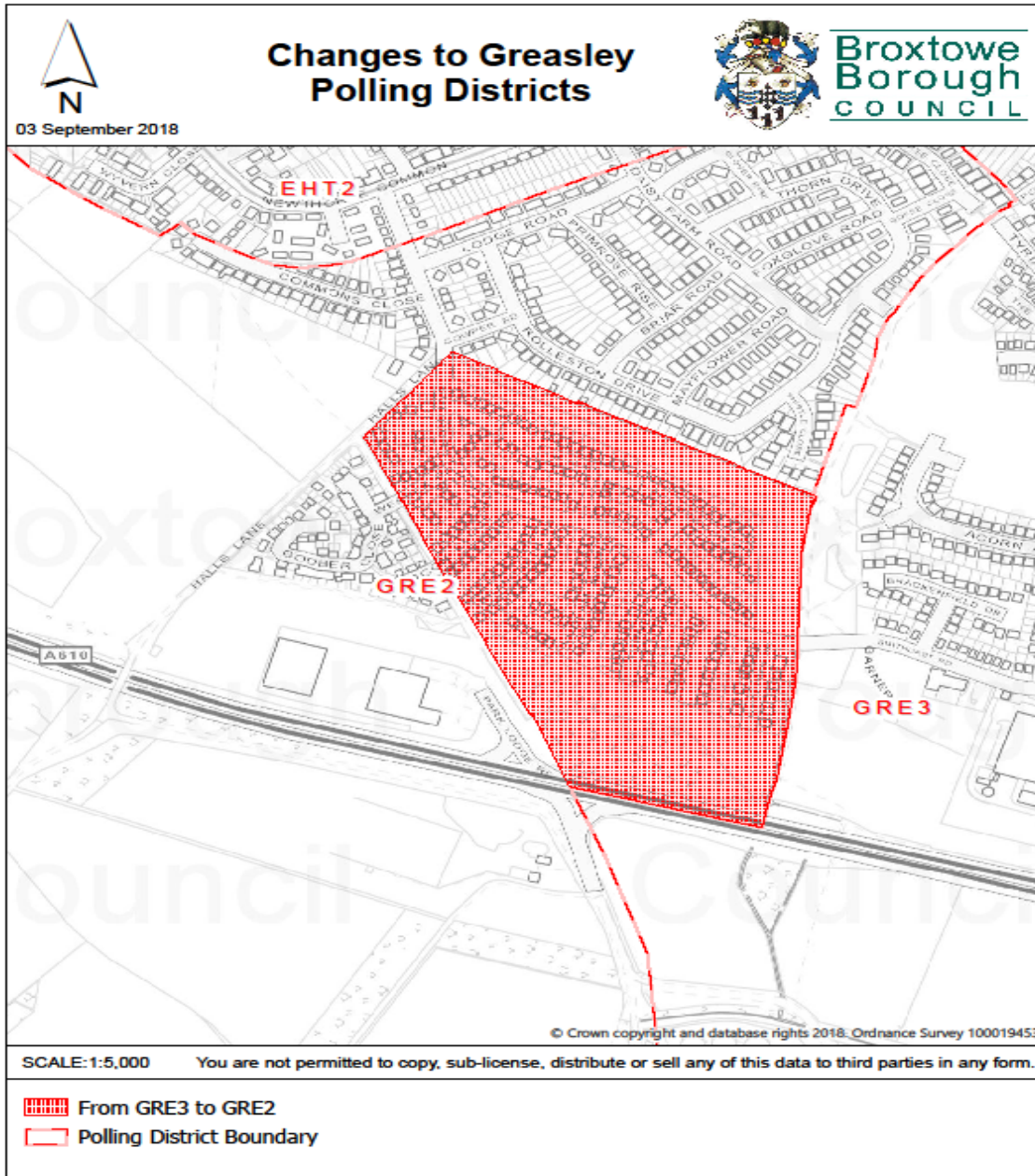
Background papers

Nil

Proposed Changes to Polling District Boundaries

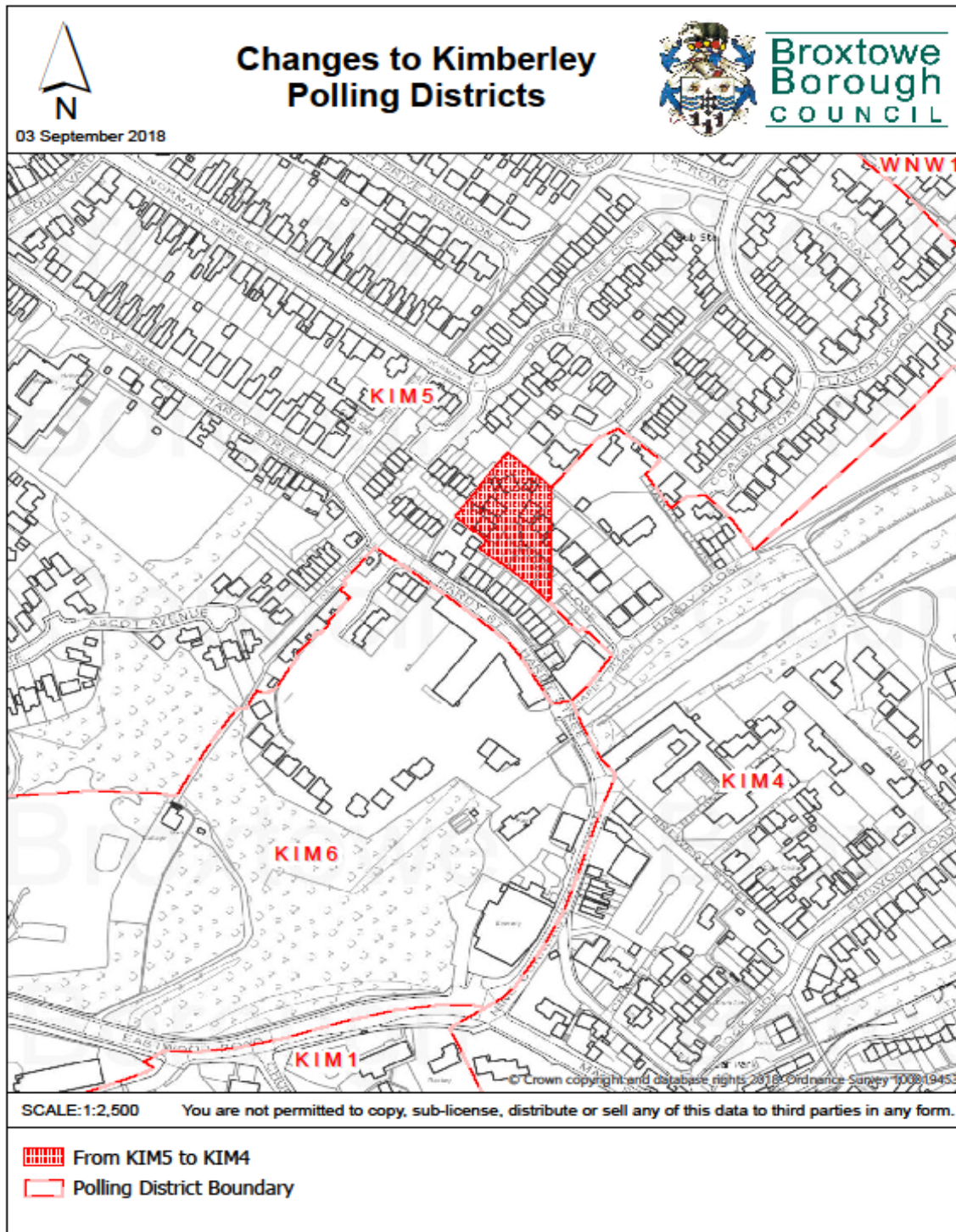
Greasley

The expected increase in the electorate in GRE2 and GRE3 within the next five years will have implications for the polling arrangements in both polling districts. An amendment to the boundary between GRE2 and GRE3 will help to balance out the electorate between the two areas. This would mean that electors previously in GRE3 would need to vote at the temporary station on the recreation ground, rather than at the unit in the car park, on Smithurst Road.



Kimberley

The boundary between KIM4 and KIM5 currently crosses Hanson Close. The proposed amendment would include all of Hanson Close in KIM4, so transferring electors in Hanson Close currently in KIM5 to KIM4. This would mean that electors previously in KIM5 would need to vote at Kimberley Parish Hall, Newdigate Street, rather than at Hollywell School, Hardy Street.



## APPENDIX 2

Designation of Polling Places

The polling districts in Broxtowe have previously been designated as the polling places for the borough. This has allowed flexibility to alter the location of a polling station (the actual location where voting takes place within a polling place), if necessary, without the need to seek approval of full Council to a new location. Ward members have been informed of any changes and comments sought after an election on use of the alternative location.

The Acting Returning Officer of the Broxtowe Constituency has recommended that:

1. specific buildings in which polling stations are located should be designated as polling places.
2. polling places for the Broxtowe Parliamentary Constituency and the part of the Ashfield Constituency within the Broxtowe Borough area be designated as set out below.
3. authority be delegated to the (Acting) Returning Officer to make any changes necessary to polling stations at short notice before an election, with any permanent changes being approved by full Council.

The above recommendations are in line with Electoral Commission guidance which advocates that polling places should be defined more specifically than polling districts.

It is therefore recommended that polling places be designated as follows:

Broxtowe Parliamentary Constituency

| <b>Ward</b>                             | <b>Polling District</b> | <b>Polling Place</b>   |
|---|-------------------------|--|
| <i>Attenborough &amp; Chilwell East</i> | <i>ACE1</i>             | <i>Lucy and Vincent Brown Hall, Attenborough Lane, Attenborough</i>  |
|   | <i>ACE2</i>             | <i>Scout Headquarters, Attenborough Lane, Chilwell</i>   |
|   | <i>ACE3</i>             | <i>Masonic Lodge, High Road, Chilwell</i>  |
|   | <i>ACE4</i>             | <i>Grove Court, Central Avenue, Chilwell</i>   |
| <i>Awsworth, Cossall &amp; Trowell</i>  | <i>ACT1</i>             | <i>Awsworth Village Hall, 60 The Lane, Awsworth</i>  |
|   | <i>ACT2</i>             | <i>Trinity Farm Shop, Awsworth Lane, Cossall</i>   |
|   | <i>ACT3</i>             | <i>Cossall Community Hall, Old School Room, Church Lane, Cossall</i>   |
|   | <i>ACT4</i>             | <i>Trowell Parish Hall, Trowell</i>  |
|   | <i>ACT5</i>             | <i>Temporary Station, Salcey Drive/Trowell Park Drive, Trowell</i>   |
| <i>Beeston Central</i>                  | <i>BEC1</i>             | <i>Oasis Christian Centre, Union Street, Beeston (previously John Clifford Primary School, Nether Street, Beeston)</i> |
|   | <i>BEC2</i>             | <i>Humber Lodge, Middle Street, Beeston</i>  |
|   | <i>BEC3</i>             | <i>Templar Lodge, Beacon Road, Beeston</i>   |
| <i>Beeston North</i>                    | <i>BEN1</i>             | <i>Temporary Station, Car Park, Carwood Road, Beeston</i>  |



| <b>Ward</b>             | <b>Polling District</b> | <b>Polling Place</b>   |
|-------------------------|-------------------------|--|
|                         | BEN2                    | Beeston Free Church, Broadgate, Beeston (previously 2 temporary units, land at Kenilworth Court, Beeston)                        |
|                         | BEN3                    | Bowls Pavilion, Recreation Ground, Central Avenue, Beeston   |
| Beeston Rylands         | BER1                    | Rylands Community Centre, Leyton Crescent, Beeston   |
|                         | BER2                    | Function Room, Boat & Horses, Trent Road, Beeston (previously Trent Vale Infant School, Trent Road)                              |
|                         | BER3                    | Hetley Pearson Recreation Ground Pavilion, Cartwright Way, Beeston   |
| Beeston West            | BEW1                    | Youth and Community Centre, West End, Beeston  |
|                         | BEW2                    | Our Lady of the Assumption Church Hall, Foster Avenue, Beeston   |
|                         | BEW3                    | Our Lady of the Assumption Church Hall, Foster Avenue, Beeston   |
|                         | BEW4                    | Our Lady of the Assumption Church Hall, Foster Avenue, Beeston   |
| Bramcote                | BCT1                    | Bramcote Memorial Hall, Church Street, Bramcote  |
|                         | BCT2                    | Changes Gym, Seven Oaks Crescent, Bramcote (previously Bramcote Hills Primary School, Moor Lane, Bramcote)                       |
|                         | BCT3                    | Westbourne Court, Ewe Lamb Lane, Bramcote  |
| Chilwell West           | CHW1                    | Chilwell Community Centre, Inham Road, Chilwell  |
|                         | CHW2 (part)             | Temporary Station, Co-op Car Park, Bramcote Lane, Chilwell   |
|                         | CHW2 (part)             | School Bungalow, Eskdale Junior School, Eskdale Drive, Chilwell  |
|                         | CHW3                    | Scout Headquarters, Attenborough Lane, Chilwell  |
| Greasley                | GRE1                    | Greasley Parish Hall, Dovecote Road, Newthorpe   |
|                         | GRE2                    | Temporary Station, Smithurst Road Recreation Ground, Newthorpe   |
|                         | GRE3                    | Temporary Station, Car Park, Smithurst Road, Giltbrook   |
|                         | GRE4                    | Newthorpe Baptist Church, Main Street, Newthorpe   |
| Kimberley               | KIM1                    | Kimberley Primary School, Swingate, Kimberley  |
|                         | KIM2                    | Kimberley Parish Hall, Newdigate Street, Kimberley   |
|                         | KIM3                    | Kimberley Parish Hall, Newdigate Street, Kimberley   |
|                         | KIM4                    | Kimberley Parish Hall, Newdigate Street, Kimberley   |
|                         | KIM5                    | Hollywell School, Hardy Street, Kimberley  |
|                         | KIM6                    | Holy Trinity Church Hall, Church Hill, Kimberley   |
| Nuthall East & Strelley | NES1                    | Horsendale Community Centre, Assarts Road, Nuthall   |
|                         | NES2                    | Function Room, Old Moor Lodge, Mornington Crescent, Nuthall (previously Mornington Primary School, Mornington Crescent, Nuthall) |
|                         | NES3                    | Strelley Hall, Main Street, Strelley   |
|                         | NES4                    | Nuthall Temple Centre, Nottingham Road, Nuthall  |

| <b>Ward</b>                         | <b>Polling District</b> | <b>Polling Place</b>   |
|-------------------------------------|-------------------------|--|
| <i>Stapleford North</i>             | <i>SNO1</i>             | <i>Pastures Community Church, Pasture Road, Stapleford</i>           |
|                                     | <i>SNO2</i>             | <i>Pastures Community Church, Pasture Road, Stapleford</i>           |
|                                     | <i>SNO3</i>             | <i>New Stapleford Community Centre, Washington Drive, Stapleford</i> |
| <i>Stapleford South East</i>        | <i>SSE1</i>             | <i>Stapleford Community Centre, Cliffe Hill Avenue, Stapleford</i>   |
|                                     | <i>SSE2</i>             | <i>Stapleford Community Centre, Cliffe Hill Avenue, Stapleford</i>   |
|                                     | <i>SSE3</i>             | <i>Gutersloh Court, Central Avenue, Stapleford</i>                   |
| <i>Stapleford South West</i>        | <i>SSW1</i>             | <i>Carnegie Centre, Warren Avenue, Stapleford</i>                    |
|                                     | <i>SSW2</i>             | <i>St John's Church Hall, Midland Avenue, Stapleford</i>             |
| <i>Toton &amp; Chilwell Meadows</i> | <i>TCM1</i>             | <i>Lombardy Lodge, Portland Road, Toton</i>                          |
|                                     | <i>TCM2</i>             | <i>Toton Greenwood Community Centre, Chester Green, Toton</i>        |
|                                     | <i>TCM3</i>             | <i>Toton Greenwood Community Centre, Chester Green, Toton</i>        |
|                                     | <i>TCM4</i>             | <i>Temporary Station, Lidl Car Park, Chilwell</i>                    |
| <i>Watnall &amp; Nuthall West</i>   | <i>WNW1</i>             | <i>Watnall Women's Institute, Main Road, Watnall</i>                 |
|                                     | <i>WNW2</i>             | <i>St Patrick's Church Hall, Back Lane, Watnall</i>                  |

## Polling Places – Ashfield Parliamentary Constituency

| <b>Ward</b>               | <b>Polling District</b> | <b>Polling Place</b>   |
|---------------------------|-------------------------|--|
| <i>Brinsley</i>           | <i>BRY1</i>             | <i>Brinsley Parish Hall, Cordy Lane, Brinsley</i>              |
|                           | <i>BRY2</i>             | <i>Brinsley Parish Hall, Cordy Lane, Brinsley</i>              |
| <i>Eastwood Hall</i>      | <i>EHA1</i>             | <i>Cadet Centre, Greenhills Road, Eastwood</i>                 |
|                           | <i>EHA2</i>             | <i>Cadet Centre, Greenhills Road, Eastwood</i>                 |
| <i>Eastwood Hilltop</i>   | <i>EHT1</i>             | <i>Age Concern, Colin Dyson Centre, Edward Road, Eastwood</i>  |
|                           | <i>EHT2</i>             | <i>Glebe House, Linwood Crescent, Eastwood</i>                 |
| <i>Eastwood St Mary's</i> | <i>ESM1</i>             | <i>Dora Phillips Hall, Wood Street, Eastwood</i>               |
|                           | <i>ESM2</i>             | <i>Parish Rooms, St Mary's Church, Church Street, Eastwood</i> |
|                           | <i>ESM3</i>             | <i>Parish Rooms, St Mary's Church, Church Street, Eastwood</i> |
|                           | <i>GRE5</i>             | <i>Greasley Parish Hall, Dovecote Road, Newthorpe</i>          |

**Report of the Interim Strategic Director**

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| <b>WORK PROGRAMME</b> |
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1. Purpose of report

To consider items for inclusion in the Work Programme for future meetings.

2. Background

Items which have already been suggested for inclusion in the Work Programme of future meetings are given below. Members are asked to consider any additional items that they may wish to see in the Programme.

|               |   |
|---------------|---|
| 18 March 2019 | <ul style="list-style-type: none"> <li>• Internal Audit Plan 2019/20</li> <li>• Internal Audit Progress Report</li> <li>• External Audit Plan 2018/19</li> <li>• Review of Strategic Risk Register</li> <li>• Procurement Update</li> </ul> |
|---------------|---|

3. Dates of future meetings

To be confirmed.

|                              |
|------------------------------|
| <b><u>Recommendation</u></b> |
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|---|
| <b>The Committee is asked to CONSIDER the Work Programme and RESOLVE accordingly.</b> |
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Background papers

Nil

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