



Friday, 20 November 2020

Dear Sir/Madam

A meeting of the Governance, Audit and Standards Committee will be held on Monday, 30 November 2020 via Microsoft Teams, 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:	S A Bagshaw (Vice-Chair)	J P T Parker
	E Cubley	M Radulovic MBE
	M Hannah	P D Simpson
	M Handley	I L Tyler
	H G Khaled MBE	D K Watts
	J M Owen	E Williamson (Chair)

## AGENDA

1. APOLOGIES

To receive any apologies and notification of substitutes.

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 - 2)

The Committee is asked to confirm as a correct record the minutes of the meeting held on 21 September 2020.

4. REPORT OF THE MONITORING OFFICER (Pages 3 - 8)  

The Local Government Ombudsman has made a finding of injustice in respect of a property being offered a potential tenant, that was later withdrawn as it did not suit their medical needs.
5. REPORT OF THE MONITORING OFFICER (Pages 9 - 16)  

The Housing Ombudsman has made a finding of a service failure in respect of significant delays in damp repairs being undertaken.
6. AUDIT OF ACCOUNTS 2019/20 AND ASSOCIATED MATTERS (Pages 17 - 20)  

To approve the letter of representation and the Statement of Accounts for the 2019/20 financial year and to receive the Audit Completion Report for the year ending 31 March 2020 from the Council's external auditors following their work on the 2019/20 accounts.

The letter of representation, audit completion report and statement of accounts are circulated separately with this agenda.
7. ANNUAL GOVERNANCE STATEMENT (Pages 21 - 38)  

To present a revised Annual Governance Statement for consideration and to seek approval for its inclusion in the Council's published Statement of Accounts 2019/20.
8. INTERNAL AUDIT PROGRESS REPORT (Pages 39 - 58)  

To inform the Committee of the recent work completed by Internal Audit.
9. REVIEW OF STRATEGIC RISK REGISTER (Pages 59 - 70)  

To recommend approval of amendments to the Strategic Risk Register and the action plans identified to mitigate risks.

10. COMPLAINTS PROCEDURE (Pages 71 - 96)
- To provide members with an update for the Council's requirement to enhance its complaints procedure, following notification from the Housing Ombudsman.
11. REVIEW OF THE COUNCIL'S ARRANGEMENTS FOR DEALING WITH STANDARDS COMPLAINTS (Pages 97 - 114)
- To update the Committee on the review of the arrangements for dealing with Code of Conduct complaints.
12. REVIEW OF WHISTLEBLOWING POLICY (Pages 115 - 134)
- To update the Committee on the review of the Whistleblowing Policy and of the outcome of the recent Internal Audit Report.
13. WORK PROGRAMME (Pages 135 - 136)
- To consider items for inclusion in the Work Programme for future meetings.

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## GOVERNANCE, AUDIT AND STANDARDS COMMITTEE

MONDAY, 21 SEPTEMBER 2020

Present: Councillor E Williamson, Chair

Councillors: E Cubley  
D Grindell (Substitute)  
T Hallam  
M Handley  
H G Khaled MBE  
H Land (Substitute)  
J M Owen  
J P T Parker  
M Radulovic MBE  
P D Simpson  
D K Watts

Apologies for absence were received from Councillors S A Bagshaw, R H Darby, M Hannah and I L Tyler.

12 DECLARATIONS OF INTEREST

There were no declarations of interest.

13 MINUTES

The minutes of the meeting held 20 July 2020 were confirmed as a correct record.

14 EXTERNAL AUDIT 2019/20 UPDATE

The Committee noted a report which provided an update on progress in delivering the external auditor's responsibilities and a summary of key national publications that may be of interest to members.

15 GOING CONCERN STATUS

The Committee noted the outcome of the assessment made of the Council's status as a going concern for the purposes of the statement of accounts 2019/20.

16 INTERNAL AUDIT PROGRESS REPORT

The Committee were informed of recent work completed by Internal Audit.

Internal Audit has reviewed progress made by management in implementing agreed actions within six months of the completion of the respective audits.

17 ANNUAL COUNTER FRAUD REPORT

The Committee noted the Annual Counter Fraud Report.

Internal Audit has completed a fraud risk assessment exercise, in conjunction with senior management, taking into account published guidance and reports from CIPFA; National Fraud Initiative, Government; external auditors and other relevant organisations.

18 GOVERNANCE DASHBOARD - MAJOR PROJECTS

The Committee were updated on the governance dashboard relating to the Council's major and key projects.

19 REVIEW OF STRATEGIC RISK REGISTER

The Committee considered amendments to the Strategic Risk Register and the action plans identified to mitigate risks.

**RESOLVED that the amendments to the Strategic Risk Register and the actions to mitigate risks as set out in appendix 2 of the report, be approved.**

20 WORK PROGRAMME

The Committee considered the Work Programme.

**RESOLVED that the Work Programme be approved.**

## Report of the Monitoring Officer

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

The Local Government Ombudsman (LGO) has made a finding of injustice in respect of a property being offered a potential tenant, that was later withdrawn as it did not suit their medical needs.

2. Detail

In summary, the complainant was offered a property due to a system error that was not suitable for their medical needs. The property had to be withdrawn as the complainant should not have been able to bid on it in the first instance and due to advice from an Occupational Health Therapist. The Council acknowledged that the property should not have been available for the complainant to bid on. Additionally, fault was found in way in which the Council communicated the offering of the property and the subsequent withdrawal.

The LGO found fault with the above issues and as such recorded its decision as '*maladministration and injustice.*' A full copy of this report is attached as the appendix.

3. Outcome

In line with the LGO's recommendation, the Council has issued an apology to the complainant and issued £100 of compensation.

Since this occurred in January 2019, changes have been made to procedures, both for updating records and the use of Occupational Therapy assessments, to ensure that this does not occur again. In addition to this, it is confirmed to all applicants that the offer of a property is provisional and subject to additional checks before a final offer is made. This is explained when the provisional offer is made and confirmed in writing.

**Recommendation**

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

Background papers

Nil

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9 October 2020

**Complaint reference:**  
19 006 832

**Complaint against:**  
Broxtowe Borough Council

## **The Ombudsman’s final decision**

Summary: Mrs B complains the Council wrongly withdrew an offer of a property. She says the property was suitable for her needs and she had started to plan for the move and had disposed of some possessions. There was fault by the Council which has caused injustice to Mrs B. The Council will apologise to Mrs B and make a payment to her.

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## **The complaint**

1. Mrs B complains the Council wrongly withdrew an offer of a property. She says the property was suitable for her needs and she had started to plan for the move and had disposed of some possessions.

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

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

## **How I considered this complaint**

4. Mrs B is represented by her son Mr B. I considered the complaint and documents provided. I asked the Council to comment on the complaint and provide information. I interviewed officers of the Council who had been involved with the issues complained of. I sent a draft of this statement to Mr B and the Council and considered their comments.

## **What I found**

5. Mrs B lives in a flat. She has limited mobility and it is not suitable for her needs, particularly because of the steps to the property. She had the highest banding for a move to another property under the Council’s housing policy.
6. In January 2019 the Council offered Mrs B a one-bedroom bungalow. The Council has accepted this was a mistake. There had been an assessment by an

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occupational therapist (OT) in August 2018 which stated Mrs B needed a level access bathroom and a two-bedroom property for a live-in carer. The Council had not updated its records with the requirement for a two-bedroom property. Had it done so then Mrs B would not have been able to bid on the property.

7. The Council further accepted it did not deal with the offer properly. It did not make clear to Mrs B that the offer was provisional and dependent on checks being made that it would be suitable for her needs.
8. The Council has apologised for the errors. Mrs B does not consider that to be a sufficient remedy. She considers the property would have been suitable for her needs and much better than her current property. She had disposed of some belongings in preparation for the move and has had her hopes dashed.

### **Analysis**

9. The Council failed to update its records to reflect the sort of property Mrs B needed. This meant she was able to bid on the property when she should not have been able to do so. The Council also failed to make clear to Mrs B that the offer was provisional on checks being done that it was suitable for her needs. Those matters are not in dispute. But there is a difference of view between Mrs B and the Council as to whether the property would have been suitable for her. I consider that point is relevant to my assessment of what an appropriate remedy would be for Mrs B.
10. When the Council had identified the property for Mrs B an officer, Officer X, visited the property. The officer had previously met Mrs B at her home as she had helped the family complete the application to the housing register the previous summer. When she visited the property she had a copy of the OT report from August 2018. This described that Mrs B could only mobilise using a four-wheeled walker inside the property and could only manage to walk two metres. It said that she would benefit from having a level-access shower. And she could not manage the five external steps to her current property. The OT report accorded with Officer X's own recollection of Mrs B's needs. Officer X said there was an external step to the property and the property itself was very small. The doorway into the kitchen was very narrow and overall it would not be suitable for use with a four-wheeled walking frame. The property did not have a level-access shower but a bath. There was no scope to adapt the property to make it suitable for Mrs B's needs.
11. The decision that the property was not going to proceed was conveyed to Mrs B, possibly over the telephone, about two weeks after she had been offered it. Mrs B was very disappointed and complained to the Council. The Council looked again at the property with a visit by Officer X and two other officers. The decision remained that the property would not be suitable for Mrs B's needs. I do not consider there is any fault in that decision. The information the Council had about Mrs B's needs was consistent and clearly showed that the property would not be suitable for her.
12. The family remained adamant that it would be suitable and there was a further assessment by an OT. This was only received after the Council had withdrawn the offer. This said Mrs B could mobilise inside her property using sticks and only needed the wheeled walker outside. There was no mention of what needs she had for support with bathing.
13. The family consider the Council should have waited for the further OT assessment before withdrawing the offer. The Council has said it cannot leave a

property unlet while waiting to receive further reports. I accept that position and I do not consider it was wrong for the Council to let the property. The Council has made Mrs B two further offers of two-bedroom bungalows which have been adapted and would meet her needs. The family have declined those offers.

14. I consider there is some limited injustice to Mrs B as she did have her hopes raised about this property but that was for a short period of time. The Council has apologised and has made further offers of suitable properties. To provide a remedy for the injustice I consider the Council should apologise to her and make a payment.

### **Agreed action**

15. Within one month of the final decision the Council will apologise to Mrs B and pay her £100.

### **Final decision**

16. There was fault which caused injustice to Mrs B.

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

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## Report of the Monitoring Officer

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

The Housing Ombudsman (HO) has made a finding of a service failure in respect of significant delays in damp repairs being undertaken.

2. Detail

In summary, the complainant notified the Council of damp issues in their property from 2018. While inspections were undertaken at the property when reported, works were not scheduled in accordance with the inspections. The complainant chased the Housing Department for these repairs on multiple occasions.

The Council acknowledged that the repairs, while reported, had not been actioned correctly. These repairs have now been undertaken and completed. The complainant requested a compensation payment for items damaged by the damp. However, an incomplete itemised list as provided. This incomplete list totalled £410. The Council determined that a payment of £600 was appropriate on this occasion.

The HO found fault with the above issues and as such recorded its decision as '*service failure.*' However, the HO recommended a payment of £700.

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

3. Outcome

In line with the HO's recommendation, the Council has issued an apology to the complainant. However, the complainant has rejected the £700 payment. For the Council to be able to consider paying an additional amount in regards to reimbursing the cost of items damaged we required further information from the complainant. However, the complainant has not engaged with us in regards to this matter. The Council has contacted the HO regarding this, and they confirmed that our efforts to work with the complainant to accept the payment have been sufficient.

The HO recommended that the Council produce an action plan to address the issues raised in this complain. An action plan was written, this included actions to address the issues with the delay in scheduling works, the lack of communication and the lack of detail held on the housing management system. Procedures have been updated and training has been undertaken.

**Recommendation**

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

Background papers

Nil

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# Housing

## Ombudsman Service

# REPORT

*COMPLAINT 202001661*

*Broxtowe Borough Council*

*28 August 2020*

## Our approach

1. *The Housing Ombudsman's approach to investigating and determining complaints is to decide what is fair in all the circumstances of the case. This is set out in the Housing Act 1996 and the Housing Ombudsman Scheme (the Scheme). The Ombudsman considers the evidence and looks to see if there has been any 'maladministration', for example whether the landlord has failed to keep to the law, followed proper procedure, followed good practice or behaved in a reasonable and competent manner.*
2. *Both the resident and the landlord have submitted information to the Ombudsman and this has been carefully considered. Their accounts of what has happened are summarised below. This report is not an exhaustive description of all the events that have occurred in relation to this case, but an outline of the key issues as a background to the investigation's findings.*

## The complaint

3. The complaint is about the landlord's complaints handling and amount of compensation offered, given length of time the landlord took to carry out works to rectify the damp in the property.

## Background and Summary of events

### Background and policies

4. The resident became a secure tenant, of the landlord, at the property, on 3 November 2013.
5. The landlord has a two-stage complaint process; the landlord aims to provide a stage one "*initial complaint*" response within 15 working days and where a complainant is dissatisfied with the outcome at stage one and requests escalation of their complaint, will provide a response at stage two "*formal investigation*", within 20 working days.
6. The landlord's complaint policy sets out the ways in which it will seek to resolve complaints, which includes issuing an apology, explaining what went wrong and make assurances as to changes made as a result of the complaint, to help prevent a reoccurrence. Compensation may also be offered where mistakes made by the landlord, have resulted in additional expense or financial loss to the complainant.
7. The landlord's "*Repair's Handbook*" sets out the landlord's repair responsibilities, however, besides repairs which fall under the '*Right to Repair Scheme*', does not set out expected timeframes for repair.

### Summary of events

8. On an unknown date in April 2019, the resident said she telephoned the landlord about an ongoing issue with potential damp/water ingress at the property and that the landlord advised the resident that it would be coming out to put a camera in the wall to seek to identify the problem. The resident has provided photographs to this investigation, which show mould and what appears to be an indication of damp, in the walls of the property (the damp has been accepted by the landlord).

9. On an unknown date in July 2019, the resident said that the landlord attended and installed a camera in the wall and found that there was no insulation. Having not heard of any further steps, the resident said she telephoned the landlord for an update and was advised that there was no record of the landlord having attended the property or this work having taken place.
10. At a later date in July 2019, the resident has said that the landlord attended the property again and advised that the wall had not been completely drilled through and so it would be doing this on this occasion and having drilled through the whole wall, it was confirmed that there was no insulation and that it was just rubble in the cavity. The resident says that she telephoned the landlord later in July 2019, asking for an update and was again advised that there was no record of the landlord having attended and carried out this work.
11. On an unknown date in August 2019, the resident has said that she telephoned the landlord to report an issue with her kitchen sink and toilet and explained that the issue was that when the washing machine drains, water comes into the kitchen sink and can overflow, leaking into the bathroom, causing damp. The resident said that she was advised that an operative would attend on 23 August 2019 and that on that date, she waited in but no operative arrived.
12. On a date in October 2019, the resident said she telephoned the landlord, in a state of distress, advising that there were mould mites in the property and that it advised that it would attend to inspect on 15 October 2019 but no operative arrived.
13. The resident made a complaint to the landlord on an unknown date shortly thereafter. Her complaint was about the standard of service she had received from the landlord, which she referred to as “*unacceptable*”, in regards to “*mould and plumbing*”, which she said had initially come to her attention “*six years ago*”, although she only referred to the last six months of issues, as described above. The resident explained that the beds in the property and most of the carpets and furniture were “*covered in mould*”, rendering the bedrooms uninhabitable and so her and her children were sleeping in the living room. The resident explained that the issue had affected her breathing and had contributed to her worsening mental health. She added that when she viewed the property, she noticed there were mops in the bedrooms and the floor was wet, which she asked about and was told that it was just that the property had been vacant for a while but that she now realises that it was because there was an issue with damp. As an outcome to her complaint, the resident wanted all of the required works completed.
14. On 13 December 2019 the landlord issued its stage one complaint response. The landlord upheld the complaint, acknowledging that it “*failed to provide an appropriate level of service*”. It stated that its investigations had found that there had been work carried out in relation to the matter, which included damp inspections, investigatory work and exchanging the extractor fan to one with a humidistat, although this did not rectify the issue. The landlord also noted that in 2018 it had acknowledged that there may be an issue with the insulation but that there had been delays in establishing whether this was definitely the case and ordering works to address this.
15. The landlord explained that works would be commencing on the block to insulate the walls and that this would happen in two phases; the first to clear the cavities, after which they will need to dry for four weeks and then the cavities will be refilled. The landlord said that this action should rectify the issues that the resident had been experiencing.

16. In December 2019, an inspection of the property took place, regarding the issues with damp.
17. On 20 January 2020, the works commenced to extract the filling and debris of the wall cavities, preparing them for the next stage of four weeks' drying out.
18. On 4 February 2020, Citizen's Advice contacted the landlord on behalf of the resident (who had requested the matter be escalated to stage two of the landlord's complaint procedure) and provided a list of items which had been damaged by the damp. The list dated back to 2014 and amounted to £410. Citizen's Advice advised that the resident had stated that this was an incomplete list.
19. On 2 March 2020, works commenced to re-fill the cavities.
20. On 2 April 2020, the landlord provided its response to the complaint, having reviewed it under stage two of its complaints process. The landlord upheld the complaint, recognising that there had been delay "*between 2018 and 2019*", in booking in work to rectify the damp issues, delays in informing the resident when works would be carried out and that the length of time taken to rectify the issue had resulted in "*considerable damage*" to the resident's belongings. The landlord offered £600 compensation "*as a gesture of goodwill*" in recognition of this.

### Assessment and Findings

21. The landlord was required to carry out the repairs/works it was notified of, within a reasonable period of time, in accordance with the terms of the tenancy agreement and in law. The law does not specify what a reasonable amount of time is; this depends on the individual circumstances of the case.
22. In this case, although there are no records of reports having been made, the landlord has accepted that it was aware of a problem with the insulation at the property in 2018, although it is not known at what point in 2018 it became aware. Nonetheless, it has accepted that there was delay "*between 2018 and 2019*" in scheduling the works to take place. Once the works were scheduled, they commenced the following month and were completed a month after that, due to the necessity of the drying out process, which was a reasonable period of time for planned works to have been completed.
23. The length of time the resident waited for the works to be scheduled, however, was inappropriate, which the landlord acknowledged in its complaints response, in upholding the complaint. It was inappropriate because the resident waited at least a year from the landlord being aware of the problem, to the works being scheduled, which is an excessive amount of time in respect of any type of repair. The inappropriateness of the length of time is exacerbated in this case by the nature of the problem, namely, extensive damp, which the resident and her children were living with and the health and practical implications of this, as well as the damage it caused to the resident's possessions over time.
24. The resident stated that she chased the landlord up in April 2019, after which she waited until July 2019 for the landlord to attend and then chased the landlord up again twice thereafter, having not heard anything further and was twice told that there was no record of the issue. The resident also refers to two missed appointments that she waited in for; one in August 2019 and the other in October 2019. In the absence of comment or evidence to the contrary from the landlord, either in its complaints response, or to this investigation, the Ombudsman accepts that this also occurred and demonstrates further inappropriate

handling of reports, on the part of the landlord, taking too long to respond, failing to communicate effectively and missing scheduled appointments.

25. The resident stated that as resolution to her complaint, she wanted the required works carried out and this has been done. The landlord did not use the opportunity of the complaints process, however, to apologise for what the resident had experienced and the failings it identified, as it would have been reasonable for it to do, given its findings. Compensation is not the only way to resolve a complaint and often it is more important that works are completed – as in this case – as well as a genuine apology for what went wrong and an explanation of why this was the case and measures taken to help prevent a reoccurrence. The landlord did not do these things, or address other aspects of the complaint, such as the missed appointments, the chasing the resident had done and the lack of communication and the lack of information it had on its system when she called, thereby failing to demonstrate that it had fully heard and understood the complaint and appreciated the impact the situation had had on the resident. Its stage two response was also inappropriately delayed, being provided a number of months after its stage one letter, which is not in accordance with its complaints policy.
26. Turning to compensation, it should be noted that the resident’s request for reimbursement dated back to 2014, four years preceding the issue complained of. The landlord was not required to reimburse the costs for damaged items six years after the event. There is a reasonable expectation on landlords to investigate matters which are brought to its attention as a formal complaint within six months of the issue occurring, which is also set out in paragraph 23(e) of the Scheme. In addition, the resident’s reference to the landlord being aware of damp when she moved into the property in 2013 also cannot be considered for the same reason.
27. Regarding the £600 compensation the landlord did ultimately offer in its stage two complaint response, the landlord stated that this was a “*gesture of goodwill*”, in recognition of the delay and damage caused to the resident’s possessions. It is not known whether the resident provided the landlord with a complete list of damaged possessions or whether this was requested by the landlord. The lack of breakdown of the compensation offered, however, was unhelpful, leaving it unclear whether it had reimbursed the £410 worth of damaged belongings the resident had advised and the remaining £190 was for the delay, or whether other factors had been considered and compensated for, such as distress and inconvenience and time and trouble. It is best practice to breakdown and explain compensation awards, so that consideration of the different factors involved can be clearly shown and the landlord did not do this in this case.
28. The Ombudsman’s published ‘*Remedies Guidance*’, which includes guidance on compensation amounts offered, recognizes compensation awards of £250-£700 as reflective of “*considerable service failure or maladministration, but there may be no permanent impact on the complainant*” with examples of this including where a resident has had to repeatedly chase a landlord, failure over a considerable period of time and serious failures which have been recognised and resolved by the landlord. The Ombudsman is also able to consider aggravating factors, which in this case, include the fact that there were children in the property and the resident’s physical and mental health.
29. In conclusion, the landlord accepted that there was considerable delay and damage to possessions and having done this, took steps to carry out the works in a reasonable period of time, as it was required to do, as well as offer a compensation amount in recognition of its findings. In its complaint handling, however, besides the delayed response at stage two, the landlord did not acknowledge and address the entirety of the complaint, apologise for

the failings it identified, explain what went wrong and why, or any learning it had taken as a result, nor did the landlord explain the breakdown of the compensation offered; inactions that have not been conducive to repair of the landlord-tenant relationship or satisfied the resident that her complaint was taken seriously and assessed appropriately in terms of the compensation amount offered.

### Determination

30. In accordance with paragraph 42 of the Scheme there was service failure by the landlord in respect of the complaint.

### Reasons

31. There was service failure, insofar as the landlord did not fully address all aspects of the complaint raised or apologise for the delays and damage to possessions that it recognized. Nor did it explain what went wrong and why and lessons learned from the complaint, or indicate how it had assessed the level of compensation awarded. Its stage two response was also delayed.

### Orders

32. The landlord to apologise for the delays in scheduling the works to take place.

33. The landlord to pay the resident £700 compensation, comprised of the following:

- i. £400 for the delays in scheduling the works;
- ii. £150 for its communication failures and for the lack of information on its system, regarding the issue;
- iii. £50 for the two missed appointments;
- iv. £50 for the resident's time and trouble, and;
- v. £50 for distress and inconvenience caused.

**Note: The £700 awarded is not in addition to the £600 already offered/paid, but encompasses this, therefore, if the £600 has already been paid to the resident, this leaves £100 compensation outstanding.**

34. The landlord to create an action plan, having first investigated what went wrong and why and identified lessons learned from this; specific attention should be paid to records management and communication.

35. The landlord to confirm compliance with the above orders by **25 September 2020**.

### Recommendation

36. The landlord to consider reimbursing the cost of the items damaged as a result of the delay or referring the matter to its insurers to be dealt with as a claim for losses.

**Note: The landlord may require receipts for some/all items identified by the resident and may refuse to reimburse costs which it deems unreasonable, or for which it does not accept responsibility for.**

## Report of the Deputy Chief Executive

**AUDIT OF ACCOUNTS 2019/20 AND ASSOCIATED MATTERS**1. Purpose of report

To approve the letter of representation and the process for the approval of the Statement of Accounts for the 2019/20 financial year and to receive the Audit Completion Report for the year ending 31 March 2020 from the Council's external auditors (Mazars) following their work on the 2019/20 accounts.

2. Background

The Governance, Audit and Standards Committee on 18 May 2020 received Mazars' Audit Strategy Memorandum – Year ending 31 March 2020 setting out their approach to the audit of the Council's 2019/20 accounts, highlighting significant audit risks and areas of key judgements. Mazars have almost concluded their work on the 2019/20 accounts and produced their Audit Completion Report. A brief summary is set out in appendix 1. Mazars anticipate issuing an unqualified audit opinion, without modification, on the Council's 2019/20 accounts. In addition, the Council will receive an unqualified Value for Money conclusion for the 2019/20 financial year.

At the time of writing, the external auditors of the Nottinghamshire Pension Fund (Grant Thornton) have not yet confirmed their final opinion on the Pension Fund's 2019/20 accounts and therefore Mazars are unable to gain satisfactory assurance over the net pension liability figure in the Council's 2019/20 accounts. This is expected to be resolved shortly. Further details are set out in appendix 2. Should any further amendments to the Statement of Accounts 2019/20 be required then it is proposed that this be delegated to the Deputy Chief Executive and Section 151 Officer to resolve with the Chair of this Committee.

The Statement of Accounts for 2019/20 including amendments agreed with Mazars thus far is circulated separately with this agenda. Officers will guide Members through the more important aspects of the document at the meeting. This will include additional disclosures concerning material uncertainty in the valuation of the Council's property, plant and equipment and the property assets of the Nottinghamshire Local Government Pension Fund at 31 March 2020 as a consequence of the coronavirus outbreak.

In accordance with regulations, the Council's letter of representation in respect of the 2019/20 accounts has to be approved by the Committee charged with governance. The draft letter along with the Audit Completion Report for the year ending 31 March 2020 is circulated separately with this agenda. A representative from Mazars will be present at the meeting to introduce their Audit Completion Report and answer any questions that Members may have.

**Recommendation**

**The Committee is asked to RECEIVE the Audit Completion Report for the year ending 31 March 2020 and RESOLVE that:**

- (i) the Statement of Accounts 2019/20 as circulated and the letter of representation as attached be approved and**
- (ii) delegation be given to the Deputy Chief Executive and Section 151 Officer along with the Chair of this Committee to approve any further changes required to the Statement of Accounts 2019/20.**

Background papers: Nil

**APPENDIX 1**Audit of Accounts 2019/20 and Associated Matters

As reported to the Committee on 18 May 2020, the Accounts and Audit Regulations (2015) set out the timescales for the production of the Council's accounts, including the dates of the public inspection period. Following the coronavirus outbreak and in response to the pressures this placed on finance teams and external auditors in the production of the 2019/20 accounts, the Accounts and Audit (Coronavirus) (Amendment) Regulations were approved on 7 April 2020 and came into effect on 30 April 2020. The most significant changes were as follows:

- The draft 2019/20 accounts had to be approved and presented to the external auditors for review by 31 August 2020 at the latest (instead of 31 May 2020) though they could be approved earlier if possible.
- The requirement for the public inspection period to include the first 10 working days of June was removed. Instead, the public inspection period had to commence on or before the first working day of September 2020.
- The publication date for the final, audited, 2019/20 accounts moved from 31 July 2020 to 30 November 2020.

The Council's Accounts Closedown Timetable 2019/20 was revised in response to these changes. The draft 2019/20 accounts were approved and presented to the external auditors for review on 30 June 2020, two months ahead of the revised statutory deadline of 31 August 2020. The public inspection period commenced on 1 July 2020 and ended on 11 August 2020 with details placed in advance on the Council's website.

Mazars' staff commenced their review of the Council's draft 2019/20 accounts remotely on 29 June 2020. This involved scrutinising working papers and other supporting documentation and liaising as necessary with Council staff and associated third parties.

Mazars' work focused upon the following significant risks:

- Management override of controls
- Valuation of land and buildings and assets held for sale (where material)
- Valuation of net defined pension liability

Sections 2 of the Audit Completion Report details the findings from Mazars' work and three internal control recommendations by Mazars are set out in section 3 along with the response from Council officers. All three recommendations were agreed in full.

The external audit identified a small number of misstatements in the draft 2019/20 accounts. Full details are set out in section 4 and the most significant of these have been adjusted for accordingly. There were also a number of misstatements that are not considered to be material and for which no adjustment has been made. Again, these are set out in section 4.

Section 5 sets out Mazars' conclusion on the Council's arrangements to achieve economy, efficiency and effectiveness in its use of resources. They have confirmed that they intend to issue an unqualified Value for Money conclusion for the 2019/20 financial year.

The Finance and Resources Committee on 9 July 2020 considered a report summarising capital and revenue spending in 2019/20 and some detail as to the more significant factors which accounted for any variances. The net spending totals on capital and revenue for both the General Fund and Housing Revenue Account have remained unchanged from those summarised at that meeting.

Within the Statement of Accounts 2019/20 is the Annual Governance Statement. A proposed Annual Governance Statement was presented to the meeting of this committee on 18 May 2020. An update is provided in another report on this agenda.

## APPENDIX 2

Nottinghamshire Pension Fund Accounts 2019/20

At the time of writing, the external auditors of the Nottinghamshire Pension Fund (Grant Thornton) have not yet confirmed their final opinion on the Pension Fund's 2019/20 accounts and therefore Mazars are unable to gain satisfactory assurance over the net pension liability figure in the Council's 2019/20 accounts.

As the net pension liability figure at 31 March 2020 within the Council's accounts is £53.931m, this represents a significant amount which therefore requires the assurance from the external suppliers of the figure. There is an expectation that there will be a 'material valuation uncertainty' disclosed on the Pension Fund's holding of property assets. If their final report discloses this, then due to the materiality of the Council's share of net pension liability figure, the Council's accounts will also need to be adjusted to disclose the 'material valuation uncertainty'. Should this disclosure need to be included within the Council's accounts, the following wording will be added to Note 4 – Assumptions Made About the Future and Other Major Sources of Estimation Uncertainty and Note 42 – Defined Benefit Pension Schemes:

“PROPERTY ASSETS (TO BE CONFIRMED) within the Nottinghamshire Local Government Pension Fund has been reported on the basis of 'material valuation uncertainty' as per VPS3 and VPGA 10 of the RICS Red Book Global. Consequently, less certainty and a higher degree of caution should be attached to the Council's share of Pension Fund PROPERTY ASSETS (TO BE CONFIRMED) at 31 March 2020.”

Should the above wording need to be included, it is anticipated that Mazars will update their Audit Completion Report to include an 'emphasis of matters' paragraph along the following lines:

“We draw attention to Notes 4, 15 and 43 of the financial statements, which describe the effects of the Covid-19 pandemic on the valuation of the Council's land and buildings and the valuation of the Council's share of Nottinghamshire Pension Fund's property assets. As disclosed in Notes 15 and 43 of the financial statements, the Council's and Pension Fund's valuers included a 'material valuation uncertainty' declaration within their reports as a result of the Covid-19 pandemic creating a shortage of relevant market evidence on which to base their judgements. Our opinion is not modified in respect of this matter.”

An emphasis of matter paragraph is defined as “a paragraph included in the auditor's report that refers to a matter appropriately presented or disclosed in the financial statements that, in the auditor's judgment, is of such importance that it is fundamental to users' understanding of the financial statements.”

## Joint report of the Chief Executive and the Deputy Chief Executive

**ANNUAL GOVERNANCE STATEMENT**1. Purpose of report

To present a revised Annual Governance Statement for consideration and to seek approval for its inclusion in the Council's published Statement of Accounts 2019/20.

2. Background

The Governance, Audit and Standards Committee on 18 May 2020 received a report on the Council's Corporate Governance Arrangements containing details of the requirements under the Accounts and Audit Regulations 2015 to conduct a review, at least once in each financial year, of the effectiveness of the Council's system of internal control and how the Council follows proper practice as set out in the CIPFA/SOLACE publication *Delivering Good Governance in Local Government: Framework*. The report also included a draft Annual Governance Statement that the Committee resolved to include in the Council's Statement of Accounts 2019/20.

The Governance, Audit and Standards Committee on 20 July 2020 considered a summary from the Chief Audit and Control Officer of the work of the Internal Audit team in 2019/20. This included a review that he had undertaken of the Council's system of internal control from his perspective. He concluded that, in his opinion, "the current internal control environment is satisfactory such as to maintain the adequacy of the governance framework".

In undertaking their review of the Council's 2019/20 accounts, the external auditors have identified that the Chief Audit and Control Officer's opinion on the Council's system of internal control should be clearly stated in the Annual Governance Statement. This can be found underlined in section 1.12 of the revised Annual Governance statement set out in appendix 1.

The meeting on 18 May 2020 also resolved that responsibility be delegated to the Chief Executive and the Chair of this Committee to make any further changes to the Annual Government Statement that are deemed necessary. This has been considered in accordance with both the regulations and the CIPFA/SOLACE publication and no further changes (including to the Action Plan) are required. An update on progress towards completing the actions in the Annual Governance Statement is set out in appendix 2.

**Recommendation**

**The Committee is asked to:**

- 1. RESOLVE that the revised draft Annual Governance Statement in appendix 1 be approved for inclusion in the Council's Statement of Accounts 2019/20.**
- 2. NOTE the progress towards completing the actions set out in the Action Plan in the Annual Governance Statement as shown in appendix 2.**

Background papers - Nil

**REVISED DRAFT ANNUAL GOVERNANCE STATEMENT**

1.1. Corporate Values

The Council’s governance arrangements are reflected in our corporate values which are:

- Integrity and professional competence
- A strong caring focus on the needs of communities
- Continuous improvement and delivering value for money
- Valuing employees and enabling the active involvement of everyone
- Innovation and readiness for change.

1.2. Competency Framework and Employee Performance Appraisal

These values are consistent with the SOLACE/CIPFA governance code and act as the basis for the Council’s competency framework and the assessment of individual employee performance appraisal.

1.3. The Constitution, Standing Orders and Delegated Authority

The Council’s Constitution sets out the roles of members and officers and the terms of reference of the Council’s committees. Officer’s delegated powers to take decisions are set out in this document, as are the protocols and codes of conduct regulating the way employees and members should behave and relate to each other, and how debate is conducted at Council meetings. Limits of financial expenditure are set out in standing orders and in standing orders relating to contracts.

The main checks and balances on the respective power of officers and members is summarised in the table below. The table provides some of the key ways in which officers and members are held accountable to local residents. Website links are made to where you can find further information (*those in green and black are internal documents*).

<b>Officer checks /balances</b>	<b>Member checks/balances</b>	<b>Accountability to residents</b>
<ul style="list-style-type: none"> <li>• Officer delegations within Constitution</li> <li>• Pay Policy underpinned by Job evaluation policy</li> <li>• Disciplinary Policy</li> <li>• Employee Code of Conduct</li> </ul>	<ul style="list-style-type: none"> <li>• Elections</li> <li>• Independent Remuneration Panel</li> <li>• Members Allowances scheme</li> <li>• Governance Audit and Standards Committee</li> </ul>	<ul style="list-style-type: none"> <li>• Broxtowe Matters Annual Report</li> <li>• Public Questions at Council Meetings</li> <li>• Petitions at Council Meetings</li> <li>• Community Trigger for Anti-social Behaviour</li> </ul>

<b>Officer checks/balances</b>	<b>Member checks/balances</b>	<b>Accountability to residents</b>
<ul style="list-style-type: none"> <li>• Statutory Officers (Chief Executive head of paid service; deputy chief executive section 151 officers; Monitoring Officer; Chief Information Officer-Interim Strategic Director</li> <li>• Financial standing orders within constitution</li> <li>• Contract standing orders within constitution</li> <li>• Fraud Prevention Policy</li> <li>• Treasury Management policy</li> <li>• Business Continuity Plans</li> <li>• Whistleblowing Policy</li> <li>• Strategic Risk Register</li> <li>• Risk Management Policy</li> <li>• Health &amp; Safety Policy; Procedures; Health &amp; Safety Group</li> <li>• Information Management Arrangements</li> <li>• Staff engagement exercises</li> <li>• Complaints and compliments procedure</li> <li>• Licensing and Appeals Committee (employment and grievance appeals)</li> <li>• Statement of Internal Control (SIC)</li> </ul>	<ul style="list-style-type: none"> <li>• Statutory Officers (Chief Executive head of paid service; deputy chief executive section 151 officers; Monitoring Officer; Chief Information Officer-Interim Strategic Director</li> <li>• Questions to Committee chairs at Council meetings</li> <li>• Member code of conduct</li> <li>• Reports at Council by Members of Outside Bodies at Council meetings</li> <li>• Ward Member reports at Council meetings</li> <li>• Public Consultations</li> <li>• Register of Members Interests</li> <li>• Community Action Team Meetings</li> <li>• Declaration of interests at all meetings</li> <li>• Protocol for Councillor/Officer Relationships</li> </ul>	<ul style="list-style-type: none"> <li>• Communications strategy 2018-21</li> <li>• Open Data</li> <li>• Transparency framework</li> <li>• Publication scheme</li> <li>• Publication of Committee decisions</li> <li>• Tenant and Leaseholder Matters</li> <li>• Broxtowe Parks Standard</li> <li>• Public satisfaction surveys</li> <li>• External audit annual letter to Governance at Audit committee</li> <li>• Internal and external audit progress reports at Governance and Audit Committee</li> <li>• Periodic external inspections e.g. EFLG/IIP/IIE/LGA</li> <li>• Peer review</li> <li>• Benchmarking through APSE/CIPFA/SOCITIM/Housemark</li> <li>• Finance Data online</li> <li>• Licensing and Appeals Committee ( Taxi, alcohol, licensing matters)</li> <li>• Commenting on Planning applications and speaking to Planning Committee</li> </ul>

1.4. Corporate Plan and Business Plans

The Council's Corporate Plan sets out the Council's Vision and Priorities. The vision is "Broxtowe- a greener, safer healthier place where everyone prospers".

The priorities are succinctly expressed:

- Housing:** A good quality home for everyone
- Environment:** Protect the environment for the future
- Business:** Invest in our towns and our people
- Health:** Support people to live well
- Community safety:** A safe place for everyone

Each priority has objectives which are set out in the plan and specific measureable outcome measures, in year 1 of the plan (2020/21) and at year 4.

1.5. Strategy and Policy Framework

Within each priority area, a range of strategies and policies are devised to guide the decision making of officers and members. These are approved by the respective committees (see below) apart from those which are reserved for full Council for determination.

1.6. Decision-making Structures

The Council has adopted a committee system, which means that all the political parties are represented within the decision making committees. Neither the Leader of the Council or the Chairs of Committees have executive power, which enables decision making to take place in a democratic fashion with scrutiny taking place as part and parcel of decision making. The Council may set up task and finish or working group arrangements to come forward with proposals for policy development or on topics which members consider require further investigation and enquiry.

- Full Council decides upon policy and certain other specialist functions that cannot be delegated elsewhere, including the setting of the Council Tax.
- The Policy and Performance Committee, which includes the Chairs of all other policy committees, has overall responsibility for developing and delivering policies of the Council and monitoring progress against the objectives of the Corporate Plan.
- The Finance and Resources Committee has responsibility for reviewing the Council's budget and financial management and makes recommendations to Council with regard to the setting of Council Tax.
- Committees mirror the Council's main priority themes of Community Safety; Housing, Jobs and Economy, and Leisure and Health, Environment. These are allocated authority by the Council to develop and deliver policy within their specific remit set out in the constitution.

- Separate quasi-judicial committees exist for Planning, Licensing and Appeals, Alcohol and Entertainments.
- A specific committee exists for personnel decisions and policies.
- Matters relating to governance and standards are dealt with by the Governance, Audit and Standards Committee. The role of this committee is particularly relevant to the operation of the SOLACE/CIPFA code and is set out in more detail below:

### Role of the Governance, Audit and Standards Committee

The role and operation of the Governance, Audit and Standards Committee is in line with a toolkit and publication produced by CIPFA entitled Audit Committees – Practical Guidance for Local Authorities.

The specific functions delegated to this Committee are provided in its Terms of Reference which include:

- To determine attendance of members at conferences.
- To determine responses on behalf of the Council to any government, local authority or other consultation on matters within the remit of the Committee.
- The functions conferred in relation to standards of conduct by the Local Government Act 2000, the Localism Act 2011 and associated legislation.
- Without prejudice to the generality of the foregoing:
  - promoting and maintaining high standards of conduct for all members and officers
  - preparing for adoption or revision by the Council policies and codes of conduct for members, co-opted members and officers
  - monitoring the operation of the codes of conduct
  - granting dispensations to members (including co-opted members) from requirements relating to interests set out in the Members' Code of Conduct
  - advising and training members, co-opted members and officers on matters relating to conduct
  - undertaking the same duties as detailed above in respect of parish or town Councils within the Council's area
  - considering, determining and dealing with matters referred by the Monitoring Officer
  - considering, determining and dealing with matters referred by the Chief Executive or Monitoring Officer under the Council's Whistleblowing Policy
  - monitoring the complaints made against the Council including those made via the Ombudsman service
  - assessing (and reviewing if appropriate) all complaints made in respect of breaches of the Members' Code of Conduct.
- The Committee will:
  - To oversee the arrangements for the maintenance of the Council's internal control environment

- To monitor and make recommendations regarding the Council's corporate governance arrangements including the appointment of the external auditor
- Consider ways of achieving reductions in ongoing financial commitments through a review of essential and desirable services and service levels.
- Identify opportunities for future income generation and cost savings.
- Examine further procurement and collaborative working opportunities with the private sector and other local authorities.
- Consider the Council's published financial accounts and associated documents, including the Annual Governance Statement, and give approval to them when satisfied;
- Review the work of the internal audit section including the approval of an audit strategy and annual audit plans;
- Consider significant issues arising from internal audit reviews, make recommendations accordingly and monitor management's response;
- Receive reports from the Council's external auditors, the Council's internal auditor and from any inspection agencies and monitor action in response to any issues raised;
- Oversee the effectiveness of the Council's risk management procedures, the control environment and associated fraud and anti-corruption arrangements including the approval of amendments to the strategic risk register and associated action plans;
- Monitor and review the Council's business continuity arrangements;
- Consider the Council's arrangements for corporate governance and recommend necessary action to maintain best practice and to comply with the code of corporate governance;
- Determine the discretionary elements of both national and local conditions of service;
- Determine employment and health and safety policies;
- The power to make payments or provide other benefits in cases of maladministration (section 92 Local Government Act 2000);
- To receive reports directly from the Chief Internal Auditor as and when he/she thinks fit;
- To receive reports directly from the Council's external auditors as and when appropriate.
- The Committee may appoint Panels comprising of a proportionate combination of three or five members of the main Committee.
- To determine responses on behalf of the Council to any government, local authority or other consultation on matters within the remit of the Committee.
- Consider in detail polling district boundaries for the Borough Council's administrative area and any necessary changes to ensure that:
  - electors have such reasonable facilities for voting as are practicable in the circumstances.

- as far as is reasonable and practicable, that polling places are accessible to all electors, including those who are disabled, and when designating a polling place, have regard to the accessibility needs of disabled persons.
- Consider polling places for the Borough Council's administrative area.
- Consider the warding arrangements for Broxtowe to ensure electoral equality in all areas.
- Consider the boundaries of parish councils in the Borough and warding arrangements in those areas, if appropriate.
- Consider the names of Borough Council and parish council wards.

Two joint committees exist – the Economic Prosperity, which consists of the Leaders of all councils in Nottinghamshire to consider countywide development matters; and the Bramcote Bereavement Service Joint Committee which oversees the operation of Bramcote Crematorium, which is jointly owned with Erewash Borough Council.

Two internal committees recommend changes to employee policy pay and conditions – the Local Joint Consultative Committee which considers employee related matters and the Independent Remuneration Panel, which considers matters relating to the remuneration of members. The Independent Remuneration Panel reviewed members' allowances in January 2020 and decided on a further in-depth review later in the year due to the increase in the number of committees at the Council.

The Panel recommended an increase in the allowance in-line with the employee pay award. Full Council received the report of the Panel's findings on 4 March 2020 and accepted the recommendation.

Delegation arrangements to officers are set out in detail within the Constitution. In order to ensure that decisions are made in compliance with the law and approved policy, Chief Officers are charged with responsibility for the operation of controls within their areas of responsibility and for statutory functions as necessary. They make an annual declaration of compliance through the annual statement of internal control.

Regular meetings take place between relevant senior officers and members of the Council to discuss and propose policy.

The Constitution also includes sections on the conduct of meetings, Financial Regulations, Financial Regulations (Contracts) and Codes of Conduct for members and officers.

- 1.7. The Council established a wholly owned leisure services company, Liberty Leisure Limited, from October 2016. These arrangements have delivered cost reductions and increased income though the company operating as a commercial entity and opportunities to better fulfil the Council's aims through increased flexibility in day-to-day operations.

Full control of the company is maintained by the Council through the governance arrangements that are in place, with the Leisure and Environment Committee maintaining an oversight of the company. Liberty Leisure Limited has continued to provide a wide range of leisure and cultural activities and generates a surplus trading position.

- 1.8. A Shared Services Board, chaired by the Chief Executive, meets regularly to keep shared service arrangements under review.

1.9. Strategies, Policies and Business Plans

The Council has a suite of strategies, policies and business plans which mirror its corporate priority themes and ensures that service delivery follows a clearly set out, politically approved and strategically led approach.

1.10. Electoral Arrangements

There Borough wide elections in 2019/20. The Council participated in a pilot voter ID exercise as part of these elections.

1.11. Statutory Officers

The Council's statutory officers are the Chief Executive (as the 'Head of Paid Service'), the Deputy Chief Executive (as the 'Section 151 Officer') and the Interim Monitoring Officer. All three officers are members of the General Management Team (GMT) and have the authority to place reports in front of an appropriate member body where an aspect of concern and within their statutory remit comes to their attention.

In particular, they are responsible for ensuring that the Council acts within the law and in accordance with established policies and procedures. The Section 151 Officer is specifically responsible for the proper discharge of financial arrangements and must advise the Council where any proposal might be unlawful or where expenditure is likely to exceed resources.

Regular discussions are held at weekly meetings of the General Management Team (GMT) about issues where governance is of concern and periodically a specific discussion takes place to identify areas of concern on the horizon, whether these may arise from such as legislative changes, changing service demands, political matters or financial problems, risk assessment that has been undertaken and any changes in the risk environment in which the Council is operating, and matters to be reported to future committees.

The Deputy Chief Executive is the appointed Section 151 Officer and is a key member of GMT. Being part of GMT, together with meeting with leading members and attending full Council, Policy and Performance Committee, Finance and Resources Committee and other appropriate committees, as required, ensures that the Section 151 Officer can provide corporate financial advice to the Council at the appropriate level and that financial implications and risks are properly taken into account.

All reports to decision making committees incorporate a statement on financial implications where appropriate which are subject to review by the Section 151 Officer and the Head of Finance Services. As such the Council's financial arrangements conform to the governance requirements of the CIPFA Statement on the Role of the Chief Financial Officer in Local Government (2016).

The Section 151 Officer's responsibilities include ensuring that GMT and senior members are made aware of any financial issues at the earliest opportunity and making sure that these are acted upon as appropriate.

The Interim Monitoring Officer also attends GMT. Part of their responsibilities include ensuring that any legislative changes are known about and implemented as appropriate, together with monitoring that the Council does not act unlawfully.

Chief Officers are responsible for ensuring that legislation and policy relating to service delivery and health and safety are implemented in practice. Each Chief Officer signs a Statement of Internal Control to acknowledge responsibility in maintaining and operating functions in accordance with the Council's procedures and practices that uphold the internal control and assurance framework.

In 2019/20 the Statements of Internal Control were reviewed to determine whether any further strengthening of the control environment can be achieved. Any areas identified have been addressed or are part of ongoing development of increased controls to be implemented during 2020/21.

#### 1.12. Internal Audit

The Chief Audit and Control Officer is the Council's designated 'Head of Internal Audit' and is under the management of the Deputy Chief Executive. Whilst the Chief Audit and Control Officer is not a member of GMT, in all other respects the role is in accordance with guidance as laid down in the Public Sector Internal Audit Standards and the CIPFA Statement on the Role of the Head of Internal Audit, including their attendance at the Governance, Audit and Standards Committee and presenting reports in their own name.

The Chief Audit and Control Officer is responsible for the review of the systems of internal control and for giving an opinion on both the corporate and service specific standards in place. As reported to the Governance, Audit and Standards Committee on 20 July 2020, he has undertaken such a review and concluded that, in his opinion, "the current internal control environment is satisfactory such as to maintain the adequacy of the governance framework".

The Internal Audit Charter covers all activities of the Council at a level and frequency determined using a risk management methodology. The approach is designed to be risk-based so that it can focus resources on the key areas of risk facing the Council. The current arrangements include sharing Internal Audit management resources with Erewash Borough Council.

In advance of each financial year the Governance, Audit and Standards Committee is responsible for approving the Internal Audit Plan that governs each year's activity. Upon completion of each audit assignment, a report is produced for management with agreed actions for improvement. Regular progress reports on Internal Audit activity are submitted to the Governance, Audit and Standards Committee for scrutiny. This Committee can request further reviews to be undertaken and can request other committees to further investigate matters arising from any activities within their remit.

#### 1.13. External Audit

The external auditor reviews the Council's arrangements for:

- preparing accounts in compliance with statutory and other relevant requirements
- ensuring the proper conduct of financial affairs and monitoring their adequacy and effectiveness in practice
- securing economy, efficiency and effectiveness.

The external auditor gives their opinion on the Council's accounts and whether or not proper arrangements exist to secure value for money.

The Council continues to examine the use of its financial systems to help produce information for financial management, the capacity of the Finance Services teams and the financial reporting processes used to advise Members during the course of the year.

#### 1.14. Fraud and Corruption

The Department of Work and Pensions (DWP) established a Single Fraud Investigation Service (SFIS) to manage benefit fraud investigation on a national basis. Officers employed by the Council to investigate benefit fraud transferred to SFIS in November 2015.

The Chief Audit and Control Officer is the central contact for non-benefit fraud allegations. The role of Internal Audit has been extended to act as a co-ordinating and investigating service for all non-benefit related fraud and corruption reports and to manage the Council's response to such reports. Internal Audit is supported in this by procuring specialist fraud investigation services as required from local partners, including Erewash Borough Council.

#### 1.15. Partnerships

The Governance, Audit and Standards Committee has the responsibility to examine further procurement and collaborative working opportunities with the private sector and other local authorities. All of the policy committees have included in their remit the power to direct the work of any delivery vehicles established to deliver services within their remit. This may include partnership arrangements, including those with the voluntary and community sector. Where grants are provided to voluntary sector organisations, conditions are applied

regarding the reporting of the activities of the grant receiving body and its financial standing. In particular, where grant funding exceeds a given value a service level agreement may be used to gain assurance over the use of funds.

**Significant Governance Issues – Action Plan**

We propose over the coming year to take steps to address the matters listed as “opportunities for improvement” to further enhance our governance arrangements. We are satisfied that these steps will address the need for improvements that were identified in our review of effectiveness and will monitor their implementation and operation as part of our next annual review.

<b>Action</b>
1. A new Organisational Development Strategy will be completed in 2020/21
2. An LGA Peer Review will be completed in 2020/21
3. Conduct a budget consultation exercise with residents in 2020/21 for the budget 2021/22
4. Engage and consult with the community regarding the future of Stapleford prior to the submission of a Towns Fund bid
5. Consulting with tenants and the public on a new Housing Strategy
6. Review and amend the Council’s Constitution (May 2020)
7. Continue to support the development of Neighbourhood Plans (March 2021)
8. Further update the Business Strategy in preparation for the 2021/22 budget round
9. Complete a new Housing Strategy
10. Complete a new Waste Strategy following the new Government strategy being published
11. Complete a Vision and Action Plan for Stapleford
12. Complete a new Carbon Reduction Plan
13. Review the operation and financing of leisure in Broxtowe following the Covid-19 pandemic and update the Leisure Facilities Strategy (June 2020)
14. Complete a new Asset Management Strategy
15. Following the pandemic, develop a Recovery Plan
16. Ensure the full implementation of a new Contract Management Framework
17. Improve aspects of financial administration including <ul style="list-style-type: none"> <li>● Improving the accuracy of the cash receipting system</li> <li>● Completion of the intelligent scanning invoice matching system</li> <li>● New system for appraisal of capital projects and prioritisation</li> <li>● Improve the bank reconciliation systems (ICON)</li> </ul>
18. Implement the agreed outcomes of the Housing Repairs review
19. Review the management structure in the light of changing service demands and economic realities
20. Develop a new Fire Safety Policy and risk assessment procedures and update fire risk assessments
21. Following the pandemic, as soon as practically possible, catch up with the backlog of housing repairs and gas safety checks
22. Develop a flood risk assessment and response plan for Kimberley depot

23. Review and expand the open data section of the website

24. Develop a governance risk and reporting system for major projects to be reported to Governance Audit and Standards Committee on a regular basis

**Councillor M Radulovic MBE  
Leader of the Council  
Broxtowe Borough Council**

**R Hyde  
Chief Executive  
Broxtowe Borough Council**

Governance Risk & Compliance Action Plan 2020/21

Action	Lead Officer		Completion
<b>A. Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law</b>			
1. A new Organisational Development Strategy will be completed in 2020/21	Chief Executive	Green	Completed and approved by Personnel Committee on 30 June 2020.
2. An LGA Peer Review will be completed in 2020/21	Chief Executive	Red	End March 2021 The peer review system has been suspended by the LGA so this action can't be completed at present.
<b>B. Ensuring openness and comprehensive stakeholder engagement</b>			
3. Conduct a budget consultation exercise with residents in 2020/21 for the budget 2021/22	Deputy Chief Executive	Yellow	Questions approved by Finance and Resources Committee on 8 October 2020. Consultation closed on 30 November 2020.
4. Engage and consult with the community regarding the future of Stapleford prior to the submission of a Towns Fund bid	Head of Planning and Economic Development	Green	April- August 2020 Consultation completed. Date for bid submission January 21.
5. Consulting with tenants and the public on a new Housing Strategy	Head of Housing	Green	Consultation completed and Housing Strategy 2020-2024 approved by Housing Committee on 2 September 2020.

Action	Lead Officer		Completion
<b>C. Defining outcomes in terms of sustainable economic, social and environmental benefits</b>			
6. Review and amend the Council's Constitution	Monitoring Officer		1 July 2020 The constitution was reviewed and updated and amendments approved by Council.
7. Continue to support the development of Neighbourhood Plans	Head of Planning and Economic Development		End March 2021 Ongoing – no referendum on the Neighbourhood Plan for Bramcote and Chilwell before May 21 because of Covid-19
8. Further update the Business Strategy in preparation for the 2021/22 budget round	Deputy Chief Executive		The Business Strategy was updated and approved by Finance and Resources Committee on 8 October 2020.
9. Complete a new Housing Strategy	Head of Housing		Housing Strategy 2020-2024 approved by Housing Committee on 2 September 2020.
10. Complete a new Waste Strategy following the new Government strategy being published	Head of Environment		End March 2021 The Government has not yet produced the new Waste Strategy
11. Complete a Vision and Action Plan for Stapleford	Head of Planning and Economic Development		August 2020 The Stapleford Towns fund duly approved a vision statement
12. Complete a new Carbon Reduction Plan	Strategic Director		The Environment and Climate Change Committee adopted a Climate Change Strategy on 14 September 2020.

Action	Lead Officer		Completion
<b>D. Determining the interventions necessary to optimise the achievement of the intended outcomes</b>			
13. Review the operation and financing of leisure in Broxtowe following the Covid-19 pandemic and Update the Leisure Facilities Strategy	Deputy Chief Executive		A Leisure Facilities Strategy was presented to Policy and Performance Committee on 1 October 2020.
14. Complete a new Asset Management Strategy	Head of Property Services		Key themes to be included in Asset Management Strategy approved by Housing Committee on 2 September 2020.
15. Following the pandemic, develop a Recovery Plan	Chief Executive		Recovery plan approved by Jobs and Economy Committee on 18 June 2020 and Policy and Performance Committee on 1 July 2020.
16. Ensure the full implementation of a new Contract Management Framework	Procurement Officer		End December 2020. New policy approved. In implementation phase
17. Improve aspects of financial administration including: <ul style="list-style-type: none"> <li>• Improving the accuracy of the cash receipting system</li> <li>• Completion of the intelligent scanning invoice matching system</li> <li>• New system for appraisal of capital projects and prioritisation</li> <li>• Improve the bank reconciliation systems (ICON).</li> </ul>	Head of Finance		End March 2021

Action	Lead Officer		Completion
<b>E. Developing the entity’s capacity including the capability of its leadership and the individuals within it</b>			
18. Implement the agreed outcomes of the housing repairs review	Head of Housing		End March 2021 Ongoing. Progress being monitored by Housing Committee
19. Review the management structure in the light of changing service demands and economic realities	Chief Executive		September 2020 A new Head of Asset Management and Maintenance has been appointed
<b>F. Managing risks and performance through robust internal control and strong public financial management</b>			
20. Develop a new Fire Safety Policy and risk assessment procedures and update fire risk assessments	Health and Safety and Emergency Planning Manager		September 2020 New fire safety policy adopted and being implemented
21. Following the pandemic, as soon as practically possibly, catch up with the backlog of housing repairs and gas safety checks	Housing repairs Manager		End March 2021 The housing team worked hard to catch up the backlog after the first wave
22. Develop a flood risk assessment and response plan for Kimberley depot	Head of Property services		End November 2020

Action	Lead Officer		Completion
<b>G. Implementing good practices in transparency, reporting and audit to deliver effective accountability</b>			
23. Review and expand the open data section of the website	Strategic Director		End December 2020
24. Develop a governance risk and reporting system for major projects to be reported to governance Audit and Standards Committee on a regular basis	Chief Audit and Control Manager		20 July 2020 completed. A new framework has been approved and is being reported on.

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## Report of the Deputy Chief Executive

**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 narrative of the reports issued since the previous Committee and progress made against the agreed Internal Audit Plan for 2020/21 is included at appendix 1.

As previously reported, the level of performance in terms of audits completed is below what should have been achieved at this stage. The main impact has been from the Covid-19 pandemic and the urgency of diverting Internal Audit resources towards supporting other areas, including vital work associated with the quality assessment and fraud checking of grants paid under the emergency business grants and local discretionary grants schemes. This work is expected to recommence with the latest local and national lockdowns. A revision to the Internal Audit Plan is proposed to ensure that an appropriate level of coverage can be achieved with the reduced resources available. There is flexibility within audit planning arrangements to allow for audits to be deferred, subject to approval by this Committee. The proposed revision for the Internal Audit Plan is considered in appendix 2.

Internal Audit has reviewed progress made in implementing agreed actions within six months of the completion of the respective audits. Details of this follow-up work are included at appendix 3. Where agreed actions to address significant 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 2020/21.

**Recommendation**

**The Committee is asked to NOTE appendices 1 and 3 of the report and to consider and RESOLVE that the revisions to the Internal Audit Plan for 2020/21, as set out, in appendix 2 be approved.**

Background Papers

Nil

## APPENDIX 1

## INTERNAL AUDIT REPORTS ISSUED SINCE APRIL 2020

No	Audit Title	Report Issued	Assurance Opinion	Actions - Significant	Actions - Merits Attention
01	Erewash BC – Safeguarding	01/04/20	n/a	-	-
29	Council Tax	17/04/20	Substantial	0	2
30	Independent Living	05/05/20	Reasonable	0	5
02	Erewash BC – Data Protection	21/05/20	n/a	-	-
31	Key Reconciliations	22/05/20	Reasonable	0	1
32	Cash Receipting (Payment Kiosk)	05/06/20	LIMITED	2	5
03	Discretionary Business Grants (#1)	18/06/20	n/a	-	-
04	Payroll	24/06/20	Substantial	0	1
33	Information Governance	24/06/20	Substantial	0	1
34	Whistleblowing Policy and Complaints	26/06/20	Reasonable	0	2
03	Discretionary Business Grants (#2)	26/06/20	n/a	-	-
35	Enforcement	30/06/20	Reasonable	0	5
36	Financial Resilience	03/07/20	Reasonable	0	4
37	Local Authority Trading Company	06/07/20	Reasonable	1	2
03	Discretionary Business Grants (#3)	08/07/20	n/a	-	-
03	Discretionary Business Grants (#4)	14/07/20	n/a	-	-
03	Discretionary Business Grants (#5)	21/07/20	n/a	-	-
03	Discretionary Business Grants (#6)	06/08/20	n/a	-	-
03	Discretionary Business Grants (#7)	18/08/20	n/a	-	-
05	Governance – Emergency Grant Schemes	19/08/20	Substantial	0	1
06	Council Tax Hardship Scheme	02/09/20	Substantial	0	0
38	Kimberley Depot (including Security)	04/09/20	Reasonable	0	4
39	Housing Repairs	07/09/20	LIMITED	1	4
07	Public Health Funerals	16/10/20	Reasonable	0	4
08	Leasehold Properties	03/11/20	Substantial	1	2
09	Garages	09/11/20	Substantial	0	2
10	Car Parks	10/11/20	Substantial	0	0
11	Section 106 Agreements	12/11/20	Reasonable	0	3

## REMAINING INTERNAL AUDIT PLAN 2020/21

No	Audit Title	Progress
	Housing Delivery Plan	Draft report issued – pending finalisation
	Creditors and Purchasing	Draft report issued – pending finalisation
	Sundry Debtors	Draft report issued – pending finalisation
	Declarations of Interest	Ongoing (Nearing completion)
	Neighbourhood Warden	Ongoing (Nearing completion)
	Computer/ICT (including Cyber Risk)	In progress
	Bank Reconciliation	In progress
	Waste Management	In progress

**REMAINING INTERNAL AUDIT PLAN 2020/21 (CONTINUED)**

No	Audit Title	Progress
	Planning Enforcement	Commenced
	Rents (including Evictions)	Commenced
	Council Tax	Commenced
	HIMO Licences	Commenced
	Fuel Management	Expected to commence in Q3
	Gas Servicing and Maintenance	Expected to commence in Q3
	Housing Voids Management	Expected to commence in Q3/Q4
	Operational Risk Management	Expected to commence in Q3/Q4
	Health and Safety	Expected to commence in Q3/Q4
	Kimberley Leisure Centre	Expected to commence in Q3/Q4
	D H Lawrence Birthplace Museum	Expected to commence in Q3/Q4
	Benefits	Expected to commence in Q3/Q4
	Corporate Governance	Expected to commence in Q4
	Utilities (Energy and Water)	Expected to commence in Q4
	Business Rates (NNDR)	To be considered for 2021/22 (see appendix 2)
	Cash Receipting	To be considered for 2021/22 (see appendix 2)
	Climate Change	To be considered for 2021/22 (see appendix 2)
	Housing Management System	To be considered for 2021/22 (see appendix 2)
	Human Resources	To be considered for 2021/22 (see appendix 2)
	Planning and Building Control	To be considered for 2021/22 (see appendix 2)
	Procurement and Contract Management	To be considered for 2021/22 (see appendix 2)
	Treasury Management	To be considered for 2021/22 (see appendix 2)

**COMPLETED AUDITS**

A report is prepared for each audit assignment and issued to the relevant senior management 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.

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:

These audits have taken place during the coronavirus pandemic lockdown, which has seen the audit process adapted accordingly to enable it to be completed remotely. It is pleasing to report that Internal Audit considers that it has not been restricted in terms of its access to systems, records and people. As a result, the audit conclusions and the strength of the opinion provided has not been overly impacted or qualified. The support of officers has been most welcome in successfully concluding the audit testing.

1. **Public Health Funerals**

Assurance Opinion – **Reasonable**

The specific objectives for this audit were to provide assurance that checks undertaken to ensure that the Council has a legal obligation to take ownership of the deceased (including procedures to attempt determining the next of kin); controls are in place to secure the deceased's property, assets and valuables; costs are kept minimal and, where possible, attempts are made to recover these costs from the next of kin or recovery is attempted from the estate; and where asset thresholds are reached, referral papers are sent onto central government as appropriate.

It was pleasing to report that the Council has an appropriate framework for the management and administration of Public Health Funerals. The review did indicate areas for improvement and recommendations were proposed in order to ensure that the processes and controls are effective. These included:

- Updating the Welfare Funeral Procedure to include the formal process for conducting the search of the deceased's property to retrieve belongings and the completion of a suitable inventory for documenting any valuables collected - signed by the officers in attendance.
- Providing clear guidance on the secure storage and retention of items belonging to the deceased, including items likely to be considered of financial and/or sentimental value for future contact with any next of kin (including clarity on the retention and scattering of cremated remains).
- Reviewing the contract for Funeral Directors services to ensure compliance with Procurement Regulations and the Council's Contract Standing Orders.
- The use of references to assist with the reconciliation of receipts to the case records to show where costs have been recovered.

Internal Audit also made an observation regarding the publication of information relating to the service on the Council's website. Officers regularly receive Freedom of Information (FOI) requests relating to Public Health Funerals, which could be more easily responded to by referring to the webpage.

The actions were agreed by the Head of Public Protection, the Chief Environmental Health Officer, and the Environmental Health Officer.

## 2. **Leasehold Properties (Service Charges)** Assurance Opinion – Reasonable

The specific audit objectives sought to confirm whether adequate controls exist to provide assurance that leasehold properties liable for service charges are accurately and completely identified; service charges are calculated on a reasonable basis and in line with current policy; service charges are billed in an accurate and timely manner; collection of amounts due is appropriately performed; and credit notes and write-offs are appropriately authorised.

The Council has an appropriate framework for the management of Leasehold Properties and the administration of associated service charges. The review did indicate areas for improvement and recommendations were proposed in order to ensure that processes and controls in place are effective. Internal Audit included one 'significant' action relating to the need to improve arrangements for calculating service charges to ensure the accuracy of billing which reflects the actual costs incurred for each block, as follows:

### Calculation of Service Charges

The annual service charges billed to leaseholders comprise elements of repairs; communal lighting; grounds maintenance; buildings insurance and management fee. There were issues with the majority of these elements, as follows:

- Many of the actual meter readings for the communal lighted areas are several years out-of-date.
- The charge for grounds maintenance is based upon a costing exercise which appears to have been carried out in 2002/03, adjusted for annual inflation (CPI) since. In addition, there were a small number of billing inaccuracies noted due to incorrectly identifying properties liable for grounds maintenance.
- The management fee charged to each property is not supported.
- The charges made for repairs to properties are subject to the difficulties noted in the recent audit of Housing Repairs. There were also a small number of billing inaccuracies noted due to incorrectly identifying properties liable for specific repair work.

These issues severely impair the achievement of the Council's policy objective that "service charges will be calculated to reflect the actual costs incurred for each block" (Leasehold Management Policy, s5.5).

Agreed Action (Significant)

The rules regarding leasehold service charges require the management fee to be set at a reasonable level. The current management fee has been set to reflect this requirement and is considered to be reasonable.

It is acknowledged that the remaining elements of the service charge bill require further improvement although this will require the active support of other service areas. The Head of Housing will engage with the managers responsible for providing costings relating to energy, grounds maintenance and housing repairs so that appropriate improvements are made to ensure the accuracy of billing.

Managers Responsible

Head of Housing

Housing Services and Strategy Manager

Leasehold and Performance Manager

Target Date: 31 March 2021

The review also proposed two further 'Merits Attention - Necessary Control' actions relating to:

- The completion of a full reconciliation between the Leasehold Property database and new records on the Capita Housing system so as to ensure 'day one' accuracy and completeness.
- The retention (or enhancement) of controls over credit notes, write-offs and any other amendment to billed amounts, following the anticipated transfer of the administration and recovery of service charge bills to the Housing Income Collections team.

The actions were agreed by the Head of Housing, the Housing Services and Strategy Manager, the Leasehold and Performance Manager and the Income and Housing Manager. Internal Audit will complete appropriate follow-up work at six months from the date of the audit report and will report back to Committee accordingly.

**3. Garages**

Assurance – **Substantial**

The specific audit objectives sought to confirm whether adequate controls exist to provide assurance that:

- Plans for the redevelopment, modernisation and repair of garage stock is governed by an approved strategy and managed effectively;
- Decisions regarding the redevelopment, modernisation and/or repair of garage sites is undertaken in a methodical and rational manner and subject to appropriate review and scrutiny;
- Rental income from garages is appropriately administered and collected; and

- Allocation of garages to potential tenants is performed in an appropriate manner.

The Council has an established framework in place for the management and administration of garages. The review did indicate areas for improvement and recommendations were proposed in order to ensure that processes and controls in place are effective.

Two 'Merits Attention' actions (including one being a 'Necessary Control') were proposed relating to the need to complete and consider financial appraisals of individual garage sites as part of the strategic decision making process; and the updating of service information relating to garages on the Council's website. A further observation was made regarding the reconciliation of garage units between the comprehensive and updated records held on the Housing system and the information held by Estates.

The actions were duly agreed by the Head of Housing.

#### 4. **Car Parks**

Assurance – **Substantial**

The specific audit objectives sought to confirm whether adequate controls exist to provide assurance that income from ticket machines is securely and accurately collected and accounted for; that appropriate inspection and repair procedures are in place; that penalties, appeals and complaints are managed; and that adequate performance monitoring is in place.

Internal Audit was pleased to report that the Council has an appropriate framework in place for car park operations. No significant areas of concern were noted during the course of the audit. The findings arising from this review did not indicate any significant areas for improvement and, accordingly, Internal Audit issued a clearance report.

#### 5. **Section 106 Agreements**

Assurance – **Reasonable**

The specific audit objectives sought to confirm whether adequate controls exist to provide assurance that:

- Procedures are established with controls in place for scoping, creating, processing, agreeing and retaining of S106 agreements;
- Developers comply with agreed obligations and their financial contributions are received accordingly, with processes in place to monitor and take action as necessary.
- Developers contributions are assigned to the capital programme upon receipt and spent in accordance with policy and the S106.
- Management information is available and shared with key stakeholders to show how contributions are spent appropriately (transparency); and

- Reconciliation of records held confirm the accuracy and integrity of amounts received by way of developers' contributions.

Internal Audit reported that an established framework is in place for the administration of operations in respect of Section 106 Agreements. The review did indicate areas for improvement and recommendations were proposed in order to ensure that processes and controls in place are effective. Internal Audit proposed three 'Merits Attention - Necessary Controls' actions relating to:

- The need to adequately record all communication or resolutions reached in respect of a particular application to ensure that a robust management trail exists for integrity and transparency.
- The development of standard forms, templates and agreements to assist with the process of agreeing planning obligations and removing any inconsistencies between different agreements.
- The monitoring and reconciliation of s106 agreements records held in Planning to ensure that expected contributions have been received and expenditure is in line with these agreements.

Internal Audit made further observations relating to changes to planning policy and regulation and the consideration of education contributions being paid directly to the County Council by the developers for all relevant applications.

The actions were agreed by the Interim Head of Neighbourhoods and Prosperity and the Planning Contributions Officer.

## 6. **Governance – Self-Isolation Payments**

Internal Audit has been completing further work in respect of the Covid-19 related support payments that the Council is administering on behalf of central government. The 'Self-Isolation Payments' scheme allows for awards of £500 to people on a low income that will lose money if requested to self-isolate by the NHS Test and Trace process. The system went live in mid-October 2020, with processes being established to be largely consistent with existing Benefits processes. The Benefits team are administering the scheme, supported by Quality and Control, using the software supplier's dedicated module to assist with administration and payment. Internal Audit is providing ongoing support with scrutiny and quality checking, similar to as previous with the business grants.

It is pleasing to report that the scheme has started well. There are adequate levels of scrutiny and challenge in the process, which is balanced against the need to promptly award these payments. A number of potential awards have been challenged by Internal Audit and removed from payment runs pending further enquiry. These cases have since been declined following further investigation into the eligibility of the applicant.

Internal Audit will provide an update to the next meeting.

Further reviews in respect of Bank Reconciliation; Computer/ICT (including Cyber Risk); Council Tax; Creditors and Purchasing; Declarations of Interest; HIMO Licences; Housing Delivery Plan; Neighbourhood Warden; Planning Enforcement; Rents (including Evictions); Sundry Debtors; and Waste Management are ongoing and the reports have yet to be finalised. These will be included in the next progress report to Committee.

### **Current Audit Performance**

Overall, the level of performance for 2020/21 in terms of audits completed is below what was achieved at this stage in previous years. The main impact has been from the Covid-19 pandemic lockdown and the urgency of diverting Internal Audit resources towards supporting other areas of work.

The revision of the Internal Audit Plan, considered in appendix 2 below, should allow suitable progress to be made in the year and the target of 90% to be achieved from the resources available.

## APPENDIX 2

**REVISION TO THE INTERNAL AUDIT PLAN 2020/21**

As previously reported to Committee, the level of performance in terms of audits completed is well below what has been achieved at this stage in previous years. The significant impact has been from the Covid-19 pandemic and the urgency of diverting Internal Audit resources towards supporting other areas. This has included vital work associated with the quality assessment and fraud checking of grants paid under the emergency business grants and local discretionary grants schemes. This work is now expected to recommence with the latest local restrictions and national lockdowns being announced.

The impact of the Covid-19 pandemic was not anticipated at the time that the Internal Audit Plan was created in early 2020 and, as such, none of the additional unplanned work was allowed for in the Plan. The net audit days completed on this additional work relating to the Covid-19 pandemic is around 80 days, around 25% of the available audit resources for the year.

A revision to the Internal Audit Plan is therefore required to ensure that an appropriate level of coverage can be achieved with the reduced resources available. There is flexibility within audit planning arrangements to allow for audits to be deferred, subject to approval by this Committee. A full blown revision to the Plan (involving the reconsideration of the Council's key strategic risks post-lockdown, in conjunction with senior management and Members) has not been possible at this stage, due to resourcing issues caused by the latest pandemic lockdown. This activity will now take place as normal in February 2021 when preparing the 2021/22 Internal Audit Plan.

Instead, the Chief Audit and Control Officer has reviewed the remaining audits and identified the following planned work as being potential audits to postpone/defer. This would reduce the pressure on the current audit work programme:

- Business Rates (NNDR)
- Cash Receipting
- Climate Change
- Housing Management System
- Human Resources
- Planning and Building Control
- Procurement and Contract Management
- Treasury Management

Whilst these service areas do still present risks, these audits will be reconsidered as part of the audit planning process for inclusion within the Internal Audit Plan 2021/22 (to be considered in March) and, if approved, could be considered for an early review. The timing of this work for completion by 30 June 2021 should enable any relevant findings to still be incorporated into the Chief Audit and Control Officer's Annual Internal Audit Review Report. **It is therefore recommended that the Internal Audit Plan 2020/21 is revised accordingly.**

## APPENDIX 3

**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 June 2018 and April 2020 (excluding clearance reports). Those audits where all actions have previously been reported as completed have also been excluded from this list.

Audit Title	Report Issued	Original Assurance Opinion	Number of Actions (Significant in brackets)	Progress
Cemeteries 2018/19	25/06/18	Substantial	1	1 Outstanding
Legionella Prevention and Testing 2018/19	11/09/18	Reasonable	5	2 Outstanding
Commercial Props/Industrial Units 2018/19	04/10/18	Substantial	1	1 Outstanding
Energy (including Procurement) 2018/19	16/11/18	LIMITED	2 (1)	1 Outstanding
Bramcote Crematorium 2019/20	21/10/19	Substantial	2 (1)	1 Outstanding
CCTV 2019/20	30/10/19	Substantial	1	1 Outstanding
Electrical Testing 2019/20	15/11/19	Substantial	1	1 Outstanding
Choice Based Lettings 2019/20	18/11/19	Reasonable	3	1 Outstanding
Human Resources 2019/20	20/12/19	Substantial	1	1 Outstanding
NNDR 2019/20	24/12/19	Substantial	2	1 Outstanding
Chilwell Olympia (Liberty Leisure Ltd)	28/01/20	Substantial	1	1 Outstanding
Procurement and Contract Management	02/03/20	LIMITED	6 (1)	4 Outstanding
Treasury Management	13/03/20	Substantial	2	Completed
Council Tax	17/04/20	Substantial	2	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**

<b>1. Cemeteries</b>	June 2018, Substantial Assurance, Actions – 1
<b>1.1 Digitisation of Cemetery Records</b>	<b>Progressing</b>
<p><u>Agreed Action</u> (Merits Attention – Necessary Control)</p> <p>A timetable for developing an efficient solution for maintaining an effective and accurate electronic cemetery records will be produced. The progress made against the plan will be monitored by management and Bereavement Services Joint Committee. The replacement of the current software solution is considered to be a key part in this medium-term project.</p> <p><u>Manager Responsible</u> Head of Property Services</p> <p>Revised target date – 31 December 2020</p>	
<p><b><u>Management Progress Report of the Head of Property Services</u></b></p> <p><b>Tenders for the provision of Bereavement Services Management Software have been received and evaluated. Due diligence has been carried out with the preferred supplier, to ensure the solution proposed is suitable, as well as within budget. This was complicated and delayed by Covid-19 and the availability of key members of the project team. It is anticipated a contract will be awarded by 1 December 2020, with work to commence shortly afterwards.</b></p>	
<b>2. Legionella</b>	September 2018, Reasonable Assurance, Actions – 5
<b>2.1 Health and Safety Audits</b>	<b>Progressing</b>
<p><u>Agreed Action</u> (Merits Attention – Necessary Control)</p> <p>Health and Safety will carry out annual audits of processes relating to Legionella prevention/detection and report its findings to the Safety Committee. This process will include seeking assurances from Responsible Persons that appropriate testing has been undertaken and completing a sample of substantive reviews linked to the areas of highest risk.</p> <p>The review will cover all relevant Council properties, including premises managed by Liberty Leisure Limited and community facilities that are presently being tested by Property Services.</p> <p><u>Managers Responsible</u> Head of Property Services; Health and Safety Manager</p>	
<p><b><u>Management Progress Report of the Head of Property Services and the Health and Safety Manager</u></b></p> <p><b>The updated Legionella Policy was presented to the Safety Committee in February 2020. The designated persons list has been brought up-to-date and those with roles relating to Legionella testing have been made aware of their responsibilities.</b></p> <p><b>Refresher training had been arranged for May 2020 but is currently on hold due to Covid-19 and the need for the training to be hands-on and interactive. Online training would not give the interaction needed, so the Council is working with the training provider to carry out this training as soon as current restrictions allow.</b></p> <p><b>Whilst the audit programme has yet to be developed, this work should be substantively completed by December 2020.</b></p>	

<b>2. Legionella (Continued)</b>	
<b>2.2 Tendering and Contracts</b>	<b>Progressing</b>
<p><u>Agreed Action</u> (Merits Attention – Necessary Control)</p> <p>A corporate review of the way that Legionella testing, risk assessment, cleaning, chlorination and training services are procured is being undertaken with a view to ensuring consistency, value-for-money and compliance with procurement regulations.</p> <p><u>Managers Responsible</u> Head of Property Services; Health and Safety Manager; Interim Senior Housing Manager</p>	
<p><b><u>Management Progress Report of the Head of Property Services</u></b></p> <p><b>This action is not considered to be a high risk/priority at this stage, given the ongoing pressure on resources. The action will be progressed later in the new year in conjunction with the Head of Housing and with support from the Procurement team.</b></p>	
<b>3. Commercial Property/Industrial Units</b>	October 2018, Substantial, Actions – 1
<b>3.1 Invoices – Combined Rent and Insurance</b>	<b>Progressing</b>
<p><u>Agreed Action</u> (Merits Attention)</p> <p>The potential to combine the annual billing process for rental and insurance recharges was considered. A wholesale change for all existing tenants was not considered appropriate at this stage as the action would require changing up to 60 system generated invoices as well as disrupting pre-arranged Direct Debits/Standing Orders for tenants.</p> <p>Instead, combined rent and insurance bills will be established for new tenancies and for existing tenants at the point of periodic rent reviews. The Estates Manager will liaise with the Insurance team to calculate a suitable fixed annual premium within the new lease term.</p> <p><u>Manager Responsible</u> Estates Manager</p> <p style="text-align: right;">Revised Target Date: 31 March 2021</p>	
<p><b><u>Management Progress Report of the Estates Manager</u></b></p> <p><b>Combined rent and insurance bills continue to be established for new tenants and existing tenants at the point of periodic rent reviews following discussions with the Insurance and Risk Management team to fix a suitable premium. So far, the Council has converted a further six tenancies to 28 units (47%) to a combined payment.</b></p>	

4. Energy		November 2018, Limited Assurance, Actions – 2
4.1 Efficiency Improvements	Progressing	
<p><b>Agreed Action (Significant)</b></p> <p>A risk-based approach will be adopted for the billing and checking process. This will consider the potential improvements outlined in the audit report.</p> <p>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.</p> <p>This greater efficiency will free up 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.</p> <p><b>Managers Responsible</b>            Head of Property Services;            Estates Manager; Energy Officer</p> <p style="text-align: right;">Revised Target Date: 30 September 2020</p>		
<p><b><u>Management Progress Report of the Head of Property Services</u></b></p> <p><b>Internal approval has not yet been obtained for a new energy database. Officer time is currently focussed on day-to-day matters that require resolution.</b></p>		

5. Bramcote Crematorium		October 2019, Substantial Assurance, Actions – 2 (1 Significant)
5.1 Bereavement Services Management System	Progressing	
<p><b>Agreed Action (Merits Attention – Necessary Control)</b></p> <p>The purchase and installation of a new Bereavement Services Management System will be completed as a matter of priority with key support provided by the Council's Procurement and Business Transformation officers.</p> <p><b>Managers Responsible</b>            Head of Property Services            Bereavement Services Manager</p> <p style="text-align: right;">Revised Target Date: 31 December 2020</p>		
<p><b><u>Management Progress Report of the Head of Property Services</u></b></p> <p><b>The provision of a new Bereavement Services Management System has been subject to formal tender, in conjunction with the Procurement and Contracts Officer. Tenders received and evaluated with due diligence carried out with the preferred supplier. It is anticipated a contract will be awarded by 1 December 2020, with work to commence shortly afterwards.</b></p>		

6. CCTV <span style="float: right;">October 2019, Substantial Assurance, Actions – 1</span>	
<b>6.1 Application for the Third Party Certification of Compliance with the Surveillance Camera Code of Practice</b>	<b>Progressing</b>
<p><u>Agreed Action</u> (Merits Attention – Necessary Control)</p> <p>The final areas of non-compliance with the Surveillance Camera Code of Practice are to be addressed, with the long-term aim of applying for the Third Party Certification of Compliance at an appropriate time in the future. In the meantime, the following actions are proposed:</p> <ul style="list-style-type: none"> <li>• Works to progress to enable the systems operating at Kimberley Leisure Centre to be made fully compliant and brought under the full control of the Parking &amp; CCTV/Security Manager. In order to facilitate this, a budget has been earmarked towards the review and upgrade of the existing camera system at the site. (Target date – 31 March 2020)</li> <li>• An approach will be made to the Head of Environment with a view to making progress towards CCTV systems operating at the Kimberley Depot (in particular those cameras operating from refuse freighters) being fully compliant with the Surveillance Camera Code of Practice. (Target date – 31 March 2020). It is recommended that the remote CCTV systems becomes the responsibility of the nominated single point of contact for CCTV surveillance and centralised in accordance with recommendation made by the Surveillance Camera Commissioner’s Office. Alternatively, systems can be managed locally whereby compliance with the Commissioners Code of Practice and accreditation can be audited by the nominated senior responsible officer (SRO) for surveillance.</li> <li>• The existing CCTV polices will be refreshed and arrangements made for these to be formally adopted by the Council. (Target date – 31 March 2020)</li> </ul> <p><u>Managers Responsible</u>  Head of Property Services  Parking and CCTV/Security Manager (in conjunction with the appropriate site managers)</p>	
<p><b><u>Management Progress Report of the Head of Property Services and the Parking and CCTV/Security Manager</u></b></p> <p><b>Action 1 (Kimberley Leisure Centre) – This is on hold indefinitely pending the outcome of the Leisure Facilities Strategy, the Joint Use negotiations with the School and hence the future of the Centre.</b></p> <p><b>Action 2 (Kimberley Depot) – The refuse vehicle surveillance monitoring and reviewing equipment is now being managed centrally by the Parking and CCTV/Security Manager. There is still ongoing technical work to access the information securely from a central location. ICT will facilitate remote access to this system.</b></p> <p><b>Action 3 (Policy Updates) – Policies were reviewed as a part of a latest RIPA inspection where it was deemed appropriate to develop separate policies where significant differences existed in separate systems. A CCTV update report was presented to the Community Safety Committee in June 2020, which resolved to undertake an internal review of the effectiveness and value for money of Broxtowe’s town centre CCTV. This may see a number of cameras removed. As such, this action is on hold as the outcome of this review will affect how the policies are further developed (Revised target date - 31 March 2021).</b></p>	

7. Electrical Testing		November 2019, Substantial Assurance, Actions – 1
7.1	Migration of Electrical Testing Schedule to Capita	Progressing
<p><u>Agreed Action</u> (Merits Attention – Necessary Control)</p> <p>The migration of the Electrical Testing schedule and associated data from manual records to the upgraded Capita Housing system will be completed at the earliest opportunity.</p> <p><u>Managers Responsible</u> Head of Housing; Acting Housing Repairs Manager</p> <p style="text-align: right;">Target Date: 30 April 2020</p>		
<p><b><u>Management Progress Report of the Head of Housing</u></b></p> <p>Work continues to be undertaken to fully utilise the functionality within the Capita Housing system. Following the data load of the Electrical Testing components into Capita, a number of issues were identified regarding the integrity of the data. As such, the manual and automated systems are being run concurrently, and some manual updating of the system is required.</p>		

8. Choice Based Lettings		November 2019, Reasonable Assurance, Actions – 3
8.1	Information Governance/Data Retention	Progressing
<p><u>Agreed Action</u> (Merits Attention)</p> <p>All third party users are systematically requested to confirm their ongoing agreement to system access on an annual basis. This helps to mitigate the risk of personal data being retained for longer than necessary.</p> <p>Historical data relating to allocations has been retained as evidence to support the decision making process. Management will review the current arrangements and devise an information governance procedure to ensure that system data retention periods are clearly defined and adhered to.</p> <p><u>Managers Responsible</u> Head of Housing; Housing Operations Manager; Lettings Manager</p> <p style="text-align: right;"><b>Revised Target Date: 31 December 2020</b></p>		
<p><b><u>Management Progress Report of the Housing Operations Manager</u></b></p> <p>This is a systems issue that has been raised with the software provider. Concerns over GDPR implications have been discussed across the partnership, involving the Chief Information Officers and the Information Governance Officer. The latest update is that the system is currently in the design phase and will be tested shortly. Target date for roll out of the new system is December 2020. This will satisfy the GDPR concerns that were raised by the partnership about the sharing of records and personal data across multiple sites without the express permission of the data subject.</p> <p>The feedback about the retention period specifically is that it is 7-years and then the records appear as “anonymised by data management”. The only notes that are shown are the bid records as the shortlists for properties are retained.</p>		

9. Human Resources		December 2019, Substantial Assurance, Actions – 1
9.1	Completeness of Records	Progressing
<p><u>Agreed Action</u> (Merits Attention – Necessary Control)</p> <p>The probationary process for new employees is currently being reviewing. An expected outcome will see the management of the probationary process returning under the direct control of the HR Manager, including chasing-up and escalation in instances of non-compliance. The HR Manager is due to deliver a briefing to a forthcoming Senior Management Team to emphasise the importance and benefits of completing the probationary process in accordance with Council policy.</p> <p>Officers will be reminded to ensure that all expected documentation for personal files relating to the induction process are received. In the medium-term, the potential for storing evidence of the induction process onto Broxtowe Learning Zone will be investigated.</p> <p><u>Managers Responsible</u></p> <p>Head of Public Protection; Human Resources Manager <b>Revised Target Date: 30 April 2021</b></p>		
<p><b><u>Management Progress Report of the Human Resources Manager</u></b></p> <p><b>Due to the pressures of Covid-19 on the HR team, including workforce planning and absence management, the new process has not been implemented as of yet. New processes for probation were to be piloted from April but due to the Covid-19 response this has not been fully implemented. Preparatory work was done but other pressing matters pushed this back. The positive news is the Business Support Manager has recently been appointed and the HR team are planning to meet with them in due course to discuss implementation dates and the practicalities. This is most likely going to be implemented on 1 April 2021 given current circumstances.</b></p>		

10. NNDR		December 2019, Substantial Assurance, Actions – 2
10.1	NNDR1 and NNDR3 Returns	Progressing
<p><u>Agreed Action</u> (Merits Attention 'Necessary Control')</p> <p>A full breakdown of the difference between the NNDR1 and NNDR3 returns will be documented and the reasons for any significant and/or unexpected variances investigated. The Council has recently purchased software from Analyse Local that will more readily provide this information. This will now be installed, in conjunction with ICT Services, to support the recommendation.</p> <p><u>Managers Responsible</u></p> <p>Head of Revenues, Benefits and Customer Services Revenues Team Leaders <b>Revised Target Date: 30 November 2020</b></p>		
<p><b><u>Management Progress Report of the Head of Revenues, Benefits &amp; Customer Services</u></b></p> <p><b>The NNDR1 and NNDR3 will be reviewed. The government has allowed an additional extension for the completion of the NNDR3 as a result of Covid-19. Although the reconciliation work is still scheduled to be completed by 30 November 2020, the introduction of the additional Business Support during the latest pandemic lockdown means that this might not be completed until 31 December 2020.</b></p>		

11. Chilwell Olympia <span style="float: right;">January 2020, Substantial Assurance, Actions – 1</span>	
11.1 Operational Safety Risks – Joint-Use Agreement	Progressing
<p><u>Agreed Action</u> (Merits Attention 'Necessary Control')</p> <p>The current review of the Joint Use Agreement will incorporate the management of risk and allocation of responsibilities in respect of the key public health risk areas such as legionella, asbestos and fire.</p> <p>The first draft of the updated Joint Use Agreement is being prepared by the Council's Legal Services team. A timetable has been prepared and meetings programmed with representatives of the Chilwell School and Nottinghamshire County Council to consider the proposed Joint Use Agreement from February 2020.</p> <p><u>Managers Responsible</u>            Managing Director, Liberty Leisure Limited            Centre Manager <span style="float: right;">Target Date: 31 March 2020</span></p>	
<p><b><u>Management Progress Report of the Managing Director, Liberty Leisure Limited</u></b></p> <p><b>Operationally legionella is managed by the school with Liberty Leisure Limited contributing by completing and recording daily flushing of all water outlets. An asbestos assessment of the building was completed prior to lockdown.</b></p> <p><b>An initial meeting was held with the school to discuss the Joint Use Agreement. The Council's Legal section was involved in this and had drafted a revised agreement that was shared with the school. Meetings did not take place during the lockdown, although two operational meetings have since been held with the school Head Teacher which focussed on the safe reopening of the school and leisure centre in relation to Covid-19. On 7 September 2020, a joint-use meeting was held with the school, Liberty Leisure Limited and senior Council representatives which discussed the wider future of the site and leisure centre. The specific health and safety issues detailed in the audit report have not been discussed but are being jointly managed by the school and Liberty Leisure Limited to ensure the safety of all users of the site.</b></p>	

12. Procurement and Contract Management	
March 2020, Limited Assurance, Actions – 6 (including 1 ‘Significant’)	
<b>12.1 Procurement Training</b>	<b>Progressing</b>
<p><u>Agreed Action</u> (Merits Attention)</p> <p>A procurement e-learning module will be developed, in conjunction with the Training Officer, to support the embedding of the Procurement and Commissioning Strategy. This will complement the existing support and guidance that is already available on the intranet and website.</p> <p><u>Manager Responsible</u>            Chief Audit and Control Officer            Interim Procurement and Contracts Officer</p> <p style="text-align: right;"><b>Revised Target Date: 31 January 2021</b></p>	
<p><b><u>Management Progress Report of the Procurement and Contracts Officer</u></b></p> <p><b>An initial briefing on the new Procurement Strategy was provided to all affected managers and officers. There has been some initial liaising with the Learning and Development Officer to develop an e-learning course for the Broxtowe Learning Zone.</b></p>	
<b>12.2 Selection of Procurement Approach</b>	<b>Progressing</b>
<p><u>Agreed Action</u> (Merits Attention ‘Necessary Control’)</p> <p>As a new development for 2020/21, the prior approval of Committee will be sought for the tendering of contract opportunities. This will require more structured planning of contracts that are due to be tendered. In order to support this process, a checklist / decision tree will be developed as an outcome of pre-contract planning discussions with key stakeholders and retained on file to evidence decision making for adopting a particular procurement approach.</p> <p><u>Manager Responsible</u>            Head of Finance Services            Chief Audit and Control Officer            Interim Procurement and Contracts Officer</p> <p style="text-align: right;"><b>Revised Target Date: 31 December 2020</b></p>	
<p><b><u>Management Progress Report of the Procurement and Contracts Officer</u></b></p> <p><b>Approval is considered when developing the procurement strategy for each contract. In the larger procurement exercises often have Committee approval with authority delegated to the Deputy Chief Executive, who then provides his agreement at each relevant stage, especially where there is a commitment. Smaller lower value and ongoing contracts are agreed with relevant Heads of Service and key stakeholders as budgetary approval has already been given by the relevant Committee. A decision tree is being developed to support this process in light of experience.</b></p>	

12. Procurement and Contract Management (Continued)	
12.3 Structured Contract Management	<b>Progressing</b>
<p><u>Agreed Action</u> (Significant)</p> <p>A Contract Management Strategy and Framework is being developed to expand upon the adopted Procurement and Commissioning Strategy. This will incorporate both strategic and operational contract management and a multi-layered approach for the 'softer' elements of supplier management and monitoring. A proposal was presented to General Management Team in February 2020 and will now be developed further.</p> <p>The strategy proposed a three stage process: advising suppliers that the relevant Council's policies as listed in tender documentation will provide the minimum standards required for suppliers engaged by the Council; monitoring progress with suppliers providing reports on performance; and undertake annual strategic reviews for major contracts (by value and/or strategic importance) to consider all aspects of contract performance and compliance and to carry out value engineering where appropriate. The framework will require stakeholders to periodically meet with contractors to discuss contract performance, with appropriate records maintained. Any issues can then be escalated accordingly. The process will also include regular dashboard and exception reporting to GMT.</p> <p>An action plan is being developed as part of the rollout of the framework.</p> <p><u>Manager Responsible</u>  Head of Finance Services;  Chief Audit and Control Officer;  Interim Procurement and Contracts Officer</p> <p style="text-align: right;"><b>Revised Target Date: 31 January 2021</b></p>	
<p><b><u>Management Progress Report of the Procurement and Contracts Officer</u></b></p> <p><b>A Contract Management Strategy has been produced and was approved by GMT on 1 October 2020. This will now be presented to the relevant Committee. Once approved by Members, a series of virtual briefing sessions will be provided to stakeholders.</b></p>	
12.4 Contract Transparency Requirements	<b>Progressing</b>
<p><u>Agreed Action</u> (Merits Attention)</p> <p>A document has been prepared that will satisfy the Local Government Transparency Code 2015 publishing requirements for procurement and this will be adopted from 2020/21.</p> <p><u>Manager Responsible</u>  Chief Audit and Control Officer  Interim Procurement and Contracts Officer</p> <p style="text-align: right;"><b>Revised Target Date: 31 January 2021</b></p>	
<p><b><u>Management Progress Report of the Procurement and Contracts Officer</u></b></p> <p><b>A draft pro-forma and explanatory note has been prepared for Heads of Service to complete a quarterly return for the Transparency Code detailing their service's procurement activity. Unfortunately, the launch of this publication has been delayed as a result of other priorities linked to the coronavirus pandemic.</b></p>	

## Report of the Deputy Chief Executive

**REVIEW OF STRATEGIC RISK REGISTER**1. Purpose of report

To recommend approval of amendments to the Strategic Risk Register and the action plans identified to mitigate risks.

2. Detail

Further to earlier reports to this Committee and in accordance with the timescales set out in the Risk Management Strategy approved by this Committee in December 2018, the Strategic Risk Management Group met on 14 October 2020 to review the Strategic Risk Register. General Management Team (GMT) has since considered the proposals from the Strategic Risk Management Group. The objectives of the review were to:

- Identify the extent to which risks included in the Strategic Risk Register are still relevant
- Identify any new risks to be included in the Strategic Risk Register
- Review action plans to mitigate risks.

A summary of the risk management process is included in appendix 1. The Risk Management Strategy includes a '5 x 5' risk map matrix to assess both the threats and opportunities for each strategic risk in terms of both the likelihood and impact. The risk map is included to assist the understanding of the inherent and residual risk scores allocated to each strategic risk. These scores will be considered further and amended as necessary in due course.

Details of proposed amendments to the Strategic Risk Register and the actions resulting from the process are attached in appendix 2. The revised Strategic Risk Register incorporating the proposed amendments is available on the intranet. Further reviews of the Strategic Risk Register will be reported to future meetings of this Committee.

**Recommendation**

**The Committee is asked to RESOLVE that the amendments to the Strategic Risk Register and the actions to mitigate risks as set out in appendix 2 be approved.**

Background papers

Nil

## APPENDIX 1

**REVIEW OF STRATEGIC RISK REGISTER****Introduction**

The Risk Management Strategy, as revised in December 2018, aims to improve the effectiveness of risk management across the Council. 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 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. The risk management process outlined within the Strategy should be used to identify and manage all risks to the Council's ability to deliver its priorities. This covers both strategic priorities, operational activities and the delivery of projects or programmes.

The Council defines 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.

**Risk Management**

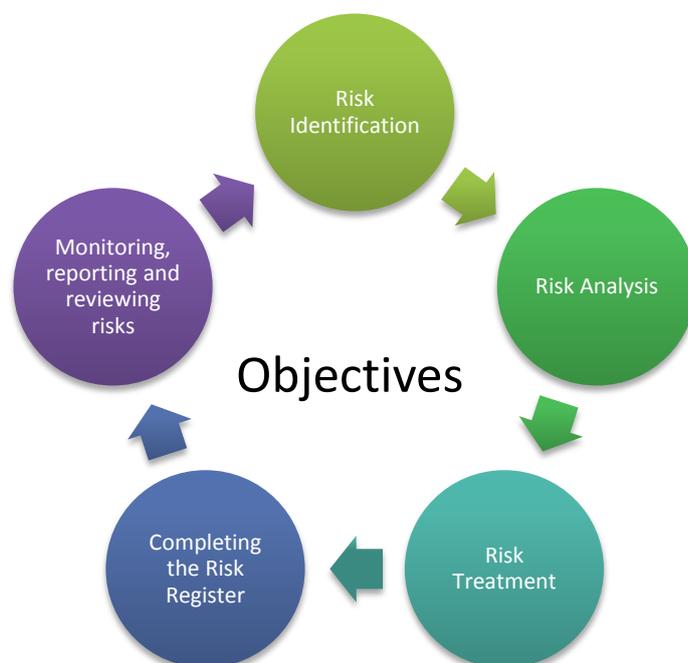
Risk management involves adopting a planned and systematic approach to the identification, evaluation and control of those risks which can threaten the objectives, assets, or financial wellbeing of the Council. It is a means of minimising the costs and disruption to the Council caused by undesired events.

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 reputation, environment, technology and breach of confidentiality amongst others. The benefits of successful risk management include:

- Improved service delivery with fewer disruptions, efficient processes and improved controls
- Improved financial performance and value for money with increased achievement of objectives, fewer losses, reduced impact and frequency of critical risks
- Improved corporate governance and compliance systems with fewer legal challenges, robust corporate governance and fewer regulatory visits
- Improved insurance management with lower frequency and value of claims, lower impact of uninsured losses and reduced premiums.

**Risk Management Process**

The Council’s risk management process has five key steps as outlined below.



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.

**Risk Matrix**

		Risk – Threats				
<b>Likelihood</b>	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>				

Risk Rating	Value	Action
<b>Red Risk</b>	25	Immediate action to prevent serious threat to provision and/or achievement of key services or duties
	15 to 20	Key risks which may potentially affect the provision of key services or duties
<b>Amber Risk</b>	12	Important risks which may potentially affect the provision of key services or duties
	8 to 10	Monitor as necessary being less important but still could have a serious effect on the provision of key services
	5 to 6	Monitor as necessary to ensure risk is properly managed
<b>Green Risk</b>	1 – 4	No strategic action necessary

## APPENDIX 2

**Strategic Risk Register – Summary of Proposed Changes**

Inherent Risk – Gross risk **before** controls and mitigation

Residual Risk – Risk remaining **after** application of controls and mitigating measures

Risk	Inherent Risk	Residual Risk	Changes
<p>1. Failure to maintain effective corporate performance management and implement change management processes</p> <p><i>The position with regards to this risk is <b>unchanged</b> from the previous meeting.</i></p>	20	<p>4</p> 	No changes.
<p>2. Failure to obtain adequate resources to achieve service objectives</p> <p><i>The position with regards to this risk is <b>unchanged</b>.</i></p>	25	<p>16</p> 	<p>No changes.</p> <p>The timeframe for the Fair Funding Review and accompanying proposals for greater localisation of business rates has been moved back due to other government priorities. Any significant changes to the Local Government finance system will probably not take place until 2022/23 at the earliest.</p>
<p>3. Failure to deliver the Housing Revenue Account (HRA) Business Plan</p> <p><i>The position with regards to this risk is <b>unchanged</b>.</i></p>	25	<p>9</p> 	<p>New action points have been added:</p> <ul style="list-style-type: none"> <li>Consider the results of the public consultation on options for the future of the Fishpond Cottage site in Bramcote.</li> <li>Undertake consultation exercises on options for developing garage sites in Chilwell and Watnall.</li> </ul> <p>An updated Asset Management Plan for the Council's housing stock has been produced so the action to review the Housing Asset Management Plan to incorporate the results of the stock condition survey has been deleted.</p>

Risk	Inherent Risk	Residual Risk	Changes
<p>4. Failure of strategic leisure initiatives</p> <p><i>Although the residual risk score does not need to change, it was considered that the position with regards to this risk had <b>improved</b>.</i></p>	25	<p><b>20</b></p> 	<p>The completed action to present a new Leisure Facilities Strategy for review, consultation and approval has been deleted.</p> <p>New action points have been added:</p> <ul style="list-style-type: none"> <li>Assess the financial implications and risks associated with two options for a replacement for Bramcote Leisure Centre</li> <li>Establish a cross-party Task and Finish Group to consider options for potential leisure sites in the north and south of Broxtowe.</li> <li>Work with Chilwell School to assess leisure facilities options at Chilwell Olympia Sports Centre and report back to Policy and Performance Committee.</li> </ul>
<p>5. Failure of Liberty Leisure trading company</p> <p><i>Although the residual risk score does not need to change, it was considered that the position with regards to this risk had <b>worsened</b>.</i></p>	25	<p><b>16</b></p> 	<p>An action was added to report to Finance and Resources Committee on 10 December 2020 on the anticipated financial performance of Liberty Leisure Limited in 2020/21 and support required from the Council.</p> <p>The action point to maximise financial support towards staff costs from the Coronavirus Job Retention Scheme was amended to include reference to the Job Support Scheme.</p>
<p>6. Failure to complete the re-development of Beeston town centre</p> <p><b><i>The residual risk score has been revised after it was considered that the position with regards to this risk had worsened.</i></b></p>	25	<p><b>20</b></p> 	<p>An action to progress with a scheme to construct public conveniences adjacent to the tram stop at Beeston Square was added.</p> <p>Whilst the Beeston Phase 2 construction should be finished on time, the main risk is the deteriorating food and beverage operators market due to the coronavirus pandemic, resulting in significant revenue shortfalls in the initial period (circa £0.5m in the first 2 years). It was agreed with GMT that the residual risk score be increased from 16 to 20.</p>

Risk	Inherent Risk	Residual Risk	Changes
<p>7. Not complying with domestic or European legislation</p> <p><b><i>The residual risk score has been revised after it was considered that the position with regards to this risk had worsened.</i></b></p>	25	<p><b>12</b></p> 	<p>No changes.</p> <p>Whilst there is an action to react to the impact of legislative changes arising from the UK leaving the EU, the uncertainty surrounding this process and its potential legislative, financial and other implications will require close scrutiny. There may be a significant impact upon a number of strategic risks and these will have to be addressed in due course.</p> <p>In the meantime, GMT felt that given the increasing concerns around a 'no-deal' Brexit, the overall risk had worsened. The specific risks include an impact on supply chains, shortages of workers within the farming and care sector, and potentially increasing food prices due to tariffs. The Council's mitigation includes the financial inclusion officers, support to CAB, supplier analysis etc.</p> <p>It was duly agreed that the residual risk score be increased from 8 to 12.</p>
<p>8. Failure of financial management and/or budgetary control and to implement agreed budget decisions</p> <p><i>The position with regards to this risk is <b>unchanged</b>.</i></p>	25	<p><b>8</b></p> 	<p>An action was revised to present an updated Medium Term Financial Strategy and a revised Business Strategy to Finance and Resources Committee on 11 February 2021.</p>
<p>9. Failure to maximise collection of income due to the Council</p> <p><i>The position with regards to this risk is <b>unchanged</b>.</i></p>	20	<p><b>12</b></p> 	<p>No changes.</p>
<p>10. Failure of key ICT systems</p> <p><i>The position with regards to this risk is <b>unchanged</b>.</i></p>	25	<p><b>10</b></p> 	<p>An action to present a review of the ICT Strategy to the Policy and Performance Committee on 2 December 2020 was added.</p>

Risk	Inherent Risk	Residual Risk	Changes
<p>11. Failure to implement Private Sector Housing Strategy in accordance with Government and Council expectations</p> <p><i>The position with regards to this risk is <b>unchanged</b>.</i></p>	20	<p>4</p> 	<p>An action for the Jobs and Economy Committee to consider whether to confirm an Article 4 Direction restricting permitted development rights for changes of use of houses of multiple occupation (HMOs) in parts of Beeston was added.</p> <p>An action point to introduce a Civil Penalties Policy for Public Sector Housing was also added.</p>
<p>12. Failure to engage with partners/community to implement the Broxtowe Borough Partnership Statement of Common Purpose 2018-2020</p> <p><i>The position with regards to this risk is <b>unchanged</b>.</i></p>	15	<p>4</p> 	No changes.
<p>13. Failure to contribute effectively to dealing with crime and disorder</p> <p><i>The position with regards to this risk is <b>unchanged</b>.</i></p>	15	<p>3</p> 	An action point to provide an update on the Anti-Social Behaviour Action Plan to the Community Safety Committee on 10 November 2020 was added.
<p>14. Failure to provide housing in accordance with the Local Development Framework</p> <p><i>The position with regards to this risk is <b>unchanged</b>.</i></p>	20	<p>12</p> 	<p>New action points have been added:</p> <ul style="list-style-type: none"> <li>Respond to the Government's "Planning for the Future" consultation on proposed changes to the planning system by the 29 October 2020 deadline.</li> <li>Undertake a consultation on the Toton and Chetwynd Masterplan.</li> <li>Provide an update on the Development Corporation to Policy and Performance Committee on 2 December 2020.</li> </ul> <p>The completed action to consider the outcome of the Government's review of the Community Infrastructure Levy (CIL) was deleted.</p>

Risk	Inherent Risk	Residual Risk	Changes
<p>15. Natural disaster or deliberate act, which affects major part of the Authority</p> <p><i>The position with regards to this risk is <b>unchanged</b></i></p>	15	12 	<p>New action points have been added:</p> <ul style="list-style-type: none"> <li>• Work with partners to identify appropriate Covid-19 mobile testing unit sites in the Borough.</li> <li>• Distribute financial assistance (e.g. Test and Trace Support Payments) to residents and businesses as necessary.</li> <li>• Utilise external funding received for Covid-19 related enforcement and compliance activity such as the use of Covid Marshals.</li> </ul>
<p>16. Failure to mitigate the impact of the Government's welfare reform agenda</p> <p><i>The position with regards to this risk is <b>unchanged</b></i></p>	20	6 	<p>An action was updated to present the Local Council Tax Support Scheme 2021/22 to Finance and Resources Committee on 7 January 2021 for approval.</p>
<p>17. Failure to maximise opportunities and to recognise the risks in shared services arrangements</p> <p><i>The position with regards to this risk is <b>unchanged</b></i></p>	20	9 	<p>The action point to present the Shared Services Annual Report to Committee was amended so as to refer to a future Policy and Performance Committee meeting.</p>
<p>18. Corporate and/or political leadership adversely impacting upon service delivery</p> <p><i>The position with regards to this risk is <b>unchanged</b></i></p>	20	8 	<p>No changes.</p>
<p>19. High levels of sickness</p> <p><i>The position with regards to this risk is <b>unchanged</b></i></p>	16	6 	<p>The completed action to present a report on employee wellbeing and wellbeing at work to the Personnel Committee was deleted.</p>
<p>20. Inability to recruit and retain staff with required skills and expertise to meet increasing demands and expectations.</p> <p><i>The position with regards to this risk is <b>unchanged</b></i></p>	20	12 	<p>As discussed previously, the degree of overlap between the two existing risks meant that it was considered appropriate to combine them into a single strategic risk.</p> <p>Further details are provided in the comments section below.</p>

Risk	Inherent Risk	Residual Risk	Changes
21. Failure to comply with duty as a service provider and employer to groups such as children, the elderly, vulnerable adults etc. <i>The position with regards to this risk is <b>unchanged</b></i>	20	6 	An action to provide updates on the Safeguarding Children and Adults Policies to the Community Safety Committee on 12 November 2020 was added.  A further action to take a Welfare Funerals Policy to the Environment and Climate Change Committee for consideration and approval by 31 March 2021 was also added.
22. Unauthorised access of data <i>The position with regards to this risk is <b>unchanged</b></i>	20	6 	An action point to undertake a review to assess the cyber security risk within the Council's supply chain was added.
23. High volumes of employee or client fraud <i>The position with regards to this risk is <b>unchanged</b></i>	20	9 	The completed action to conduct a fraud risk assessment exercise, in conjunction with GMT, and develop a fraud risk register was deleted.

### Further Details

The following items are highlighted for the attention of Members.

#### 1. Coronavirus Outbreak

The impact of the coronavirus outbreak upon the Council's strategic risks was again the main issue for discussion. Whilst a significant number of residual risk scores were amended at the previous Committee meeting, only limited amendments to scoring are proposed this time.

#### 2. Devolution and Local Recovery White Paper

The Devolution and Local Recovery White Paper was originally due to be published in the autumn and now expected in the spring. This, could, in theory, pose an existential threat to the Council. The Strategic Risk Management Group will consider how this might be addressed in the Strategic Risk Register once it has been published.

#### 3. New Risk 20 "Inability to recruit and retain staff with required skills and expertise to meet increasing demands and expectations"

As discussed previously, the degree of overlap between former risks, namely "Lack of skills and/or capacity to meet increasing initiatives and expectation";

and “Inability to attract or retain key individuals or groups of staff” created an opportunity to combine them into a single strategic risk.

The risk owner will be the Chief Executive with delegation to the Head of Public Protection where appropriate. The group agreed the key controls and risk indicators for the newly combined risk. The current action points are as follows:

- Implement the priorities set out in People Strategy.
- Monitor the impact on performance levels and employee well-being of reductions in employee numbers and other structure changes.
- Conduct annual Performance Appraisals.
- Increase the number of apprenticeship positions utilising funding available through the Apprenticeship Levy.
- Undertake succession planning where appropriate with particular emphasis on factors such as an ageing workforce and market forces.
- Review the use of agency and temporary staff.
- Explore opportunities for partnership working/shared service arrangement.
- Review the Recruitment and Selection Policy and Procedures.
- Present a report on succession planning to Personnel Committee on 1 December 2020.
- Present a review of the Annual Performance Appraisals process to Personnel Committee on 1 December 2020.
- Present a Market Premium Policy for consideration and approval to Personnel Committee on 1 December 2020.

Given the effectiveness of the key controls and risk indicators in place and the progress that is being made in addressing the action points, it was agreed that the new residual risk score be unchanged from that of the previous risks.

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## Report of the Strategic Director

**COMPLAINTS PROCEDURE**1. Purpose of report

To provide members with an update for the Council's requirement to enhance its complaints procedure, following notification from the Housing Ombudsman.

2. Detail

The Housing Ombudsman introduced a new complaint handling Code in July 2020, which was subsequently revised in September 2020. The new Code is a legal requirement for all landlords to adopt following the findings of the Grenfell White Paper report.

The main update from this new Code is that this Council is required to adjust its timescales to acknowledge and respond to complaints. Currently the Council is required to acknowledge complaints within three working days and respond within 15 working days. Under the new Code the Council will be required to acknowledge complaints within five working days and respond within ten working days. The Code also requires the Council, when acknowledging complaints, to write to the complainant to determine if it has correctly understood the complaint.

Whilst the new Code only applies to housing issues, it is considered that the procedure should be adopted in relation to non-housing complaints for reasons of consistency.

The Council is required to implement the new Code by 31 March 2021. The Council's current procedure is attached as appendix 1. The Housing Ombudsman's Code is attached at appendix 2. Attached at appendix 3 is the updated draft complaints procedure.

Following the adoption of the new Housing Ombudsman Code, the Council is required to undertake a self-assessment. This assessment can be found at appendix 2 and is required to be completed by 31 December 2020.

It should be noted that Standards complaints are separate and distinct from this process.

3. Financial implications

There are no financial implication arising from this report.

**Recommendation**

**The Committee is asked to NOTE the Housing Ombudsman's Code and RESOLVE that non-housing related complaints be administered in accordance with the Housing Ombudsman's Code.**

Background papers: Nil

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**CUSTOMER COMPLAINTS PROCEDURE**

**HOW TO MAKE A FORMAL COMPLAINT**

**Stage One – Initial complaint**

The Council allows for complaints to be dealt with directly by the service department in the first instance. You should make contact with the Director of the relevant department, outlining your complaint. You may do this in writing, using a complaints form, via the internet, [www.broxtowe.gov.uk](http://www.broxtowe.gov.uk), in person or by telephone.

You should expect a written acknowledgement of the receipt of your complaint within three working days. That letter will detail who will be reviewing your complaint and when you should expect a response.

As soon as the Director of the relevant department has thoroughly investigated your complaint you will receive a written reply from the Council. You can normally expect a reply after 15 working days. Where the matter involved is complex, more time may be needed and you will be kept informed of our progress and the reasons why more time is needed.

**Stage Two – Formal investigation**

If, after receiving this written reply you remain dissatisfied, you may request that your complaint be referred to the Complaints Department. Please complete a complaints form or write a letter of complaint and either hand it to a member of our reception staff or send it to: Complaints, Broxtowe Borough Council, Council Offices, Foster Avenue, Beeston, Nottingham, NG9 1AB. Should you require any assistance to complete the form our reception staff will be happy to help.

You will receive an acknowledgment of the receipt of your complaint within three working days. If it is deemed necessary, that letter will invite you to meet with the Council's Complaints Officer to discuss your complaint with you in more detail. Your complaint will then be reviewed thoroughly and independently of the service department involved, and you should receive a reply within 20 working days. Where the matter involved is complex, more time may be needed and you will be kept informed of our progress and the reasons why more time is needed.

### Remedying complaints

Should your complaint be found to be justified, then the Council will offer you the appropriate redress. Our aim will be to restore you as far as possible to that position which you would have been in had things not gone wrong. This will include:

- \* an unreserved apology for any distress and inconvenience caused
- \* an explanation of why things went wrong
- \* an assurance that our systems and services will be reviewed in order to try and prevent the same thing happening again
- \* an update of what action has been taken to put things right

### Compensation

Any organisation is likely to make occasional mistakes in its dealings with its customers and the Council is no exception. We accept that there may be the odd occasion when mistakes will cause additional expense or financial loss to you.

In these cases, the question of compensation will need to be considered. Our commitment to serving the residents of Broxtowe demands no less. Equally, because the Council is dealing with public funds, it must also make certain that it meets only deserving claims that can be fully justified.

### Stage Three – Local Government Ombudsman

If having received the Council's response, you are still unhappy, you may be able to refer your complaint to the Local Government Ombudsman. This procedure should only be used as a last resort when all the usual channels of communication have failed. Full information on how to begin this process is available from the Borough Council Offices.

# Housing

Ombudsman Service

# The Housing Ombudsman's Complaint Handling Code

Published July 2020

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## Part A

### 1. Introduction

Complaint handling performs an important strategic role for an organisation, providing vital intelligence on its health, performance and reputation. Data on complaint handling should be considered alongside other management information to provide assurance and assess risks.

The Ombudsman's Complaint Handling Code promotes the progressive use of complaints, providing a high-level framework to support effective handling and prevention alongside learning and development. The Code ensures complaint handling data is being used consistently across landlord members, promotes engagement at different levels within a landlord and sets out expectations for boards or equivalent governance, senior executives and frontline staff.

For boards or equivalent governance, the Code supports culture setting and intelligence for assurance exercises, using complaint data alongside other management information on stock, services and customer feedback to provide insight into their organisation. It is important for governance to understand the complaints their organisations are receiving and the impact of their complaint handling on residents.

For chief executives and senior managers, the Code supports learning from complaints and promotes the open and transparent use of information to assess performance and risks.

For operational staff, the Code supports excellent complaint handling and engagement with the Ombudsman. If the requirements of the Code cannot be delivered this should prompt discussion about what needs to change.

Information on complaints can provide essential insight for governance and should include, although not necessarily be limited to:

- Regular updates on the volume, category and outcome of complaints, alongside complaint handling performance including timely compliance with the Ombudsman's orders
- Review, at least once a year, of issues and trends arising from complaint handling, including discussion of the Ombudsman's yearly landlord performance report and the inclusion of any organisational learning in the landlord's Annual Report
- Consideration of individual complaint outcomes where necessary, including findings of severe maladministration of the Ombudsman or any referrals by it to regulatory bodies, including scrutiny of any subsequent procedural or organisational changes
- Confirmation that the Complaint Handling Code is being applied.

Compliance with the Code forms part of the membership obligations set out in the Housing Ombudsman Scheme. Landlords should comply with the requirements of the Code. The Code should be read in conjunction with the Scheme.

Landlords are encouraged to promote the Code and to share the outcome of their self-assessment with residents.

## 2. Purpose

The purpose of the Code is to enable landlords to resolve complaints raised by their residents quickly and to use the learning from complaints to drive service improvements. It will also help to create a positive complaint handling culture amongst staff and residents.

Some landlords see complaints as a form of negative feedback. In fact, there are many benefits to be gained from having an effective, efficient complaints process:

- Complaints allow an issue to be resolved before it becomes worse. Those not resolved quickly can take significant resource and time to remedy
- Involvement in complaint resolution develops staff decision-making and engagement
- Complaints provide senior staff with a window into day-to-day operations allowing them to assess effectiveness
- Good complaint handling promotes a positive landlord and resident relationship.

The Ombudsman's Complaint Handling Code sets out requirements for member landlords that will allow them to respond to complaints effectively and fairly.

While member landlords must comply with some elements of the Code, the Ombudsman recognises that each landlord will need to adapt its complaints policy and processes to meet the needs of its residents. Consequently, there are some areas where a landlord can use its discretion. The Code seeks to be prescriptive only where the Ombudsman believes clear and consistent practice by all landlords is essential. Landlords will be asked to self-assess against the Code on a comply and explain basis. Non-compliance could result in the Ombudsman issuing complaint handling failure orders. Separate guidance on these orders has been published by the Ombudsman.

The Code will act as a guide for residents setting out what they can and should expect from their landlord when they complain. The requirements in the Code also provide residents with information about how to make a complaint and how to progress it through the landlord's internal complaints procedure.

The Code supports the regulatory approach to complaints ensuring that a landlord's approach to complaints is clear simple and accessible and ensures that complaints are resolved promptly, politely and fairly.

## Part B

### The Code

1. Definition of a complaint
2. Accessibility and awareness
3. Complaint team, procedure, timeliness and responsiveness
4. Fairness in complaint handling
5. Putting things right
6. Continuous learning and improvement

#### 1. Definition of a complaint

- 1.1. Effective complaint handling should be a resident friendly process that enables residents to be heard and understood. The starting point for this is a mutual understanding of what constitutes a complaint.
- 1.2. A complaint shall be defined as *an expression of dissatisfaction, however made, about the standard of service, actions or lack of action by the organisation, its own staff, or those acting on its behalf, affecting an individual resident or group of residents.*
- 1.3. The resident does not have to use the word complaint in order for it to be treated as such. Landlords should recognise the difference between a service request (pre-complaint), survey feedback and a formal complaint and take appropriate steps to resolve the issue for residents as early as possible.

#### Exclusions

- 1.4. A landlord shall accept a complaint unless there is a valid reason not to do so.
- 1.5. A complaints policy shall clearly set out the circumstances in which a matter will not be considered and these circumstances should be fair and reasonable to residents. For example:
  - The issue giving rise to the complaint occurred over six months ago. Where the problem is a recurring issue, the landlord should consider any older reports as part of the background to the complaint if this will help to resolve the issue for the resident. (N.B. it may not be appropriate to rely on this exclusion where complaints concern safeguarding or health and safety issues.)
  - Legal proceedings have been started. Landlords should take steps to ensure that residents are not left without a response for lengthy periods of time, for example, where a letter before action has been received or issued but no court proceedings are started or settlement agreement reached.

- Matters that have already been considered under the complaints policy.
- 1.6. If a landlord decides not to accept a complaint a detailed explanation should be provided to the resident setting out the reasons why the matter is not suitable for the complaints process.
  - 1.7. A resident has the right to challenge this decision by bringing their complaint to the Ombudsman. Where appropriate the Ombudsman will instruct the landlord to take on the complaint.

## **2. Accessibility and awareness**

- 2.1. Landlords shall make it easy for residents to complain, by providing different channels through which residents can make a complaint.
- 2.2. Where a landlord has set up channels to communicate with its residents via social media, such as Facebook and Twitter, then it should expect to receive complaints via those channels. Policies should contain details of the steps that will be taken when a complaint is received via social media and how confidentiality and privacy will be maintained.
- 2.3. Landlords shall make their complaint policy available in a clear and accessible format for residents. This will detail the number of stages involved, what will happen at each stage and the timeframes for responding.
- 2.4. Landlords shall comply with the Equality Act 2010 and may need to adapt normal policies, procedures, or processes to accommodate an individual's needs. Landlords shall have a reasonable adjustments policy in place to address this.
- 2.5. Landlord websites shall include information on how to raise a complaint. The complaints policy and process shall be easily found and downloadable.
- 2.6. The complaints policy and process should be publicised in leaflets newsletters, online and as part of regular correspondence with residents. A copy should be provided when requested.
- 2.7. Landlords shall provide residents with contact information for the Ombudsman as part of its regular correspondence with residents.
- 2.8. Landlords shall provide early advice to residents regarding their right to access the Housing Ombudsman Service, not only at the point they have exhausted the landlord's complaints process. The Housing Ombudsman Service can assist residents throughout the life of a complaint. This affords the resident the opportunity to engage with the Ombudsman's dispute support advisors.

### 3. Complaint team, procedure, timeliness and responsiveness

#### Complaint team

- 3.1 Landlords should have a person or team assigned to take responsibility for complaint handling. This Code will refer to that person or team as the “complaints officer”. For some organisations, particularly smaller landlords, we recognise that this role may not be dedicated to complaint handling.
- 3.2 Complaints officers are one of the most important factors in ensuring that the complaints handling works well. Complaints officers should:
- be able to act sensitively and fairly
  - be trained to receive complaints and deal with distressed and upset residents
  - have access to staff at all levels to facilitate quick resolution of complaints
  - have the authority and autonomy to act to resolve disputes quickly and fairly.

Residents are more likely to be satisfied with complaint handling if the person dealing with their complaint is competent, empathetic and efficient.

#### Complaints procedure

- 3.3 When a complaint is made to the landlord it shall be acknowledged and logged at stage one of the complaints procedure.
- 3.4 Landlords should confirm their understanding of the complaint and the outcomes being sought with the resident. Clarification should be sought if the complaint is not clear.
- 3.5 If the complaint is not resolved to the resident’s satisfaction it shall be progressed to the next stage in accordance with the landlord’s procedure and the timescales set out in this Code.
- 3.6 A landlord’s complaints procedure shall comprise of two stages. This ensures that a resident has the opportunity to challenge any decision by correcting errors or sharing concerns via an appeal process.
- 3.7 The Ombudsman welcomes involvement by residents or senior executives outside the complaints team as part of the review process.
- 3.8 The Ombudsman does not believe a third stage is necessary as part of a complaints process but if a landlord believes strongly it requires one, it should set out its reasons as part of the self-assessment. A process with more than three stages is not acceptable under any circumstances in the Ombudsman’s view.

- 3.9 In the final decision the landlord's policy shall include the right to refer the complaint to the Housing Ombudsman Service. This should be through a designated person within eight weeks of the final decision or directly by the resident after eight weeks.
- 3.10 A full record shall be kept of the complaint, any review and the outcomes at each stage. This should include the original complaint and the date received; all correspondence with the resident, correspondence with other parties and any reports or surveys prepared.

### **Timeframe for responses**

- 3.11 A landlord's complaints procedure shall include the following maximum timescales for response:
- Logging and acknowledgement of complaint – five working days
  - Stage one decision – 10 working days from receipt of complaint – if this is not possible, an explanation and a date by when the stage one response should be received. This should not exceed a further 10 days without good reason
  - Stage two response – 20 working days from request to escalate – if this is not possible an explanation and a date when the stage two response will be received. This should not exceed a further 10 working days without good reason
  - Stage three response – where a landlord believes this stage is absolutely necessary a response should be sent within 20 working days from request to escalate. Any additional time will only be justified if related to convening a panel. An explanation and a date when the stage three response will be achieved should be provided to the resident.
- 3.12 A landlord may choose to set shorter response times for each stage of the complaints procedure but response times must not exceed those set out above.

### **Communication with residents**

- 3.13 When communicating with residents, landlords shall use plain language that is appropriate to the resident.
- 3.14 Landlords shall address all points raised in the complaint and provide clear reasons for any decisions, referencing the relevant policy, law and good practice where appropriate.
- 3.15 At the completion of each stage of the complaints process the landlord should write to the resident advising them of the following:

- the complaint stage
- the outcome of the complaint
- the reasons for any decisions made
- the details of any remedy offered to put things right
- details of any outstanding actions
- details of how to escalate the matter if dissatisfied.

3.16 As part of the complaint policy the resident shall be given a fair opportunity to:

- set out their position
- comment on any adverse findings before a final decision is made.

3.17 Communication with the resident should not generally identify individual members of staff or contractors as their actions are undertaken on behalf of the landlord.

3.18 Landlords should adhere to any arrangements agreed with residents in terms of frequency and method of communication.

3.19 Landlords should keep residents regularly updated and informed even where there is no new information to provide.

#### **Duty to cooperate with the Ombudsman**

3.20 When the resident remains dissatisfied at the end of the landlord's complaints process, they may bring their complaint to the Ombudsman. Landlords shall cooperate with the Ombudsman's requests for evidence and provide this within 15 working days. If a response cannot be provided within this timeframe, the landlord shall provide the Ombudsman with an explanation for the delay. If the explanation is reasonable, the Ombudsman will agree a revised date with the landlord.

3.21 Failure to provide evidence to the Ombudsman in a timely manner may result in the Ombudsman issuing a complaint handling failure order.

## **4. Fairness in complaint handling**

4.1. Landlords shall operate a resident-focused complaints process ensuring they are given the opportunity to explain their point of view and the outcome they are seeking before a decision is reached.

4.2. Landlords should manage residents' expectations from the outset, being clear where a desired outcome is unreasonable or unrealistic.

4.3. Landlords should give residents the opportunity to have a representative deal with their complaint on their behalf, and to be represented and/or accompanied at any meeting with the landlord where this has been requested or offered and where this is reasonable.

- 4.4. Where a key issue of a complaint relates to the parties' legal obligations the landlord should clearly set out its understanding of the obligations of both parties and seek clarification before doing so where this is not initially clear.
- 4.5. A complaint investigation shall be conducted in an impartial manner, seeking sufficient reliable information from both parties so that fair and appropriate findings and recommendations can be made.
- 4.6. Any complaint investigation shall be fair. To ensure fairness, processes and procedures shall require the complaints officer to:
  - deal with complaints on their merits
  - act independently and have an open mind
  - take measures to address any actual or perceived conflict of interest
  - consider all information and evidence carefully
  - keep the complaint confidential as far as possible, with information only disclosed if necessary to properly investigate the matter.
- 4.7. The landlord's assessment of the issue should include:
  - what the complaint is about
  - what evidence is needed to fully consider the issues
  - what risks the complaint raises for the landlord
  - what outcome would resolve the matter for the resident
  - any urgent action that it needs to take.
- 4.8. A complaint should be resolved at the earliest possible opportunity.
- 4.9. The resident, and if applicable any staff member who is the subject of the complaint, must also be given a fair chance to:
  - set out their position
  - comment on any adverse findings before a final decision is made.
- 4.10. Complaint policies and processes should set out the circumstances in which a landlord can exercise discretion in how to respond to a complaint and who has the power to exercise that discretion. Landlords should exercise discretion appropriately and provide clear explanations to residents when doing so.
- 4.11. Landlords should not unreasonably refuse to escalate a complaint through all stages of the complaints procedure and must have clear and valid reasons for taking that course of action.

- 4.12. When a resident seeks to escalate a complaint the landlord should consider:
- what the escalation review will be about i.e. why the resident remains dissatisfied, and whether any part of the complaint been resolved
  - who will undertake the review
  - who needs to be kept informed
  - what evidence needs to be gathered i.e. comments from those involved, relevant policies and contemporaneous records, inspections etc
  - how long the review will take and when it will be completed.
- 4.13. Where a landlord decides not to escalate a complaint it should provide an explanation to the resident. It should make clear that its previous response was its final response to the complaint and provide information on referral to the Housing Ombudsman.
- 4.14. Landlords should have policies and procedures in place for managing unacceptable behaviour from residents and/or their representatives when pursuing a complaint.
- 4.15. Any restrictions placed on a resident's contact due to unacceptable behaviour should be appropriate to their needs and should demonstrate regard for the provisions of the Equality Act 2010.

## 5. Putting things right

- 5.1. Effective dispute resolution requires a process designed to resolve complaints. Where something has gone wrong a landlord should acknowledge this and set out the actions it has already taken, or intends to take, to put things right. Examples of where action to put things right may be required are:
- there was an unreasonable delay
  - inaccurate or inadequate advice, explanation or information was provided to the resident
  - the landlord's policy or procedure was not followed correctly without good reason
  - there was a factual or legal error that impacted on the outcome for the resident
  - there was unprofessional behaviour by staff.
- 5.2. Landlords should acknowledge and apologise for any failure identified, give an explanation and, where possible, inform the resident of the changes made or actions taken to prevent the issue from happening again.
- 5.3. Landlords should recognise that putting things right is the first step to repairing and rebuilding the landlord and resident relationship.

- 5.4. When considering what action will put things right landlords should carefully manage the expectations of residents. Landlords should not promise anything that cannot be delivered or would cause unfairness to other residents.

### **Appropriate remedy**

- 5.5. Complaints can be resolved in a number of ways. A landlord's policy shall require that any remedy offered reflects the extent of any and all service failures, and the level of detriment caused to the resident as a result. These shall include:
- acknowledging where things have gone wrong
  - providing an explanation, assistance or reasons
  - apologising
  - taking action if there has been a delay
  - reconsidering or changing a decision
  - amending a record
  - providing a financial remedy
  - changing policies, procedures or practices.
- 5.6. Any remedy offered must reflect the extent of any service failures and the level of detriment caused to the resident as a result.
- 5.7. Factors to consider in formulating a remedy can include, but are not limited to the:
- length of time that a situation has been ongoing
  - frequency with which something has occurred
  - severity of any service failure or omission
  - number of different failures
  - cumulative impact on the resident
  - a resident's particular circumstances or vulnerabilities.
- 5.8. When offering a remedy, landlords should clearly set out what will happen and by when, in agreement with the resident where appropriate. Any remedy proposed must be followed through to completion.
- 5.9. In awarding compensation, landlords shall consider whether any statutory payments are due, if any quantifiable losses have been incurred as well as the time and trouble a resident has been put to as well as any distress and inconvenience caused.

### **Concerns about legal liability**

- 5.10. In some cases a resident may have a legal entitlement to redress. There may be concerns about legal liability in this situation. If so, the landlord should still offer a resolution where possible, as that may remove the need for the resident to pursue legal remedies.

- 5.11. Landlords have a duty to rectify problems for which they are responsible. However, where necessary a resolution can be offered with an explicit statement that there is no admission of liability. In such a case, legal advice as to how any offer of resolution should be worded should be obtained.

For further information on remedies please see <https://www.housing-ombudsman.org.uk/about-us/corporate-information/policies/dispute-resolution/policy-on-remedies/>

## **6. Continuous learning and improvement**

- 6.1. A positive complaint handling culture is integral to the effectiveness with which landlords resolve disputes, the quality of the service provided, the ability to learn and improve, and the relationship with their residents.
- 6.2. Accountability and transparency should be embedded in a positive complaint handling culture, with landlords providing feedback to residents on failures in complaint handling and the actions taken to learn and improve from this.
- 6.3. Creating and embedding a culture that values complaints and gives them the appropriate level of priority requires strong leadership and management.
- 6.4. A good culture should also recognise the importance of resident involvement, through the formation of resident panels, consulting with residents on the formulation of complaints policies and procedures and through including them in panel hearings as part of the dispute resolution process, where appropriate.
- 6.5. Landlords should look beyond the circumstances of the individual complaint and consider whether anything needs to be 'put right' in terms of process or systems to the benefit of all residents.
- 6.6. An effective complaints process enables a landlord to learn from the issues that arise for residents and to take steps to improve the services it provides and its internal processes. Landlords should have a system in place to look at the complaints received, their outcome and proposed changes as part of its reporting and planning process.
- 6.7. Any themes or trends should be assessed by senior management to identify any systemic issues, serious risks or areas for improvement for appropriate action.
- 6.8. Landlords should proactively use learning from complaints to revise policies and procedures, to train staff and contractors and to improve communication and record-keeping.

- 6.9. Landlord's should recognise the impact that being complained about can have on future service delivery. Landlords should ensure that staff are supported and engaged in the complaints process including the learning that can be gained.
- 6.10. Landlords shall report back on wider learning and improvements from complaints to their residents, managers and staff. Feedback shall be regularly provided to relevant scrutiny panels, committees and boards and be discussed, alongside scrutiny of the Ombudsman's annual landlord performance report.
- 6.11. Learning and improvement from complaints should be included in the landlord's Annual Report.

## Part C

### 1. Compliance

- 1.1. Under the Housing Ombudsman Scheme a member landlord must:
- agree to be bound by the terms of the Scheme
  - establish and maintain a complaints procedure in accordance with any good practice recommended by the Ombudsman
  - as part of that procedure, inform residents of their right to bring complaints to the Ombudsman under the Scheme
  - publish its complaints procedure and make information about this easily accessible to those entitled to complain on its website and in correspondence with residents
  - manage complaints from residents in accordance with its published procedure or, where this is not possible, within a reasonable timescale.
  - respond promptly to information requests made by the Housing Ombudsman Service as part of the ongoing investigation into complaints from residents.
- 1.2. Failure to comply with the conditions of membership may result in an Ombudsman's determination of complaint handling failure and an order to rectify within a given timescale (paragraphs 13 and 73 of the Housing Ombudsman Scheme).
- 1.3. Failures under the Scheme and Code which would result in a complaint handling failure order include, but are not limited to:
- non-compliance with the Complaint Handling Code

- failure to accept a formal complaint in a timely manner or to exclude a complaint from the complaints process without good reason
  - inaccessible complaints process and procedure or unreasonable restrictions as to how a complaint can be made
  - not managing complaints from residents in accordance with the complaints policy
  - failure to progress a complaint through the complaints procedure
  - failure to respond to a complaint within the set timescales without good reason
  - failure to keep the resident informed and updated
  - failure to notify the resident of the right to refer the complaint to the Ombudsman
  - failure to provide evidence to support investigation by the Ombudsman.
- 1.4. Where a complaint is still within a landlord's complaints procedure or the Ombudsman has requested evidence for investigation the landlord will be informed of any complaint handling failure. Details of the failure will be provided along with any action required to rectify it. Where no action is taken the Ombudsman will issue a complaint handling failure order.
- 1.5. Each quarter the Ombudsman will publish the total number of complaint handling failure orders issued, the names of the landlords and reasons for the orders and will share this information with the Regulator of Social Housing. The number of complaint handling failure orders issued against a landlord will form part of the Ombudsman's annual landlord performance reports and will be available on the Ombudsman's website.
- 1.6. In addition, from time to time the Ombudsman may wish to publish a report detailing the specifics of a complaint handling failure case where this would help highlight the impact of the failure on the resolution of the dispute and delays and/or distress caused to residents.
- 1.7. When carrying out an investigation the Ombudsman will consider whether the landlord dealt with the complaint fairly and will assess this against the requirements of the Code. Any failure identified could result in a finding of service failure or maladministration.
- 1.8. The Ombudsman will specifically refer to the Code in its findings. Orders and recommendations will be made to put matters right and ensure compliance with the Code.
- 1.9. The Ombudsman may request evidence of a landlord's self-assessment in order to confirm satisfactory compliance with the Code. Where there have been failures to comply with the Code or in operating an effective complaints procedure, the Ombudsman may issue a complaint handling failure order and ask the landlord to complete the self-assessment as part of the rectification action and to report back to the Ombudsman on its outcome.

- 1.10. Where there are significant concerns regarding a landlord's compliance with the Code the Ombudsman may escalate these to the landlord's board or equivalent, and may refer the matter to the appropriate regulatory body including the Regulator of Social Housing.

## 2. Self-assessment

- 2.1 The Ombudsman expects landlords to carry out regular self-assessment against the Code and take appropriate action to ensure their complaint handling is in line with the Code. This assessment should be completed by 31 December 2020.
- 2.2. The Ombudsman expects landlords to report the outcome of their self-assessment to their board members. In the case of local authorities, self-assessment outcomes should be reported to elected members.
- 2.3. The Ombudsman expects landlords to publish the outcome of their assessments. The Ombudsman may request sight of the assessment and evidence in support. The Ombudsman may require landlords to periodically repeat the self-assessment, for example following any amendments to the Code or significant change to the landlord organisational structure.

## Self-assessment form

Compliance with the Complaint Handling Code			
1	Definition of a complaint	Yes	No
	Does the complaints process use the following definition of a complaint?  <i>An expression of dissatisfaction, however made, about the standard of service, actions or lack of action by the organisation, its own staff, or those acting on its behalf, affecting an individual resident or group of residents.</i>		
	Does the policy have exclusions where a complaint will not be considered?		
	Are these exclusions reasonable and fair to residents?  Evidence relied upon		
<b>2</b>	<b>Accessibility</b>		
	Are multiple accessibility routes available for residents to make a complaint?		
	Is the complaints policy and procedure available online?		
	Do we have a reasonable adjustments policy?		
	Do we regularly advise residents about our complaints process?		
<b>3</b>	<b>Complaints team and process</b>		
	Is there a complaint officer or equivalent in post?		
	Does the complaint officer have autonomy to resolve complaints?		
	Does the complaint officer have authority to compel engagement from other departments to resolve disputes?		
	If there is a third stage to the complaints procedure are residents involved in the decision making?		
	Is any third stage optional for residents?		
	Does the final stage response set out residents' right to refer the matter to the Housing Ombudsman Service?		
	Do we keep a record of complaint correspondence including correspondence from the resident?		
	At what stage are most complaints resolved?		
<b>4</b>	<b>Communication</b>		
	Are residents kept informed and updated during the complaints process?		

	Are residents informed of the landlord's position and given a chance to respond and challenge any area of dispute before the final decision?		
	Are all complaints acknowledged and logged within five days?		
	Are residents advised of how to escalate at the end of each stage?		
	What proportion of complaints are resolved at stage one?		
	What proportion of complaints are resolved at stage two?		
	What proportion of complaint responses are sent within Code timescales?  <ul style="list-style-type: none"> <li>• Stage one Stage one (with extension)</li> <li>• Stage two Stage two (with extension)</li> </ul>		
	Where timescales have been extended did we have good reason?		
	Where timescales have been extended did we keep the resident informed?		
	What proportion of complaints do we resolve to residents' satisfaction		
<b>5</b>	<b>Cooperation with Housing Ombudsman Service</b>		
	Were all requests for evidence responded to within 15 days?		
	Where the timescale was extended did we keep the Ombudsman informed?		
<b>6</b>	<b>Fairness in complaint handling</b>		
	Are residents able to complain via a representative throughout?		
	If advice was given, was this accurate and easy to understand?		
	How many cases did we refuse to escalate?  What was the reason for the refusal?		
	Did we explain our decision to the resident?		
<b>7</b>	<b>Outcomes and remedies</b>		
	Where something has gone wrong are we taking appropriate steps to put things right?		
<b>8</b>	<b>Continuous learning and improvement</b>		
	What improvements have we made as a result of learning from complaints?		
	How do we share these lessons with:  a) residents?		

	<p>b) the board/governing body?</p> <p>c) In the Annual Report?</p>		
	<p>Has the Code made a difference to how we respond to complaints?</p>		
	<p>What changes have we made?</p>		

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**APPENDIX 3**

**Complaints procedure**

1. When a complaint is made to the Council it shall be acknowledged and logged at stage one of the complaints procedure.
2. The Council will confirm their understanding of the complaint and the outcomes being sought with the resident. Clarification will be sought if the complaint is not clear.
3. If the complaint is not resolved to the resident's satisfaction it shall be progressed to the next stage in accordance with the Council's procedure.
4. The Council's complaints procedure comprises of two stages. This ensures that a resident has the opportunity to challenge any decision by correcting errors or sharing concerns via an appeal process.
5. In the final decision the Council's policy shall include the right to refer the complaint to the appropriate Ombudsman Service. This should be through a designated person within eight weeks of the final decision or directly by the resident after eight weeks.
6. A full record shall be kept of the complaint, any review and the outcomes at each stage. This should include the original complaint and the date received; all correspondence with the resident, correspondence with other parties and any reports or surveys prepared.

**Timeframe for responses**

1. The Councils timescales for response are:
  - Logging and acknowledgement of complaint – five working days.
  - Stage one decision – 10 working days from receipt of complaint – if this is not possible, an explanation and a date by when the stage one response will be received will be issued. This will not exceed a further 10 days without good reason.
  - Stage two response – 20 working days from request to escalate – if this is not possible an explanation and a date when the stage two response will be received. This will not exceed a further 10 working days without good reason.

**Communication with residents**

1. When communicating with residents, the Council will use plain language that is appropriate to the resident.
2. The Council will address all points raised in the complaint and provide clear reasons for any decisions, referencing the relevant policy, law and good practice where appropriate.
3. At the completion of each stage of the complaints process the Council will write to the resident advising them of the following:
  - the complaint stage
  - the outcome of the complaint
  - the reasons for any decisions made
  - the details of any remedy offered to put things right
  - details of any outstanding actions
  - details of how to escalate the matter if dissatisfied.
4. As part of the complaint policy the resident shall be given a fair opportunity to:
  - set out their position
  - comment on any adverse findings before a final decision is made.
5. Communication with the resident will not generally identify individual members of staff or contractors as their actions are undertaken on behalf of the Council.
6. The Council should adhere to any arrangements agreed with residents in terms of frequency and method of communication.
7. The Council will keep residents regularly updated and informed even where there is no new information to provide.

## Report of the Monitoring Officer

**REVIEW OF THE COUNCIL'S ARRANGEMENTS FOR DEALING WITH STANDARDS COMPLAINTS**1. Purpose of report

To update the Committee on the review of the arrangements for dealing with Code of Conduct complaints, with a brief update on when the new National Code of Conduct will be announced appendix 1.

2. Detail

Members at the last Governance, Audit and Standards Committee on 21 September 2020, asked that the arrangements for dealing with Code of Conduct complaints be reviewed. The review was considered necessary as there were concerns raised by the Committee that the current arrangements were not up to date and the review was long overdue.

The Council is required under Section 28(6) and (7) of the Localism Act 2011 to adopt arrangements for dealing with complaints under the Code of Conduct. Following the changes to the standards regime in 2012 the Council adopted the current arrangements on 11 July 2012, attached at appendix 2.

The new Monitoring Officer started in post on 21 September 2020, and is the statutory officer responsible for dealing with Member complaints under the current adopted arrangements. A paper review of these arrangements has been commenced by the Monitoring Officer to establish whether the procedures are fit for purpose, effective and follow best practice in local government. To ensure that high standards of probity and ethical framework are at the heart of corporate governance of the authority and to ensure transparency and accountability.

To undertake a wholesale review of these arrangements it is considered necessary to consult with other district and borough Councils to establish best practice and necessary to consult with Members. The Committee is asked to approve that a politically proportionate task and finish group be set up, so a full review can be undertaken.

**Recommendation**

The Committee is asked to:

1. **CONSIDER** that a politically proportionate task and finish group be set up to review the arrangements for dealing with Code of Conduct Complaints and **RESOLVE** accordingly.
2. **CONSIDER** that the same task and finish group be set up to review the new National Code of Conduct and **RESOLVE** accordingly.

Background papers

Nil

**APPENDIX 1**Update on the new National Code of Conduct

The new long awaited National Code of Conduct is due to be announced on 3 December 2020, which will enable the task and finish group to take the new Code into consideration when proposing amendments to the existing arrangements.

The Committee is asked to approve that the same politically proportionate task and finish group consider the new National Code of Conduct when it is received. The task and finish group would consider whether the new National Code of Conduct can be recommended to be adopted in its entirety to Full Council or whether it needed to be revised in anyway. Once the Borough Council has an approved adopted new Code of Conduct, work will be undertaken with the Parish Council's to adopt the Borough Council's Code and a training programme will be brought in to support the Borough Council Members and the Parish Council Members.

## **Broxtowe Borough Council Arrangements for dealing with standards allegations under the Localism Act 2011**

### **1. Context**

These “Arrangements” set out how to make a complaint that an elected or co-opted member of this Authority, or of a town or parish council within the Borough of Broxtowe, has failed to comply with the authority’s Code of Conduct, and sets out how Broxtowe Borough Council will deal with allegations of a failure to comply with that Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a member or co-opted member of the Authority, or of a town or parish council within the Borough of Broxtowe, or of a Committee or Sub-Committee of the authority, has failed to comply with that authority’s Code of Conduct can be investigated and decisions made on such allegations.

The statutory arrangements provide for the Authority to appoint at least one Independent Person, whose views must be sought by the Authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the authority at any other stage, or by a member or co-opted of a town or parish council within the Borough of Broxtowe, against whom an allegation as been made.

These arrangements came into effect from 11 July 2012 and were adopted by a meeting of full Council on 11 July 2012.

### **2. The Code of Conduct**

Broxtowe Borough Council has adopted a Code of Conduct for its members, which is attached as Appendix One to these arrangements and available for inspection on the authority’s website and on request from Reception at the Council Offices.

Each town and parish council is also required to adopt a Code of Conduct. If anyone wishes to inspect a town or parish council’s Code of Conduct, they should visit any website operated by the town or parish council or request the town or parish clerk to allow inspection of the relevant Code of Conduct.

### **3. Definitions**

The following definitions are used throughout these arrangements:

Complainant	The person who has raised the complaint. This might be a member of the public, an officer or another member.
Subject member(s)	The member against whom the complaint has been made.
Independent Person	The person appointed by the Council whose views must be sought by the authority before making a decision on an allegation.

Monitoring Officer	A senior officer of the authority who has statutory responsibility for maintaining the register of members' interests and who is responsible for administering the system in respect of complaints of member misconduct.
Sanctions	The range of actions that can be taken against a member where it is concluded that they have failed to comply with the Code of Conduct.
Local Resolution	Local resolution may involve the subject member accepting that their conduct was unacceptable and offering an apology, or other remedial action by the authority.

#### 4. Making a complaint

If you wish to make a complaint, please write to:

The Monitoring Officer  
Broxtowe Borough Council  
Council Offices  
Foster Avenue  
Beeston  
Nottingham  
NG9 1AB

or email: [complaints@broxtowe.gov.uk](mailto:complaints@broxtowe.gov.uk)

In order to ensure that the Monitoring Officer has all the information which is needed to be able to process a complaint, the correct complaint form should be completed. The form can be downloaded from the authority's website [www.broxtowe.gov.uk](http://www.broxtowe.gov.uk) and is available on request from reception at the Council Offices.

A complainant will be required to provide their name, a contact address and where possible, an email address, so that the complaint can be acknowledged and the complainant kept informed of progress.

The Monitoring Officer will acknowledge receipt of a complaint within 3 working days of receiving it, and the complainant will be kept informed of the progress of the complaint.

#### 5. Complaints against 'Dual Hatted' Members

A 'dual hatted' member is a member of an authority and who is also a member of another authority within the County. The member could be a serving County Councillor, Police Authority Councillor, District Councillor and Town or Parish Councillor.

Complaints against members are received by the Monitoring Officer for and on behalf of the authority. The Monitoring Officer will consider whether:

- The complaint relates to a 'dual hatted' member;

- The complaint clearly relates to incidents or circumstances which have occurred solely in that member's capacity as a councillor of the Authority;
- That no other countywide authority is involved; and
- That the conduct or actions complained of relate to possible failure to comply with the Member Code of Conduct.

If so, the complaint shall be processed by the Monitoring Officer in accordance with these adopted arrangements for dealing with complaints.

Where the complaint relates to:

- A 'dual hatted' member;
- In the view of the Monitoring Officer the complaint may impact on the capacity of the member as a member of another authority;
- The complaint may relate to incidents or circumstances which have occurred in the member's capacity as a councillor of the authority and of another authority;
- The conduct or actions complained of relate to a possible failure to comply with the Member Code of Conduct; and / or
- The complaint or a similar complaint may also have been received by another authority, the Monitoring Officer shall refer the complainant to any additional authority that could process the complaint and continue to deal with the relevant aspects of the case to be dealt with under the arrangements adopted by Broxtowe Borough Council.

## **6. Confidentiality**

As a matter of fairness and natural justice, the subject member should be told who has complained about them. There may be occasions where the complainant requests that their identity is withheld. Such a request may be granted in circumstances that the Monitoring Officer considered to be exceptional, for example:

- a) The complainant has reasonable grounds for believing that they will be at risk of intimidation, victimisation or physical harm if their identity is disclosed.
- b) The complainant is an officer who works closely with the subject member and they are afraid of the consequences to their employment if their identity is disclosed.
- c) The complainant suffers from a serious health condition, which may be adversely affected if their identity is disclosed.

If the Monitoring Officer decides to refuse a request by the complainant for confidentiality, he will offer the complainant the option to withdraw the complaint, rather than proceed with disclosure of the complainant's identity.

As a matter of fairness and natural justice, the subject member should also be informed of the nature of the complaint. If however the Monitoring Officer considers that disclosure of details of the complaint to the subject member might prejudice the investigation, the Monitoring Officer can agree to delay notifying the subject member until consideration of the complaint has progressed sufficiently.

## 7. What will happen to the complaint?

There are 4 stages to dealing with complaints that are received as detailed below.

Opportunities are provided throughout these arrangements to enable local resolution between the complainant and the subject member.

The complainant can at any time request to withdraw a complaint, however the Monitoring Officer or Standards Assessment Committee, may decide that it remains in the public interest to continue to pursue the complaint through the process.

### **Stage 1 – Initial consideration of complaint**

The Monitoring Officer will review every complaint received and will confirm which part of the Code of Conduct applies and inform the subject member and in the case of a complaint against a town or parish councillor, the Clerk to the town or parish council.

The Monitoring Officer will always seek local resolution in the first instance. If this resolves the matter, the Monitoring Officer will formally write to the complainant, the subject member and the relevant town or parish council to confirm that the matter is closed.

If the complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies. If the complaint refers to failure to comply with the requirement to register a disclosable pecuniary interest, then the matter will be referred direct to the police (Localism Act, Chapter 20 Part 1, Chapter 7, Section 34 – Offences), in accordance with the local protocol attached at appendix 3.

### **Stage 2 – Formal consideration of complaint**

If local resolution is not achieved, or not considered appropriate, the Monitoring Officer will consult with the Independent Person before progressing with the complaint.

The Monitoring Officer will then take a decision as to whether it merits investigation. If for any reason it proves inappropriate for the Monitoring Officer to make this decision, it will be referred to the Council's Standards Assessment Committee.

This decision will normally be taken within 20 working days of receipt of a complaint. When the Monitoring Officer has taken a decision, he will inform the complainant of his decision and the reasons for that decision. The subject member, and the town or parish council, will also be notified in writing of the Monitoring Officer's decision.

Where the Monitoring Officer requires additional information in order to come to a decision, he may go back to the complainant for such information, and may request information from the subject member. Where the complaint relates to a town or parish Councillor, the Monitoring Officer may also seek the views of the town or parish council before deciding whether the complaint merits formal investigation.

The Monitoring Officer may again seek to resolve by local resolution, without the need for a formal investigation. If this resolves the matter, the Monitoring Officer will formally write to the complainant, the subject member and the relevant town or parish council to confirm that the matter is closed.

Where the subject member makes a reasonable offer of local resolution, but the complainant is not willing to accept that offer, the Monitoring Officer, in consultation with the Independent Person, will take account of this in deciding whether the complaint merits formal investigation.

***In reaching their decisions on the complaint at Stages 1 and 2 the Monitoring Officer and the Independent Person will need to consider the assessment criteria and reasons for taking no further action outlined at Appendix Two.***

### **Stage 3 - Investigation**

The following procedure will be used for the investigation of misconduct complaints.

#### Investigating Officer

If the Monitoring Officer, in consultation with the Independent Person, decides that a complaint merits formal investigation, he will appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Monitoring Officer may also write to the town or parish council and ask them to produce a statement report providing supporting evidence, statements, information and copies of relevant documentation.

#### The investigation process

The Investigating Officer will decide whether they need to meet or speak to the complainant to understand the nature of the complaint, to gain an understanding of events, to decide what additional documents need to be seen, and who else needs to be interviewed.

The Investigating Officer would normally write to the subject member again and provide them with a copy of the complaint, and ask the member to provide their explanation of events, to identify what documents the Investigating Officer needs to see and who they need to interview.

In exceptional cases, where it is appropriate to keep the complainants identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete their name and address from the papers given to the subject member, or delay notifying the subject member until the investigation has progressed sufficiently.

#### The investigation report

At the end of their investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to the complainant and to the subject member, to give both an opportunity to identify any matter in that draft report which they disagree with or which they consider requires more consideration. Having received and taken account of any comments which they may make on the draft report, the Investigating Officer will send their final report to the Monitoring Officer.

The Monitoring Officer will review the Investigating Officer's report and, if he is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to the complainant, the subject member and where relevant, to the town or parish council and the

Standards Committee and give all a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he may ask the Investigating Officer to reconsider their report.

Conclusion – no failure to comply

If the report concludes that there has been no failure to comply, and the Monitoring Officer is satisfied with the content of the report, then all relevant parties (the complainant, subject member, Independent Person, Standards Committee and where relevant, the Clerk to the Town or Parish Council) will be notified in writing and the matter will be closed.

Conclusion – failure to comply

If the report concludes that there has been a failure to comply with the Code of Conduct, the Monitoring Officer will review the Investigating Officer's report and will then consult with the Independent Person. The Monitoring Officer will again seek local resolution, however if this does not resolve the matter, it will be sent for a hearing before the Standards Assessment Committee.

Local Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he will consult with the Independent Person and with the complainant and seek agreement on what is considered to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that their conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee and where necessary the town or parish council for information, but will take no further action. **The Monitoring Officer's decision is final.**

**Stage 4 – Governance, Audit and Standards Panel Hearing**

If the report concludes that there has been a failure to comply and the Monitoring Officer considers that informal resolution is not appropriate or that informal resolution has failed to resolve the matter the Governance, Audit and Standards Panel Hearing (PH) will be convened. The Monitoring Officer will report the Investigating Officer's report to the PH which will conduct a local hearing before deciding whether the subject member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

The Standards Assessment Committee

The PH will comprise of between 3 and 5 elected members and be politically proportionate and avoid conflict of interests. The PH should, at all times, be advised by the Monitoring Officer or his representative.

The Independent Person is invited to attend all hearings by the PH and their views are sought and taken into consideration before the PH takes any decision on whether the member's conduct constitutes a failure to comply with the Code of Conduct and as to any recommended action to be taken following a finding of failure to comply with the Code of Conduct.

Hearings will usually be held in public, unless the case has passed the confidentiality test as outlined at point 6 above.

Procedures for Hearings

Essentially, the Monitoring Officer will conduct a “pre-hearing process”, requiring the member to give their response to the Investigating Officer’s report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chair of the PH may issue directions as to the manner in which the hearing will be conducted.

At the hearing, the Investigating Officer will present their report, call such witnesses as they consider necessary and make representations to substantiate their conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask the complainant to attend and give evidence to the PH. The subject member will then have an opportunity to give their evidence, to call witnesses and to make representations to the PH as to why they consider that they did not fail to comply with the Code of Conduct.

Conclusion – no failure to comply

The PH, with the benefit of any advice from the Monitoring Officer and the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct, and so dismiss the complaint.

Conclusion – failure to comply

If the PH concludes that the member did fail to comply with the Code of Conduct, the Chair will inform the subject member of this finding and the PH will then consider what action, if any, it should take or recommend as a result of the subject member’s failure to comply with the Code of Conduct.

In doing this, the PH will give the subject member an opportunity to make representations and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter.

At the end of the hearing, the Chair will state the decision of the PH as to how the subject member failed to comply with the Code of Conduct and as to any actions which the PH resolves to take or recommend. As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the PH, and send a copy to the complainant, to the subject member and to the town or parish council where applicable. The Decision Notice will be made available for public inspection through the Council website.

**8. Sanctions**

The Council has delegated to the Monitoring Officer and any PH of the Standards Committee, such of its powers to recommend action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Monitoring Officer and PH may:

1. Publish its findings in respect of the subject member's conduct;
2. Report its findings to Council [or to the town or parish council] for information;
3. Recommend to the subject member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that they be removed from any or all Committees or Sub-Committees of the Council;
4. Recommend to the Leader of the Council that the subject member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
5. Instruct the Monitoring Officer to [or recommend that the town or parish council] arrange training for the subject member;
6. Remove [or recommend to the town or parish council that the subject member be removed] from any or all outside appointments to which they have been appointed or nominated by the authority [or by the town or parish Council].

NB. If the subject member is acting in the capacity of a town or parish councillor, the PH can only notify the town or parish council of its decision and only make a recommendation with regard to any sanctions considered appropriate. It is then for the town or parish council to take a final decision based on the recommendations of the PH.

## **9. Who is the Independent Person?**

The Independent Person is a person who has applied for the post following advertisement, and is then appointed by a positive vote from a majority of all the members of Council. The Localism Act 2011 sets a number of criteria for the recruitment of the Independent Person and these can be found on Part 1, Chapter 7, Section 28.

Any changes to the appointment of the Independent Person must be in line with the recruitment processes outlined in the Localism Act 2011 and agreed by a positive majority of full Council.

## **10. Revision of these arrangements**

The Council may by resolution agree to amend these arrangements.

## **11. Appeals**

There is no right of appeal either as the complainant or the subject member against a decision of the Monitoring Officer or of the Standards Assessment Committee.

If it is felt that the authority has failed to deal with the complaint in accordance with these arrangements, a complaint can be made through the corporate complaints procedure ([www.broxtowe.gov.uk](http://www.broxtowe.gov.uk)) or the Local Government Ombudsman ([www.lgo.org.uk](http://www.lgo.org.uk)).

**Code of Conduct of Broxtowe Borough Council**

As a member or co-opted member of Broxtowe Borough Council (the “Council”) I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles which aim to achieve best value for our residents and maintain public confidence in this authority:

- having regard to the principles of – selflessness, integrity, objectivity, accountability, openness, honesty and leadership
- championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me, and putting their interests first
- dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially
- not allowing other pressures to deter me from pursuing constituents' casework, the interests of the Council's area or the good governance of the authority in a proper manner
- never improperly conferring an advantage or disadvantage on any person or act to gain financial or other material benefits for myself, my family, a friend or close associate or place myself under a financial or other obligation to outside individuals or organisations that might seek to influence me in the performance of official duties
- when carrying out my public duties making all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit, exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority
- listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit
- being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents
- contributing to making this authority's decision-making processes as open and transparent as possible and being prepared to give reasons for those decisions and actions. Assisting residents to understand the reasoning behind those decisions and to be informed when holding me and other members to

account, but having due regard to the need to restrict access to information when the wider public interest or the law requires.

- declaring any private interests, as required by this Code of Conduct, that relate to my public duties and taking steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in the box below
- when using or authorising the use by others of the resources of the authority, I will ensure that such resources are not used improperly for political purposes (including party political purposes) and I will have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986
- behaving in accordance with all the Council's legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the authority's resources
- valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government
- always treating people with respect, including the organisations and public I engage with and those I work alongside
- providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority
- co-operating fully with whatever scrutiny is appropriate to office
- promoting and supporting high standards of conduct when serving in my public post, in particular as characterised by the above requirements, by leadership and by example.

### **Disclosable Pecuniary Interest**

I have a Disclosable Pecuniary Interest if I, or my spouse or civil partner, have a pecuniary interest as listed in the national rules below.

If I have any of the following pecuniary interests, they are my **Disclosable Pecuniary Interests** under the national rules. Any reference to spouse or civil partner includes any person with whom I am living as husband or wife, or as if they were my civil partner.

The national rules are:

- Any employment, office, trade, profession or vocation carried on for profit or gain, which I, or my spouse or civil partner, undertakes.
- Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by me in carrying out duties as a member, or towards my election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992. The relevant period is the 12 months ending on the day when I tell the monitoring officer about my disclosable pecuniary interests following my election or re-election, or when I became aware that I had a disclosable pecuniary interest relating to a matter on which I was acting alone.
- Any contract which is made between myself, or my spouse or my civil partner (or a body in which I, or my spouse or my civil partner, has a beneficial interest) and the council or authority –
  - under which goods or services are to be provided or works are to be executed; and
  - which has not been fully discharged.
- Any beneficial interest in land which I, or my spouse or my civil partner, have and which is within the area of the council or authority.
- Any licence (alone or jointly with others) which I, or my spouse or my civil partner, holds to occupy land in the area of the council or authority for a month or longer.
- Any tenancy where (to my knowledge) –
  - the landlord is the council or authority; and
  - the tenant is a body in which I, or my spouse or my civil partner, has a beneficial interest.

### **Action to be taken**

If I am present at a meeting of the council, of its executive or any committee of the executive, or of any committee, sub-committee, joint committee, or joint sub-committee of the authority, and I have a disclosable pecuniary interest relating to any business that is or will be considered at the meeting, I must not:

- participate in any discussion of that particular business at the meeting, or if I become aware of a disclosable pecuniary interest during the meeting participate further in any discussion of the business, or
- participate in any vote or further vote taken on the matter at the meeting.

These prohibitions apply to any form of participation, including speaking as a member of the public.

This authority requires members to withdraw from the room at this point to make clear to the public that I am not influencing the meeting in anyway and to protect the councillor from the criminal sanctions that apply should the councillor take part.

Where the interest I have declared is not on my Register of Interest Form then I will update the form with the relevant interest to the Monitoring Officer within 28 days.

In certain circumstances I can request a dispensation from these prohibitions

**Pecuniary Interests**

As a member, I will have a Pecuniary Interest in an item of business of the Council where:

- a. a decision in relation to that business might reasonably be regarded as affecting the well-being or financial standing of myself or a member of my family or a person with whom I have a close association to a greater extent than it would affect the majority of the council tax payers, ratepayers or inhabitants of the ward or electoral area for which I have been elected or otherwise of the authority's administrative area, or
- b. it relates to or is likely to affect any of the Disclosable Pecuniary Interests as listed above, but in respect of a member of your family or a person with whom I have a close association

and that interest is not a Disclosable Pecuniary Interest.

**Action to be taken**

If I am present at a meeting of the council, of its executive or any committee of the executive, or of any committee, sub-committee, joint committee, or joint sub-committee of the authority, and I have a pecuniary interest relating to any business that is or will be considered at the meeting, I must not:

- participate in any discussion of that particular business at the meeting, or if I become aware of my disclosable pecuniary interest during the meeting participate further in any discussion of the business, or
- participate in any vote or further vote taken on the matter at the meeting.

These prohibitions do not apply to me speaking as a member of the public.

This authority does not require members to withdraw from the room at this point.

**Non-pecuniary interests**

A non-pecuniary interest is an interest which is not pecuniary (as defined above) but is nonetheless so significant that a member of the public with knowledge of the relevant facts, would reasonably regard to be so significant that it would materially impact upon my judgement of the public interest

**Action to be taken**

If I am present at a meeting of the council, of its executive or any committee of the executive, or of any committee, sub-committee, joint committee, or joint sub-committee of the authority, and I have a Non-pecuniary interest relating to any business that is or will be considered at the meeting, I must:

- Declare the nature and extent of my interest including enough detail to allow a member of the public to understand it's nature.

I may stay, speak, vote and take a full part in the meeting.

**Registering and declaring pecuniary Interests**

I must, within 28 days of taking office as a member or co-opted member, notify the Authority's Monitoring Officer of any Disclosable Pecuniary Interest as defined by regulations made by the Secretary of State, where the pecuniary interest is mine, my spouse's or civil partner's, or is the pecuniary interest of somebody with whom I am living with as a husband or wife, or as if we were civil partners.

If an interest has not been entered onto the authority's register, then I must disclose the interest to any meeting of the authority at which I am present, where I have a Disclosable Pecuniary Interest in any matter being considered and where the matter is not a 'sensitive interest'.<sup>1</sup>

Following any disclosure of an interest not on the authority's register or the subject of pending notification, I must notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure.

Unless dispensation has been granted, I may not participate in any discussion of, vote on, or discharge any function related to any matter in which I have a Disclosable Pecuniary Interest as defined by regulations made by the Secretary of State.

Additionally, I must observe the restrictions the authority places on my involvement in matters where I have a Disclosable Pecuniary Interest or Pecuniary Interest as defined by my authority.

<sup>1</sup> A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

ASSESSMENT CRITERIA

In reaching their decisions on the complaint at Stage 1 and 2 the Monitoring Officer and the Independent Person will need to consider the following assessment criteria:

1. The extent to which the subject member is alleged to have failed to treat others with respect;
2. The extent to which the subject member is alleged to have acted in a way that may cause the authority to breach an equality enactment;
3. Whether the allegations relates to bullying, intimidating or attempting to intimidate a person involved in an allegation against a subject member;
4. Whether in disclosing confidential information the subject member failed to take or to heed advice;
5. The implications for the public perception or the reputation of the Council;
6. The implications for staff relations;
7. The seniority or position of influence of the subject member and public trust or confidence;
8. The consequences or the likely consequences of the subject members alleged actions;
9. The extent to which the Member is alleged to have used his or her position as a member improperly to confer or secure an advantage or disadvantage;
10. The extent to which the Member is alleged to have misused or abused the resources of the Council;
11. The detriment caused by acting against advice when reaching decisions;
12. The extent to which a failure to register or to declare interests resulted from a failure or refusal to seek or to follow advice;
13. The matter of complaint has already been the subject of a previous investigation or of an investigation by another regulator, e.g. the Local Government Ombudsman or the District Auditor, or the subject of proceedings in court;
14. That the complaint is about something that happened so long ago that there would be little public benefit in taking action now;
15. That the complaint is too trivial to warrant further action;
16. That the complaint appears to be simply malicious, vexatious, politically motivated or tit-for-tat;
17. The public benefit in directing an investigation or other steps;

18. The costs and officer and Member time which could incurred on an investigation or other steps;
19. Whether there is enough information currently available to justify a decision to refer the matter for investigation or to seek an informal resolution;
20. Whether the complaint is about someone who has died, resigned, is seriously ill or is no longer a member of the Council concerned and not in the public interest to pursue;
21. The complaint is such that it is unlikely that an investigation is likely to come to a firm conclusion on the matter and where independent evidence is likely to be difficult or impossible to obtain;
22. Whether the subject Member has already provided a satisfactory remedy (e.g. apologising); and
23. Whether the matter is suitable for informal resolution and the Member complained of is amenable to such an approach.

**A DECISION TO TAKE NO FURTHER ACTION**

Reasons for taking no further action include:

1. That the subject matter of the allegation is outside the jurisdiction of the Standards Committee;
2. That the allegation does not appear to disclose a failure by the member to comply with the Member's Code of Conduct when acting in that capacity;
3. The information submitted by the complainant is insufficient to enable the Monitoring Officer and the Independent Person to reach a decision;
4. The matter of complaint has already been the subject of a previous investigation or of an investigation by another regulator or the subject of proceedings in court.
5. That the complaint is about something that happened so long ago that there would be little public benefit in taking action now;
6. That the complaint is too trivial to warrant further action; or
7. That the complaint appears to be simply malicious and vexatious, politically motivated or tit-for tat.

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## Report of the Monitoring Officer

**REVIEW OF WHISTLEBLOWING POLICY**1. Purpose of report

To update the Committee on the review of the Whistleblowing Policy and of the outcome of the recent Internal Audit Report.

2. Background

The Council's Whistleblowing Policy sets out the procedure the Council follows to deal with complaints from employees, Members, contractors or suppliers of suspected misconduct, illegal acts or failure to act within the Council. The aim of this Policy is to encourage employees and others who have serious concerns about any aspect of the Council's work to come forward and voice those concerns.

The Committee seeks an update on whether the current Whistleblowing Policy and procedures are effective and robust in maintaining the highest standards of openness, honesty and integrity to prevent and detect fraud and corruption. To also ensure the Whistleblowing Policy complies with current legislation and maintains public confidence in the Council's adopted procedures.

The Council's new Monitoring Officer came into post on 21 September 2020 has undertaken work to review the current Policy and to implement the recommendation provided in a recent Internal Audit report.

3. Detail

The Council's Whistleblowing Policy has been subject to a wholesale review on 20 November 2017 (following The Public Interest Disclosure Act 1998 being amended in June 2013), by Policy and Performance Committee and then to a Serious and Organised Crime Internal Audit in 2018. Subsequently, on 16 September 2018 the Personnel Committee approved amendments to the Whistleblowing Policy on the recommendation of The Local Joint Consultative Committee. Further detail is included in appendix 1 and the amended Whistleblowing Policy is attached at appendix 2.

**Recommendation**

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

Background papers

Nil

## APPENDIX 1

Further Detail

The attached Policy provides a clear process by which anyone can raise a concern about the Council in confidence. The Policy identifies that the Council will endeavour to treat concerns on a confidential basis, however, explains this cannot be absolutely guaranteed, for the reasons set out in the Policy. It emphasises that the policy should be used as part of the suite of existing procedures available to staff and customers to raise concerns. The Policy anticipates that Whistleblowing concerns from members of staff should ordinarily be raised with the immediate line manager, and similarly non employees such as agency staff and contractors should report their concerns to the person to whom they directly report. However, it was recognised that reporting these concerns internally may not always be appropriate so alternative routes to raise a concern were included in the Policy. The Policy also seeks to ensure that Whistleblowers will not be not subjected to unfair treatment as a result of raising their concerns.

More recently the Whistleblowing Policy and procedures have been reviewed as part of the Internal Audit Plan for 2019/2020. The review looked at the effectiveness of Whistleblowing procedures and tested key operational and managerial controls. The review focussed on a period from April 2019 to June 2020. The objectives of the Audit review were to evaluate that:

1. A robust and up-to-date Whistleblowing Policy and procedure was in place and that this had been disseminated to staff.
2. The Policy and procedures define how anonymity will be preserved and disclosure will not prejudice the interests of the Whistleblower.
3. The process includes provision for feedback to the Whistleblower on the action taken on the disclosure and that the Whistleblower is made aware that external bodies, such as regulators, can be approached if internal procedures have not worked (i.e. privacy and disclosure notices).
4. The Complaints procedure is effective in responding to complaints appropriately and in a timely manner and that performance management is in place, including monitoring and reporting to management and/or an appropriate committee

Internal Audit reported their finding on 19 June 2020, that they were satisfied that the Council has an established framework in place for the Whistleblowing which provides reasonable assurance that the objectives are being met.

Only one recommendation was made by Internal Audit to be implemented by 31 December 2020 that the Whistleblowing Policy should be occasionally signposted to employees (for example through the employee newsletter and as part of the new employee induction programme) in order to raise corporate awareness although it was recognised that the Policy was available on the intranet. To implement this recommendation a reminder will be sent out in the employee newsletter on 20 November 2020. HR have also been consulted and have agreed to introduce the Whistleblowing Policy to all new employees in their induction programme.

The Monitoring Officer will continue to monitor the effectiveness of the Policy and procedures and will report any future complaints received under this Policy to Committee.

The table below details the Whistleblowing complaints the authority has received since 4 December 2012 to 21 September 2018, no complaints have been received since.

04.12.12	Possible breach of law	Investigated by Monitoring Officer	No breach of law found
23.03.15	Possible breach of contract law	Investigation by Head of Public Protection	The Authority is operating within legislative powers.
27.04.15	Improper behaviour of an employee	Investigated by HR	No improper behaviour found
21.09.18	Improper behaviour of an employee	Investigated by HR	No improper behaviour found

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Broxtowe  
Borough  
COUNCIL

# WHISTLEBLOWING POLICY

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## **WHISTLEBLOWING POLICY**

### **1. Introduction**

The Public Interest Disclosure Act became law in July 1999, and was amended in June 2013. The Act seeks to address circumstances which arise when employees have concerns about what is happening at work. It seeks to ensure that a whistleblower who makes a genuine disclosure of concerns does not thereby incur unfair treatment. This policy document sets out the Council's response to the requirements of the Act.

This policy does not form part of an employee's contract of employment and it may be amended at any time.

A 'genuine' disclosure is a protected disclosure defined by one or more of the following within the Act found here:

[Public Interest Disclosure Act 1998](#)

**Whistleblowing** is the disclosure of information which relates to suspected wrongdoing or dangers at work. This may include:

- a criminal activity, e.g. fraud
- someone's health and safety is in danger
- risk or actual damage to the environment
- a miscarriage of justice
- failure to comply with any legal obligation
- you believe someone is deliberately concealing any of the above matters

A **whistleblower** is a person who raises a genuine concern relating to any of the above. If you have any genuine concerns related to suspected wrongdoing or danger affecting any of our activities (a **whistleblowing concern**) you should report it under this policy. For your disclosure to be protected by law, you must make it to the right person and in the right way.

### **2. Process**

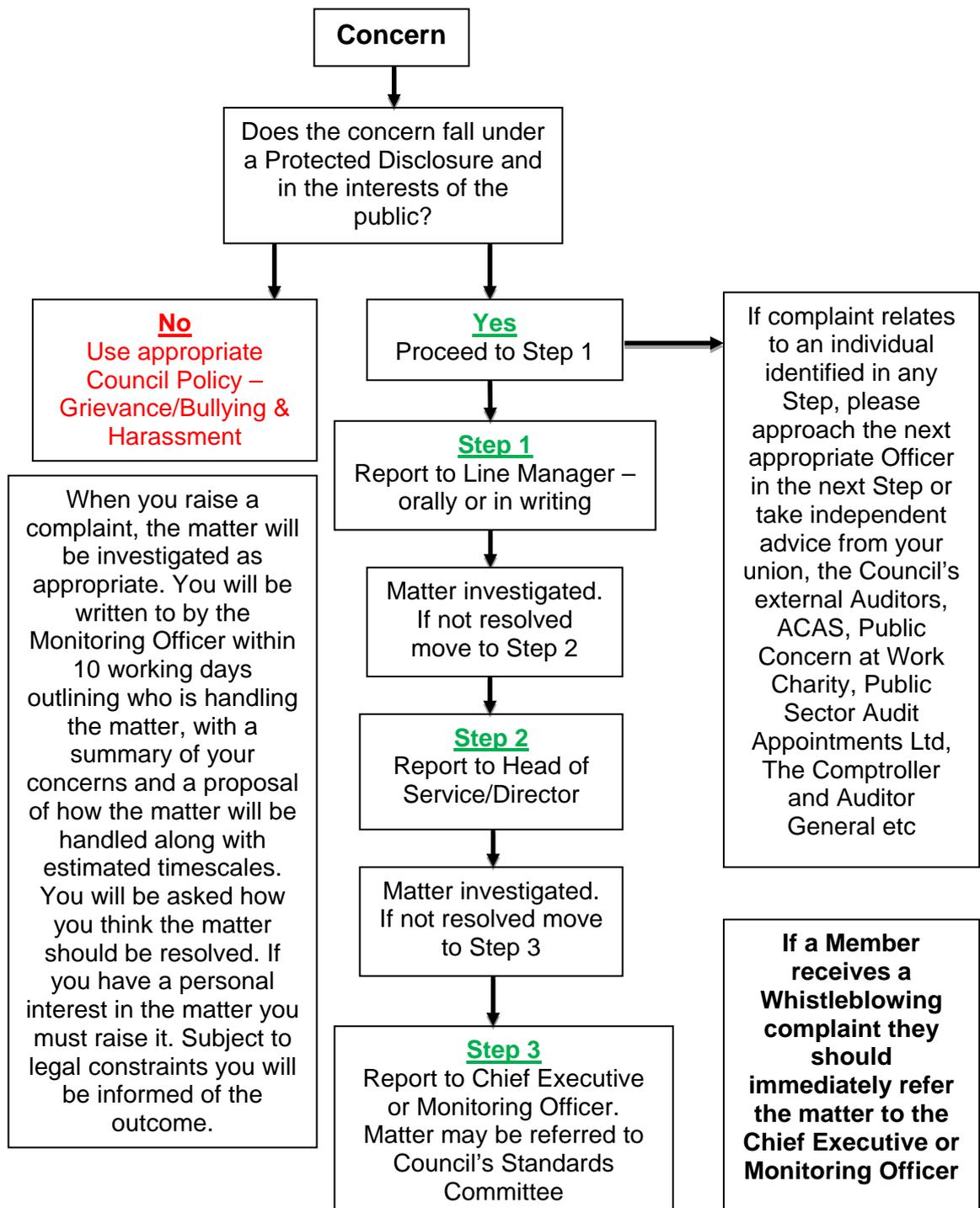
You may be the first person to realise that there may be something seriously wrong within the Council. It can sometimes be difficult to know what to do in these circumstances, and therefore the Council is committed to enabling employees to raise their concerns about any perceived malpractice by using this Whistleblowing procedure. If something is troubling you which you think is in the interests of the public to report, you can do this, confidentiality by using the following process.

This policy applies to:

- all employees of the Council.
- contractors working for the Council on Council premises (for example agency staff).
- suppliers and those providing services under a contract with the Council.
- people working in partnership with the Council, and its employees and members (e.g. volunteers, trustees etc).

If in doubt - raise it!

This process is separate to the Council's Complaints procedure, which can be found here: [Complaints Procedure](#)



### **3. The Council's Assurance to You**

#### **3.1 Your safety**

The members, the Chief Executive and the General Management Team are committed to this policy. It does not matter if you are mistaken in your concerns, so long as you reasonably believe there is a problem. Whistleblowers will not be dismissed and should not be subject to detriment as a result of their complaint. If you believe that as a result of raising a concern, you are suffering or subject to detriment, please raise a grievance via the Council's Grievance Policy. Anyone who victimises or retaliates toward the individual, who raised the concern, will be subject to disciplinary action via the Council's Disciplinary Policy.

Of course, the Council does not extend this assurance to someone who maliciously or vexatiously raises a matter that they know is untrue or makes an allegation for personal gain. This could be construed as gross misconduct and disciplinary action may be taken. Any employee subjected to a vexatious or malicious whistleblowing allegation will be supported; this will include referral to the Council's Employee Assistance programme.

#### **3.2 Your confidence**

The Council will not tolerate the harassment or victimisation of anyone raising a genuine concern. However, it is recognised that you may nonetheless want to raise a concern in confidence under this policy. If you ask that your identity is protected by keeping your confidence, it will not be disclosed without your consent. If the situation arises where the Council is not able to resolve the concern without revealing your identity (for instance because your evidence is needed in court), it will be discussed with you, as to whether and how the matter can be proceeded with.

#### **3.3 Anonymous complaints**

Anonymous Complaints will be dealt with using the procedure outlined in Appendix 1.

Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that may already affect you.

### **4. Aims and Scope of the Policy**

This policy aims to:

- encourage you to feel confident in raising serious concerns and to question and to act upon concerns about Council practice.
- provide avenues for you to raise those concerns and receive feedback on any action taken.

- ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied.
- reassure you that you will be protected from any possible reprisals and victimisation if you have a reasonable belief that you have made the disclosure in good faith.

The wrongdoing you disclose must be in the public interest. This means it must affect others, e.g. the general public.

This policy is intended to cover major concerns that may fall outside the scope of other Council procedures.

Personal grievances (e.g. bullying, harassment, discrimination) aren't covered by whistleblowing law, unless your particular case is in the public interest. If you are aggrieved about your personal position or matters relating to your employment, the Council's Grievance Policy and Anti-Bullying and Harassment Policy should be used and can be found here:

[Anti-Bullying and Harassment Policy](#)  
[Grievance Policy](#)

## **5. How the matter will be handled**

Once you have notified the Council of your concern, it will be looked into in order to assess initially what action should be taken. This may involve an internal enquiry or a more formal investigation. You will be notified who is handling the matter, how you can contact them, and whether your further assistance may be needed. A formal written response will be issued to you summarising your concern and setting out how the Council proposes to handle the matter.

When you raise the concern you may be asked how you think the matter might best be resolved. If you have any personal interest in the matter, it is vital that this is mentioned at the outset. If your concern more properly falls within another Council policy, such as the grievance procedure you will be notified.

While the purpose of this policy is to investigate possible malpractice and take appropriate steps to deal with it, you will be given as much feedback as possible.

Rarely, a case might arise where it is the employer that has participated (or even continues to participate) in the action causing concern. In such a case it is in the employee's interest to come into the open as soon as possible.

## 6. How to raise a concern

The earlier you express the concern, the easier it is to take action. Concerns may be raised orally or in writing. If you wish to make a written report you should include:

- The background and history of the concern (giving relevant dates);
- The reason why you are particularly concerned about the situation.

Although you are not expected to prove the truth of the allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.

### **6.1 Step 1**

If you have a concern about malpractice, it is hoped that you will be able to raise it first with your line manager. This will obviously depend upon the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if you believe that management is involved, you should approach the officers identified in Step 2 below. You may, at any stage, feel the necessity to take independent advice (see Section 6.4),

### **6.2 Step 2**

If you feel unable to raise the matter with your line manager, for whatever reason, you should raise the matter with your Head of Service or Director.

### **6.3 Step 3**

If either, or both, of these channels have been followed, and you still have concerns, or if you feel that the matter is so serious that you cannot discuss it with any of the above, you may wish to contact either the Monitoring Officer or the Chief Executive:

Name:	Monitoring Officer
Contact Details:	Legal Services Council Offices Foster Avenue Beeston Nottingham NG9 1AB
Tel:	0115 9173230

Or

Name:	Chief Executive
Contact Details:	Chief Executive's Office Town Hall Foster Avenue Beeston Nottingham NG9 1AB
Tel:	9173255

Either the Chief Executive or the Monitoring Officer may refer your concern to the Council's Standards Committee

#### **6.4 Independent advice**

The aim of this policy is to provide an internal mechanism for reporting, investigating and remedying any wrongdoing in the workplace. In most cases you should not find it necessary to alert anyone externally. The law recognises that in some circumstances it may be appropriate for you to report your concerns to an external body such as a regulator. It will very rarely if ever be appropriate to alert the media. We strongly encourage you to seek advice before reporting a concern to anyone external (see below). If you have a whistleblowing concern and decide to report it to someone other than your employer, they must be a 'prescribed person or body' in order for you to be legally protected. A list of these can be found here: [List of Prescribed People and Bodies](#)

Whistleblowing concerns usually relate to the conduct of our staff, but they may sometimes relate to the actions of a third party, such as a supplier or service provider. In some circumstances the law will protect you if you raise the matter with the third party directly. However, we encourage you to report such concerns internally first.

If you are unsure whether in principle to use this procedure or you want independent advice at any stage, you may contact:

- your union (if you are a member) who could assist you in raising your concern, or
- **The Council's Chief Audit and Control Officer**
- the Council's external auditors – details can be provided by the Council's Chief Audit and Control Officer
- the independent charity Public Concern at Work on 020 7404 6609 Their lawyers can give you free confidential advice at any stage about how to raise a concern about serious malpractice at work.
- The National Audit Office – Contact via telephone on 020 7798 7999, online contact form found here: [Contact Form](#) or write to:

The Comptroller and Auditor General  
National Audit Office  
157-197 Buckingham Palace Road  
London SW1W 9SP

- ACAS – The Advisory, Conciliation and Arbitration Service can provide advice and guidance on 0300 123 1100
- The Information Commissioner's Office is set up to uphold information rights in the public interest and promotes openness by public bodies. Contact via telephone on 0303 123 1113

You may wish to consider discussing your concern with a colleague first, and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.

You may invite your union representative or a friend to be present during any meetings or interviews in connection with the concerns you have raised.

## **7. How the Council will respond**

Any concerns raised will always receive a response. This will entail consideration of the disclosure and may involve an internal investigation, following which matters may be referred to an external agency (such as external audit or the police). Any individual named or implicated in the disclosure must not be involved in any investigating or decision-making in relation to the concern raised.

In order to protect individuals and those accused of possible malpractice, initial enquiries will be made in order to identify whether an investigation is appropriate and, if it is, what form it should take. This could be an initial fact-finding exercise to establish the facts and this could lead to, a grievance or disciplinary investigation in accordance with the Council's relevant policies

In cases where after initial fact-finding, there is evidence to establish that there may be a case to answer, the individual(s) named will be informed of any allegations made against them and, if necessary, suspension may apply.

The overriding principle here is the public interest.

Within ten working days of a concern being raised, the Monitoring Officer will write to you:

- acknowledging that the concern has been received.
- indicating how it is proposed to deal with the matter.
- giving an estimate of how long it will take to complete investigations.

- telling you whether any initial enquiries have been made.
- supplying you with the information on how the Council will support you if you think this is necessary, whilst the matter is under consideration.
- keeping you informed of the progress.

The amount of contact between you and the officers considering the matter will depend on both the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from you. Meetings can take place away from the Council offices if you prefer.

Steps will be taken to minimise any difficulties which you may experience as a result of raising a concern and you should contact the Human Resources Team should you wish to discuss. The Council also offers an Employee Assistance Programme, details of which can be provided by Human Resources.

If you are required to give evidence in criminal or disciplinary proceedings, arrangements will be made for you to receive advice about the procedure.

Subject to legal constraints, you will be informed of the outcome of any investigation. In many cases, it may not be appropriate to provide explicit details in relation to the outcome of a case, other than informing you that 'appropriate management action has been taken'.

## **8. If you are dissatisfied as a Whistleblower**

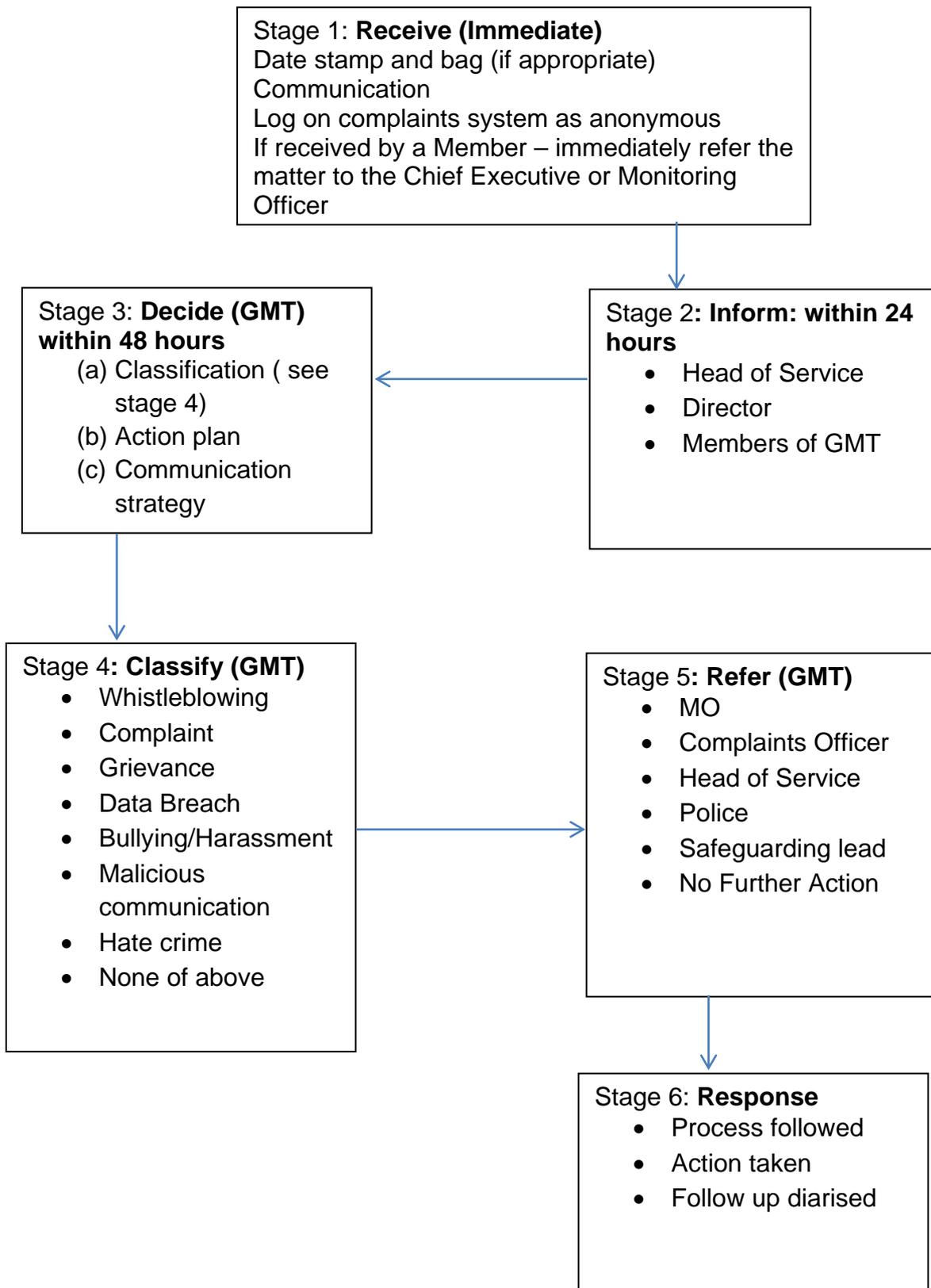
If you feel that the Council has not responded correctly at any stage, remember you can go to the other levels and bodies mentioned in section 6.4. While it cannot be guaranteed that all matters will be addressed in the way you might wish, it will always be the Council's intention to handle the matter fairly and properly. By using this policy, you will help achieve this.

It is a fundamental part of an employee's implied terms and conditions to ensure confidentiality relating to employment matters. If you do take the matter outside the Council, you must ensure that refer to the information above in 6.4.

## **9. The Responsible Officer**

The Chief Executive has the overall responsibility for the maintenance and operation of this policy, and will maintain a record of concerns raised and the results of any investigations made (in a form that will not endanger your confidentiality). The Chief Executive will report as necessary to Council.

**Appendix 1 – Handling Anonymous Complaints**



## **1. Handling anonymous complaints**

- 1.1. We value all complaints. This means we treat all complaints including anonymous complaints seriously and will take action to consider them further, wherever this is appropriate.
- 1.2. Generally, we will consider anonymous complaints if there is enough information in the complaint to enable us to make further enquiries. If, however, an anonymous complaint does not provide enough information to enable us to take further action, we may decide not to pursue it further. We therefore take action proportionate / appropriate to the apparent risks involved.
- 1.3. Any decision not to pursue an anonymous complaint must be authorised by a senior manager not below the rank of Director and the reasons for not taking action must be recorded and records kept of these decisions by the Council's complaints Section.

## **2. Process to be followed**

- 2.1. This document sets out the process to be followed when an anonymous communication is received. The process is set out in five stages

### **Stage 1: Receive**

When an anonymous communication is received in any Council department it must be recorded as received immediately (date stamped if it is a physical letter and placed into a sealable plastic bag with any covering envelope in which it arrived). The circumstances of its delivery should be recorded (i.e. by whom it was received, at what time).

If a Councillor receives an anonymous communication it should be passed immediately to the Chief Executive, unless the communication refers to the Chief Executive, in which case it should be passed to the Deputy Chief Executive or Monitoring Officer. Any officer who may be considered to have a conflict of interest in relation to the matter should declare that ( in priority order depending on who is conflicted to the chief Executive, the Deputy Chief Executive or the Monitoring Officer) in order that this can inform the action plan to be agreed at stage 3 below.

### **Stage 2: Inform**

Within 24 hours of receipt of an anonymous communication the relevant Head of section, the Director and remaining members of the General Management Team will be informed.

### **Stage 3: Decide**

Within 48 hours of receipt of the letter such members of GMT who are available and not conflicted shall

- (a) Consider how the anonymous communications should be classified (see stage 4 for classification options). This decision will determine the process, if any, which is to be followed with regard to the communication. Reasons for the decision shall be recorded and documented.
- (b) Make an action plan in writing which shall set out who is responsible for doing what within what time frame in relation to the letter.
- (c) An overall responsible person should be named for co-ordinating action relating to the communication and following up to ensure actions are completed.
- (d) Decide on a communication strategy with regard to the communication.

Action should be taken expeditiously in relation to the communication. There should be no unreasonable delay in responding.

### **Communication considerations**

In deciding what should be communicated to whom the following issues should be considered

- Whether any person named in the communication should be informed and if so how
- Whether any politician should be informed (e.g. leader or deputy leader or committee chair)
- Appropriate legal advice should be taken to ensure the proposed communication plan is not illegal in breaching data protection, whistleblowing or other legal provision
- HR advice should be sought in relation to staff welfare issues
- If it seems possible the communication will result in press interest, a draft press response should be considered.
- Confidentiality is important as it is likely that the anonymous author does not wish to be identified and may have a legitimate reason for not identifying themselves.
- Since communication of the outcome of any investigation cannot be done to an anonymous person consideration should be given as to how any actions which have been agreed to be taken as a result of receiving the communication should be communicated, internally or externally.

### **Stage 4: Classify**

In considering how the communication should be classified, regard should be paid to the relevant policies.

It may be that a number of policy approaches should be taken in relation to the letter in parallel or in sequence.

Legal and HR advice should be sought where necessary.

The decision in relation to how the communication should be classified – and therefore which procedure shall be followed in handling the matter – shall be kept under review as during any investigation or process, circumstances may come to light which may require an adjustment in the approach taken.

### **Stage 5: Refer**

Depending on the classification decision and action plan which is agreed in relation to the communication, stage 5 involves the formal referral to any person agency or lead individual who may be asked to undertake investigations.

### **Stage 6**

Stage 6 involves the completion of work agreed in the action plan and any subsequent work thought necessary following any investigation which takes place. The named lead person responsible for co-ordinating the response shall ensure that action is completed in a timely fashion and that appropriate procedures are followed. Any action agreed to be taken shall also be followed up to ensure they are implemented.

## **3. Record keeping**

The Complaints Section shall keep a record of all anonymous complaints received and include reference to these in the annual report on complaints which is given to the Governance and Audit Committee.

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**Report of the Strategic Director**

<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.

15 March 2021	<ul style="list-style-type: none"> <li>• External Audit Plan 2020/21</li> <li>• Statement of Accounts 2020/21 – Accounting Policies</li> <li>• Statement of Accounts 2020/21 – Underlying Pension Assumptions</li> <li>• Internal Audit Plan 2021/22</li> <li>• Internal Audit Progress Report</li> <li>• Review of Strategic Risk Register</li> <li>• Going Concern</li> </ul>
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<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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