

AUDIT AND GOVERNANCE COMMITTEE

Date: Wednesday 29 September 2021
Time: 5.30 pm
Venue: The Guildhall, Exeter

Members are invited to attend the above meeting to consider the items of business.

If you have an enquiry regarding any items on this agenda, please contact Sharon Sissons, Democratic Services Officer on 01392 265115.

Due to social distancing restrictions brought about by the Corona Virus outbreak, this meeting is only open to members.

For the general public the [live stream can be viewed here](#) at the meeting start time via Facebook.

Membership-

Councillors Wardle (Chair), Atkinson (Deputy Chair), Begley, Hannaford, Jobson, Mitchell, M, Martin, A, Moore, D, Pearce, Quance, Sparkes and Warwick

Agenda

Part I: Items suggested for discussion with the press and public present

1 **Apologies**

To receive apologies for absence from Committee Members.

2 **Minutes**

To approve and sign the minutes of the meeting held on 28 July 2021

(Pages 3 -
6)

3 **Declaration of Interests**

Councillors are reminded of the need to declare any discloseable pecuniary interests that relate to business on the agenda and which have not already been included in the register of interests, before any discussion takes place on the item. Unless the interest is sensitive, you must also disclose the nature of the interest. In accordance with the Council's Code of Conduct, you must then leave the room and must not participate in any further discussion on the item. Councillors requiring clarification should seek the advice of the Monitoring Officer prior to the day of the meeting.

4 **Local Government (Access to Information) Act - Exclusion of Press and Public**

It is considered that the Committee would be unlikely to exclude the press and public during the consideration of the items on this agenda, but if it should wish to do

so, then the following resolution should be passed:

"**RESOLVED** that, under Section 100A (4) of the Local Government Act 1972, the press and public be excluded from the meeting for the particular item(s) of business on the grounds that it (they) involve the likely disclosure of exempt information as defined in the relevant paragraph(s) of Part 1, of Schedule 12A of the Act."

- | | | |
|----------|---|--------------------|
| 5 | External Audit Progress Report
To consider the report of the Council's External Auditor – Grant Thornton. | (Pages 7 -
16) |
| 6 | Internal Audit Progress Report
To consider the report of the Audit Managers. | (Pages 17
- 26) |
| 7 | Internal Audit Charter
To consider the report of the Audit Managers. | (Pages 27
- 42) |
| 8 | Local Government Ombudsman's Annual Review of Complaints 2020-21
To consider the report of the Corporate Manager Executive Support. | (Pages 43
- 64) |
| 9 | Review of Corporate Governance Risk Register
To consider the report of the Chief Executive & Growth Director. | (Pages 65
- 78) |

Date of Next Meeting

The next **Audit and Governance Committee** will be held on Wednesday 1 December 2021 at 5.30 pm

Find out more about Exeter City Council by looking at our website <http://www.exeter.gov.uk> . This will give you the dates of all future Committee meetings and tell you how you can ask a question at a Scrutiny Committee meeting. Alternatively, contact the Democratic Services Officer (Committees) on 01392 265107 for further information.

Follow us:

www.twitter.com/ExeterCouncil

www.facebook.com/ExeterCityCouncil

Individual reports on this agenda can be produced in large print on request to Democratic Services (Committees) on 01392 265111

AUDIT AND GOVERNANCE COMMITTEE

Wednesday 28 July 2021

Present:-

Councillor Tony Wardle (Chair)
Councillors Atkinson, Jobson, Mitchell, M, Martin, A, Pearce, Sparkes and Warwick

Apologies:-

Councillors Begley, Hannaford, Moore, D, and Quance

Also Present:-

Director Finance, Audit Manager (HK) and Democratic Services Officer (SLS)

49

MINUTES

The minutes of the meeting held on 10 March 2021 were taken as read, approved and signed by the Chair as correct.

50

DECLARATION OF INTERESTS

No declarations of disclosable pecuniary interests were made.

51

EXTERNAL AUDIT PROGRESS REPORT AND SECTOR UPDATE

The Director Finance presented the progress report on behalf of Grant Thornton, as the Senior Manager, Audit was unable to attend the meeting having been required to self-isolate due to coronavirus. The report from Grant Thornton provided Members with detail of the External Auditor's work as at July 2021, which included their audit approach following the introduction of the new Code of Audit Practice, and requirement for a more detailed value for money assessment.

The Director Finance responded to the following Members' questions:-

- as well as an overall value for money assessment for the Council, the detail of specific projects and how they had been managed may also be included as part of the overall conclusion, if they were considered material;
- Members had the opportunity to request information on any of the companies owned by the Council in their entirety; and
- the auditors had access to business transacted with private commercial companies, where that business was part of a Council contract. This ensured that the business conducted was appropriately and accurately reflected, rather than the wider aspects of that company's business.

A Member referred to the value for money assessment and considered there was a duty when procuring services to include social value as well as the economic, social and environmental wellbeing of Exeter's citizens. She welcomed further guidance on how that could be achieved. The Director Finance confirmed that Grant Thornton followed the prescribed process as set out in the Code of Auditing standards, and he would pass the Member's comments to them. However it would be for the National Audit Office to consider any changes or widening of the scope of value for money.

The Audit and Governance Committee noted the External Audit Progress Report and Sector Update.

52

EXTERNAL AUDIT PLAN 2020/21

The Director Finance presented the proposed External Audit Plan from Grant Thornton for the year ending 31 March 2021, which detailed an overview of the planned scope of the statutory audit, the significant risks identified and a number of key changes. It was notable that identified risks were not unique to Exeter as an authority and were likely to be identified as significant for many Councils.

The cost of the audit was a key issue highlighted every year and the proposed fee was £70,523, which was substantially higher than the original estimate of £44,573. The Public Sector Audit Appointments Ltd (PSAA) had overseen the contract and had agreed to fund additional audit costs. They had provided the Council with extra funding, but there remained a shortfall in the budget. The final outcome of the Redmond Review would offer a useful starting point of what value for money represented as part of the negotiations for the next contract.

In response to a Member's question the Director Finance stated that each Council should include a note of the audit cost in their published accounts which offered the opportunity to determine whether value for money was achieved. Exeter City Council's external audit fees were likely to be slightly higher compared to other Devon District Councils, due in part to including group accounts and other work included the need to produce (and audit) a separate set of accounts for the city's Harbour Authority.

The Audit and Governance Committee noted the External Audit Plan for the year ending 31 March 2021.

53

INFORMING THE AUDIT RISK ASSESSMENT REPORT

The Director Finance presented the report to Grant Thornton, which set out responses from the City Council to help inform the risk assessment of Exeter City Council as part of the planned audit process. Colleagues from the finance teams, the internal audit team and legal services had compiled responses to over 30 questions to gain an understanding of the Council's management processes and oversight in the following areas –

- General Enquiries of Management
- Fraud
- Fraud Risk Assessment
- Impact of Laws and Regulations
- Related parties and
- Accounting Estimates

The Director Finance responded to a Member's question and offered further reassurance regarding the potential for misreporting. He confirmed there was nothing identified that offered cause for any concern at this stage. He also agreed to send the partially obscured detail of a response made on impairments to Members.

The Audit and Governance Committee noted the responses given to the Risk Assessment report.

ANNUAL INTERNAL AUDIT PROGRESS REPORT

The Audit Manager (HK) presented the Annual Internal Audit report for the year ending 31 March 2021, which conformed to the Public Sector Internal Audit Standards and was timed to inform the Council's Annual Governance Statement. She drew Members' attention to key points within the report and advised on the overall opinion and assurance. The overall opinion was included at paragraph 2.5 of the circulated report, with confirmation that key systems were operating satisfactorily with no fundamental breakdown of control resulting in material discrepancy.

A summary of the audit reports undertaken throughout the year was included and the following points were highlighted from within the report:-

- Section 2 - offered the overall opinion on the assurance statement which was required on an annual basis and also fed into the Annual Governance Statement. It was noted that the work undertaken throughout the year showed that key systems were operating satisfactorily and there had been no fundamental breakdown of control.
- Section 3 - identified the key issues and themes and listed five areas which were included in the Annual Governance Statement, and reported quarterly to this Committee along with a statement of the action that had been taken to date.
- Section 4 - a summary of the audits throughout the year was set out as the delivery of the 2020/21 Council's Audit Plan.

The Audit Manager responded to Members' questions regarding an audit of the carbon neutral policy. She confirmed that time was included within the 2021/22 Audit Plan and a new Net Zero team would also shortly be in place. Once in place, the scope of the audit will then be agreed with the team. Responding to a question regarding the reported incidences of fraud, the Audit Manager confirmed that in all cases, the money was recovered following the fraud investigations.

The Audit and Governance Committee noted the Annual Audit Report for the year ended 31 March 2021.

ANNUAL GOVERNANCE STATEMENT 2020/21

The Director Finance presented the Annual Governance Statement that would accompany the Council's Statement of Accounts for 2020/21. The Council was required to prepare and publish the Annual Governance Statement by Regulation 4 of the Accounts and Audit (England) Regulations 2011. The Governance Statement was a statutory requirement and reported on the Council's performance against the Code Corporate Governance which was last approved on 10 March 2021. The report set out key issues, the responses and a summary of action.

In response to questions from a Member, the Director of Finance stated that there was effective accountability by ensuring good systems to those who could be impacted by the services provided by the Council. He added that driving good governance was not necessarily referenced in the reporting process but it was considered as part of the work of Internal Audit and the Audit and Governance Committee to ensure that the governance of the Council was appropriate and working effectively.

RESOLVED that the Audit and Governance Committee approve the Annual Governance Statement of Accounts for 2020/21 and be signed (at the earliest

possible convenience) by the Chief Finance Officer and the Chair of the Audit and Governance Committee and included within the Council's Annual Statement of Accounts for 2020/21; and

RECOMMENDED to Council to note and approve the Annual Governance Statement included within the Council's Annual Statement of Accounts for 2020/21.

56

REVIEW OF CORPORATE GOVERNANCE RISK REGISTER

The Audit Manager (HK) presented the report and referred to their coordinating role in drawing the updated Corporate Risk Register together to advise the Audit and Governance Committee of the Council's risk management process. She had met with members of the Council's Strategic Management Board to review and it was updated on a quarterly basis. An update on each risk was included in the notes column of the Corporate Risk Register which had been circulated as an appendix to the report presented at the meeting.

The report included the following changes which included -

- *Risk 3* –related to the lack of leadership capacity to effectively deliver additional Council objectives and priorities, had been placed onto the operational risk register and judged to be a low risk; and
- *Risk 8* –the inability to deliver carbon neutral operations for Exeter City Council by 2022, the focus on the Council's own carbon footprint and the challenging earlier Net Zero 2030 target date. Additional resources would support a more focused programme but this was now judged to be a high risk.

The four risks rated as high on the register were :-

- the inability to meet the carbon neutral aspirations for Exeter by 2030 (*Risk 4*);
- maintaining the financial stability of the Council (*Risk 7*);
- the inability to deliver the carbon neutral operations for the Council by 2022 (*Risk 8*); and
- the increased cost of St Sidwell's Point and Bus & Coach Station (*Risk 9*)

The Director Finance responded to a Member's reference to the carbon neutral risk matter which had been raised at the last meeting and reiterated that the Risk Register was a governance report to the Audit and Governance Committee, and was independent of the Executive. If there were any issues that the Member wished to highlight for debate they could be raised directly at Council. Officers had highlighted the challenges of delivering the carbon neutral aspiration in terms of the target set and it was noted that a team had been established to help address the aspiration, but this risk would nevertheless remain high for some time.

A Member also referred to the lack of government grants to insulate or retrofit Council houses to reduced carbon emissions and considered there must be a raft of opportunities to improve the carbon neutral achievements that were outside of the Council's control. The Director of Finance stated that the Council was working on a significant plan to deliver a retrofit solution for council housing stock to help meet the challenges. However it was a problem that every occupier would face and of whatever tenure of housing they lived in.

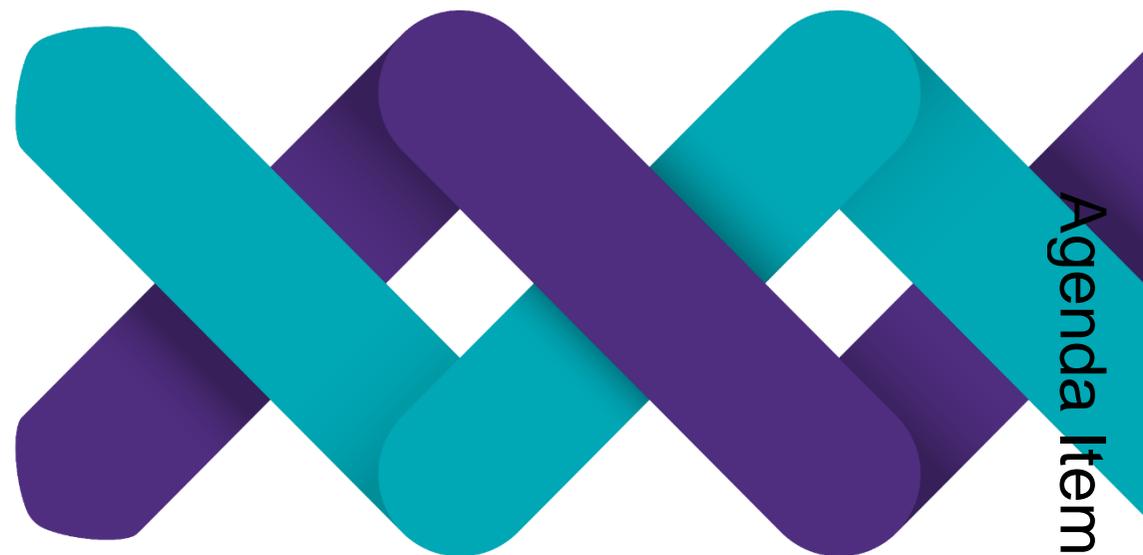
The Audit and Governance Committee reviewed and noted the updated Corporate Risk Register.

(The meeting commenced at 5.30 pm and closed at 6.15 pm)

Chair

Audit Progress Report and Sector Update

Page 7
Exeter City Council
Year ending 31 March 2021
September 2021



Contents

Section	Page
Introduction	3
Progress at September 2021	4
Progress against significant risks	5
Audit Deliverables	8

Introduction

Julie Masci**Key Audit Partner**

T 029 2034 7506

E Julie.Masci@uk.gt.com

Katie Whybray**Senior Manager**

T 0117 305 7601

E Katie.V.Whybray@uk.gt.com

This paper provides the Council with a report on progress in delivering our responsibilities as your external auditors.

Members of the Council can find further useful material on our website, where we have a section dedicated to our work in the public sector. Here you can download copies of our publications www.grantthornton.co.uk

If you would like further information on any items in this briefing, or would like to register with Grant Thornton to receive regular email updates on issues that are of interest to you, please contact either your Key Audit Partner or Senior Manager.

Progress at September 2021

Financial Statements Audit

Our audit plan, which was taken to the July Audit and Governance Committee, set out our proposed approach to the audit of the Council's 2020/21 financial statements.

The significant risks we identified within that plan were as follows:

- Management override of control
- Valuation of land and buildings
- Valuation of investment properties
- Valuation of net pension fund liability

In our plan we noted that MHCLG has set an indicative date of 30 September 2021 for audited local authority accounts (two months earlier than last year). Given the system-wide pressures previously discussed, we believe this is highly unrealistic for 2020/21 audits (but as a firm we are fully supportive of this in a 'normal' year).

We therefore initially proposed to target completing our audit fieldwork in September, however due to the level of work required to ensure our audit responsibilities are fully met, in accordance with the high quality expectations of our firm and our regulators, we have discussed the latest audit progress with Council officers and expect to formally conclude our audit in October.

Our audit is currently underway and an update on progress is set out on pages 5-7.

We have virtual meetings with Finance Officers on a weekly basis to help ensure the audit process is smooth and effective.

At the time of writing there are no significant issues we wish to report to the Council and we would like to thank finance officers for their responsive and supportive approach to the audit team and audit queries.

Value for Money

On 1 April 2020, the National Audit Office introduced a new Code of Audit Practice which comes into effect from audit year 2020/21. The Code introduced a revised approach to the audit of Value for Money. (VFM)

There are three main changes arising from the NAO's new approach:

- A new set of key criteria, covering financial sustainability, governance and improving economy, efficiency and effectiveness
- More extensive reporting, with a requirement on the auditor to produce a commentary on arrangements across all of the key criteria, rather than the current 'reporting by exception' approach
- The replacement of the binary (qualified / unqualified) approach to VFM conclusions, with far more sophisticated judgements on performance, as well as key recommendations on any significant weaknesses in arrangements identified during the audit.

The Code require auditors to consider whether the body has put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources.

When reporting on these arrangements, the Code requires auditors to structure their commentary on arrangements under the three specified reporting criteria (i.e. financial sustainability, governance and improving economy, efficiency and effectiveness).

The NAO has set a deadline for the completion of this work as three months after the opinion on the Council's financial statements has been given.

As noted in our audit plan, our risk assessment regarding your arrangements to secure value for money identified one area of risk of significant weakness.

- Financial sustainability – risk to the delivery of the financial plan

We will be completing our work on the value for money commentary once the financial statements audit is complete.

Progress against significant risks

Significant risk (from audit plan)

Management override of control

Under ISA (UK) 240, there is a non-rebuttable presumed risk that the risk of management override of controls is present in all entities. The Authority face external scrutiny of its spending and this could potentially place management under undue pressure in terms of how they report performance.

We therefore identified management override of control, in particular journals, management estimates, and transactions outside the course of business as a significant risk for the Council, which was one of the most significant assessed risks of material misstatement.

Valuation of land and buildings

The Authority revalues its land and buildings on a rolling five-yearly basis. This valuation represents a significant estimate by management in the financial statements due to the size of the numbers involved (£463m as at 31 March 2021) and the sensitivity of this estimate to changes in key assumptions. Additionally, management will need to ensure the carrying value in the Authority financial statements is not materially different from the current value or the fair value (for surplus assets) at the financial statements date, where a rolling programme is used.

We therefore identified valuation of land and buildings, particularly revaluations and impairments, as a significant risk of material misstatement.

Progress to date

We have:

- evaluated the design effectiveness of management controls over journals, including undertaking a walkthrough of the process and controls. No issues were identified from completion of this
- obtained a full download of the general ledger alongside the trial balance and uploaded these onto our data analysis software, Inflo.
- Inflo undertakes a number of checks on the data such as unbalanced transactions, unbalanced user IDs and transactions with blank account descriptions. Where any differences were noted by Inflo, we followed these up with the Council and obtained sufficient explanations and corroborations for these.
- we are in the process of reviewing the manual journals within inflo to identify those deemed to be high risk to be selected for testing. Once this is complete, we will be able to share the sample of journals with the Council for them to provide us with evidence to support the entries.

We have:

- evaluated management's processes and assumptions for the calculation of the estimate, the instructions issued to valuation expert and the scope of their work.
- evaluated the competence, capabilities and objectivity of the valuation expert.
- written to the valuer to confirm the basis on which the valuations were carried out.
- reviewed the fixed asset register and valuation reports to identify a sample of land and buildings which have been revaluated in year for further testing. In doing this we considered those assets whose valuers at 31 March 2021 are above performance materiality, those assets where there has been a valuation movement or other change outside of our expectation and a sample of assets where the movement is in line with expectation
- for each item within our sample we have received detailed calculation sheets for the 2021 revaluation exercise and are currently working through these
- we have also instructed the use of an auditors expert to support our work in this area. The auditors expert is a registered RICS valuer who has reviewed the Council's instructions to the valuer and the valuers report and has raised some challenge questions which we are currently in discussion with the Council about.

Progress against significant risks

Significant risk (from audit plan)

Valuation of Investment Property

The Authority revalues its land and buildings on a rolling five-yearly basis. This valuation represents a significant estimate by management in the financial statements due to the size of the numbers involved (£53m as at 31 March 2021) and the sensitivity of this estimate to changes in key assumptions. Additionally, management will need to ensure the carrying value in the Authority financial statements is not materially different from the current value or the fair value (for surplus assets) at the financial statements date, where a rolling programme is used.

We therefore identified valuation of land and buildings, particularly revaluations and impairments, as a significant risk of material misstatement.

Valuation of net pension fund liability

The Authority's pension fund net liability, as reflected in its balance sheet as the net defined benefit liability, represents a significant estimate in the financial statements.

The pension fund net liability is considered a significant estimate due to the size of the numbers involved (£135m liability in the Authority's balance sheet as at 31 March 2021) and the sensitivity of the estimate to changes in key assumptions.

We therefore identified valuation of the Authority's pension fund net liability as a significant risk of material misstatement.

Progress to date

We have:

- evaluated management's processes and assumptions for the calculation of the estimate, the instructions issued to valuation expert and the scope of their work.
- evaluated the competence, capabilities and objectivity of the valuation expert.
- written to the valuer to confirm the basis on which the valuations were carried out.
- reviewed the fixed asset register and valuation reports to identify a sample of investment properties which have been revaluated in year for further testing. In doing this we considered those assets whose valuers at 31 March 2021 are above performance materiality, those assets where there has been a valuation movement or other change outside of our expectation and a sample of assets where the movement is in line with expectation
- for each item within our sample we have received detailed calculation sheets for the 2021 revaluation exercise and are currently working through these
- we have also instructed the use of an auditors expert to support our work in this area. The auditors expert is a registered RICS valuer who will be reviewing the Council's valuation report for investment properties and considering the detailed calculations behind some of the significant investment properties held by the Council. We will share the comments from our expert with the Council once we have these.

We have:

- updated our understanding of the processes and controls put in place by management to ensure that the Council's pension fund net liability is not materially misstated and evaluate the design of the associated controls. No issues were identified from completion of this.

Our remaining work in this area is outstanding at this stage.

Progress against other areas

Other Area

Progress to date

Group Accounts

Risks identified in the group accounts:

- Risk of management override of control is a non rebuttable risk for all organisations
- Risk of fraud in revenue recognition
- There are two line items within the components financial statements which are material to the group: Inventory and Cash.

We have:

- shared our group instructions with the auditors of Exeter City Living earlier in the year and are in regular dialogue with the auditors to receive the information we have requested in order to give us the assurances required for our group opinion
- as part of our work we are required to review the audit file of the Exeter City Living auditors and we are in the process of organising this to be undertaken.

Other balances within the financial statements

On receipt of the draft accounts we undertook a scoping review where we determined which items of the financial statements are within scope for the audit and the level of required work for each of these.

- we have made good progress working through the other areas of the financial statements and have selected and shared within the Council the majority of our samples selected for testing.
- all queries and information requests are being dealt with quickly by the Council.
- we have completed our work in a number of areas including financial instruments, income and expenditure disclosures, collection fund and related parties.

Audit Deliverables

2020/21 Deliverables	Planned Date	Status
<p>Accounts Audit Plan</p> <p>We are required to issue a detailed accounts audit plan to the Full Council setting out our proposed approach in order to give an opinion on the 2020/21 financial statements.</p>	July 2021	Complete
<p>Audit Findings Report</p> <p>The Audit Findings Report will cover the findings on our financial statements audits.</p>	September 2021	Delayed – see slide 4 for more detail.
<p>Auditors Report</p> <p>This is the opinion on your financial statements and annual governance statement.</p>	September 2021	Delayed – see slide 4 for more detail.
<p>Auditor's Annual Report</p> <p>This summarises the work undertaken as part of our Value for Money assessment.</p> <p>The NAO has set a deadline for the completion of this work as three months after the opinion on the Council's financial statements has been given, although we will endeavour to complete this sooner than that.</p>	November 2021	Not yet due

This page is intentionally left blank

REPORT TO AUDIT & GOVERNANCE

Date of Meeting: 29th SEPTEMBER 2021

Report of: AUDIT MANAGERS

Title: INTERNAL AUDIT PROGRESS REPORT 1ST QUARTER 1ST APRIL TO 30TH JUNE 2021

Is this a Key Decision?

No

Is this an Executive or Council Function?

COUNCIL

1. What is the report about?

- 1.1 To report on internal audit work carried out during the period 1st April to 30th June 2021, to advise on overall progress against the Audit Plan and to report any emerging issues requiring consideration.

2. Recommendations:

- 2.1 That the Internal Audit Progress Report for the first quarter of the year 2021/22 be noted.

3. Reasons for the recommendation:

- 3.1 One of the roles of this committee is to review quarterly internal audit reports and the main issues arising and seek assurance from management that action has been taken, where necessary.

4. What are the resource implications including non financial resources:

None

5. Section 151 Officer comments:

It is pleasing to note that remedial action has been agreed for all recommendations and that there is nothing significant to draw to members' attention.

6. What are the legal aspects?

None identified

7. Monitoring Officer Comments:

This report raises no issues for the Monitoring Officer.

8. Report details:

This Committee is responsible for the implementation and active monitoring of audit processes and actions, which includes performance against the annual audit plan, reviewing quarterly internal audit progress reports and seeking responses and assurance from management where remedial action has not been agreed or implemented within a reasonable timescale. The 2021/22 Audit Plan was approved at this Committee on 10th March 2021.

The purpose of internal audit is to provide an independent, objective assurance and consulting service designed to add value and improve the Council’s operations. The mission of internal audit is to enhance and protect organisational value by providing risk-based and objective assurance, advice, and insight. The internal audit Service helps the Council accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of governance, risk management, and control processes. Each of the activities we audit are given an assurance rating as follows:

Substantial Assurance	There is a sound system of internal control designed and operating in a way that gives a reasonable likelihood that the objectives will be met
Satisfactory Assurance	Whilst there is a basically sound system of internal control there are weaknesses which put some of the objectives at risk or there is evidence that the level of non-compliance with some of the controls may put some of the objectives at risk
Limited Assurance	Weaknesses in the system of internal controls are such as to put the objectives at risk or the level of non-compliance puts the objectives at risk.
No assurance	Control is generally weak leaving the system open to error or abuse or significant non-compliance with basic control processes leaves the processes/systems open to error or abuse

8.1 Work Undertaken and Amendment to the Audit Plan

Internal Audit’s objective is to examine the Council’s financial and non-financial systems to check that there are adequate internal controls in place to prevent loss due to frauds, errors and inefficiency, and due attention is paid to corporate governance and risk management.

A summary of progress against the annual audit plan to date is shown at Appendix A, together with the current status of each area for review and the outcomes of the review, where completed.

I am pleased to report that agreed actions from previous audit reports are being progressed satisfactorily and that there are no instances where remedial action was not agreed by management during this quarter.

Progress against the annual audit plan is on target and our work program has returned to normal following some changes that were necessary during the pandemic.

8.2 Governance Issues

The Council’s annual governance statement (AGS) includes some significant governance issues and an action plan has been compiled which will be subject to regular monitoring by the Audit and Governance Committee.

The action plan of the issues identified has been included in Appendix B.

9. How does the decision contribute to the Council's Corporate Plan?

9.1 Good governance contributes to the Council's purpose of a "Well Run Council".

10. What risks are there and how can they be reduced?

N/A

11. Equality Act 2010 (The Act)

11.1 Under the Act's Public Sector Equality Duty, decision makers are required to consider the need to:

- eliminate discrimination, harassment, victimisation and any other prohibited conduct;
- advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs; and
- foster good relations between people by tackling prejudice and promoting understanding.

11.2 In order to comply with the general duty authorities must assess the impact on equality of decisions, policies and practices. These duties do not prevent the authority from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.

11.3 In making decisions the authority must take into account the potential impact of that decision in relation to age, disability, race/ethnicity (includes Gypsies and Travellers), sex and gender, gender identity, religion and belief, sexual orientation, pregnant women and new and breastfeeding mothers, marriage and civil partnership status in coming to a decision.

11.4 In recommending this proposal no potential impact has been identified on people with protected characteristics as determined by the Act because: because

11.4.1 The report is for information only

12. Are there any other options?

N/A

Helen Kelvey/Helen Putt
Audit Manager

Local Government (Access to Information) Act 1972 (as amended)
Background papers used in compiling this report:
None

Contact for enquiries:
Democratic Services (Committees)
Room 4.36
01392 265115

**EXETER CITY COUNCIL
AUDIT AND GOVERNANCE COMMITTEE**

PROGRESS OF 2021/22 AUDIT PLAN TO DATE

Please note that this is a summary of remedial action agreed, as to include all actions agreed from each audit report in detail would result in a lengthy document. Members may request a full copy of any report once finalised or alternatively meet with the Audit Manager to discuss specific audits further.

Audit Review	Report Status	Overall Opinion	Direction of travel since last audit	No. of Findings & Remedial Action Agreed (High Risk only)	Summary (where completed within this quarter)
Main Accounting					
Income Management					
Creditors					
VAT					
Insurance	In progress				
People Management					
Members Expenses	Final	Substantial	N/A	None	No matters arising
Health & Safety					
Private Sector Landlord Services					
Sport England					
Events, Arts & Culture					
Fleet Management					
Car Parks	In progress				
Leisure Facilities					
NDR					
Housing – (incl. development, temp	Draft report				

Audit Review	Report Status	Overall Opinion	Direction of travel since last audit	No. of Findings & Remedial Action Agreed (High Risk only)	Summary (where completed within this quarter)
accommodation, housing needs, homelessness)					
Planning					
Corporate Governance					
Equalities and Diversity	In progress				
Risk Management	In progress				
Information Governance					
Counter Fraud	In progress				
Partnerships	In progress				
Contract Management					
Community Grants Awarded	Draft report				
Commercialisation and project management	In progress				
Climate change/Carbon Neutral					
Pandemic related issues/grants post assurance etc.	On going				Post assurance work on-going. No issues of concern identified to date
Review of hospitality/disclosures					
Disabled Facilities Grants	Final	Substantial		2 Medium 2 Low	

Audit reports issued during 2021/22 relating to the 2020/21 Year

Audit Review	Report Status	Overall Opinion	Direction of travel since last audit	No. of Findings & Remedial Action Agreed (High Risk only)	Summary (where completed within this quarter)
Sundry Debtors	Final	Limited assurance	↔	4 Medium	Exeter City Council generates income from a wide range of services for example, Waterways, Home Call Alarms and Street

					<p>Trader licences. The ASH sundrydebtor system is used to raise debtor invoices and to record payments received. Various reports are available within ASH to show such information as invoices raised, arrears outstanding etc.</p> <p>It has been a very difficult 12 months for both individuals and organisations with all of the financial un-certainties that Covid-19 has posed. The Council has taken a sympathetic approach and had, as a general rule, suppressed issuing automated reminders with certain Service Areas suspending debt recovery. However, due to the councils' decision to cease issuing the automated reminder letters and that some Service Areas are not undertaking any supplementary debt recovery we can only provide a limited assurance audit opinion.</p> <p>Remedial action has been agreed for all findings.</p>
Business and commercialisation	Final	Limited assurance	No previous report	4 High risk 8 Medium risk	<p>With the reduction of Central Government funding Exeter City Council has been looking at new ways to generate income to counteract the impact of the funding reductions.</p> <p>Exeter City Council is committed to maximising the potential for commercialisation and income generation.</p> <p>A Commercialisation Strategy has been developed to provide a framework within which to develop commercial activity.</p> <p>The Council's initial focus for commercialisation activity is for cost recovery and then going forward to look at potential activities to return a profit.</p> <p>The objective of the audit was to check that the commercialisation strategy was being followed and implemented.</p> <p>The audit identified 4 high and 8 medium risk findings</p> <p>The high risk findings related to;</p> <ul style="list-style-type: none"> • Monitoring and scrutiny of commercial activity • Clarity of certain terms used to ensure consistency • Compliance with the strategy <p>Remedial action has been agreed for all findings.</p>

This page is intentionally left blank

PROGRESS REPORT ON SIGNIFICANT GOVERNANCE ISSUES IDENTIFIED IN THE ANNUAL GOVERNANCE STATEMENT 2020-21

AGS Issue No.	Issue identified	Responsible Officer	Summary of action proposed	Update Sept 2021	Update December 2021	Update March 2022	Notes
1	Financial position - Due to the Covid19 pandemic and the lockdown measures that were put in place in March 2020, the Council is facing increased cost and demand pressures at the same time as seeing a significant drop in income. Support from Central Government has mitigated some of the pressures, but the longer term impact could still be damaging to the Council's financial position.	Director Finance	The Government have provided grants to cover expenditure pressures. The Government have committed to covering most of the losses from sales, fees and charges. The Council has taken an emergency budget to be considered on 21 July 2020, identifying ways to ensure a balanced budget. The Council is setting aside funds to mitigate ongoing impacts on income to protect against a further emergency budget being required in 2021-22.	The first quarter budget monitoring report will be presented to Executive and Council in October. At this stage, it is projected that the income shortfall will be well within the amount set aside to protect the Council's financial position.			
2	Information security in the expanded work environment - The rapid widespread shift to homeworking amid national lockdowns in 2020 brought with it a unique data security challenge. Lacking personal interaction, staff can be more susceptible to social engineering ploys as they cannot immediately sense-check emails with nearby co-workers. Given that the Council is likely to keep a greater degree of remote and flexible working arrangements in place going forward, it is more important than ever that information security culture is promoted throughout every level of the organisation to raise awareness and ensure the integrity of staff behaviour.	Information Security Forum	Information Security Forum to look at: <ul style="list-style-type: none"> • how the newly expanded work environment has impacted information security controls in different parts of the organisation and update the Information Security Risk Register accordingly • how best to raise staff awareness of key information security threats and provide guidance on what staff should look out for • whether staff information security training needs to be updated in light of changes to the working environment and IT infrastructure. 	Audit Manager is due to meet with Corporate Manager Executive Support as the Council's Senior Information Risk Owner (SIRO) to discuss and agree an action plan for this issue			
3	Change Management – the current scale and pace of change due to a number of factors presents a risk to achieving objectives and may impact the extent to which the organisation is capable of maintaining acceptable levels of compliance amid the shake up of operations and control systems. These factors include the following: <ul style="list-style-type: none"> • response to the global pandemic • recovery from the global pandemic • external factors e.g. regulatory change and compliance, climate change • internal factors e.g. Organisational Development plan to deliver the digitalisation/transformation of service delivery, bringing Leisure in-house 	Audit Managers	The Audit Plan 2021/22 approved by Audit & Governance in March 2021 will continue to be flexible with updates/changes to the plan report quarterly to enable the Audit Manager to respond to emerging issues. Audit Manager to provide advice and guidance/support to the Organisational Development Project Group to ensure that an adequate control environment continues to be in place throughout the transformation period. The Audit Plan 2021/22 includes time for a review of the new in-house leisure service. The Deputy Chief Executive has been tasked with leading the transformation Programme and has set up a dedicated team to address the ambitious program.	No further updates at this stage.			

AGS							
Issue No.	Issue identified	Responsible Officer	Summary of action proposed	Update Sept 2021	Update December 2021	Update March 2022	Notes
4	<p>Increase in commercial activity – Councils have both a legal and a moral duty to manage scarce resources responsibly. With the uncertainty surrounding Brexit and ongoing funding struggles, councils need to take a place based approach to choosing the most prudent commercial options and ensure that appropriate checks and balances are in place to manage the associated risks. High profile public interest reports and recent organisational reviews show some common themes and issues among councils undertaking commercial activities. The potential for issues can generally be linked to organisational governance, leadership, capacity, financial stability, and culture, including:</p> <ul style="list-style-type: none"> • a lack of understanding of roles and responsibilities • a lack of skills around commercial decision making • an optimism bias that does not reflect the true position • a lack of strategic rationale surrounding the creation of companies • a reluctance to listen to challenges. <p>Whilst the issues detailed above have not specifically been identified by this Council, it is important that the potential risks are fully understood at the outset when entering into any new commercial activity and that the Council's commercialisation policies and procedures both recognise these risks and ensures put effective controls in place to minimise them.</p>	Audit Managers	<p>Internal Audit are in the process of conducting a review of the commercialisation process and will be issuing a report, identifying areas for improvement, in the near future. Additional guidance on council-owned companies will be issued by CIPFA in the autumn. The Audit Manager will review this guidance and, where necessary, make recommendations on how the current process may be improved.</p>	<p>An audit report has been issued and some areas of improvement identified. Remedial action has been agreed for all findings and the Commercialisation Manager will be taking action to implement the agreed changes. Internal Audit will conduct a follow-up in 2022.</p>			
5	<p>Bribery, fraud and other financial crime – The global pandemic resulted in a reduction to the planned audit programme during 2020/21 due to the redeployment and furloughing of staff and the prioritisation of the payment of business support grants. This reduction in the compliance resource increases the risk of both internal and external fraud. In addition, historically, grant schemes always attract individuals hoping to exploit the system and with numerous government Business Support grants schemes which were introduced and paid out 'at pace' this risk has also further increased.</p>	Audit Managers	<p>Audit Manager worked with Directors and Service Leads to identify and prioritise high risk audits within the plan with the remaining audits deferred to the 20221/22 plan. This prioritisation has enabled the Audit Manager to provide some assurance on the control environment in place throughout this period. The Audit Plan 2021/22 approved by Audit & Governance in March 2021 will continue to be flexible with updates/changes to the plan report quarterly to enable the Audit Manager to respond to emerging issues.</p> <p>Audit Manager has completed a risk assessment on behalf of the Council, to assess the level of risk the Council may be exposed to as a result of administering all of the business support grants, which has been submitted to government. Based on the risk assessment submitted, the government requested the necessary evidence to support the payment of a sample of grants as required by the Post Payment Assurance – Verification process.</p> <p>Internal Audit are in the process of undertaking post award assurance checking, following guidance issued by the government, for each scheme type.</p>	<p>The audit plan will continue to be reviewed to ensure that it meets the assurance needs of the Council. Post assurance work for the Covid business grants continues.</p>			

REPORT TO AUDIT AND GOVERNANCE COMMITTEE

Date of Meeting: 29 September 2021

Report of: Audit Manager

Title: Internal Audit Charter

Is this a Key Decision?

No

* One that affects finances over £1m or significantly affects two or more wards. If this is a key decision then the item must be on the appropriate forward plan of key decisions.

Is this an Executive or Council Function? COUNCIL

1. What is the report about?

The Internal Audit Charter defines what Internal Audit is and explains its purpose, authority and responsibility. The Public Sector Internal Audit Standards (PSIAS) require that the Charter is reviewed and updated every two years or following a change to the service.

2. Recommendations:

2.1 The Audit and Governance Committee approve the updated Internal Audit Charter

3. Reasons for the recommendation:

3.1 To meet the requirements of the Public Sector Internal Audit Standards.

4. What are the resource implications including non financial resources.

4.1 None.

5. Section 151 Officer comments:

5.1 The Charter is an important part of the framework under which Internal Audit operates.

6. What are the legal aspects?

6.1 None identified

7. Monitoring Officer's comments:

7.1 This report raises no issues for the Monitoring Officer.

8. Report details:

8.1 The internal audit charter is a formal document that defines the internal audit activity's purpose, authority and responsibility. It establishes the internal audit activity's position within the organisation; authorises access to records, personnel and physical properties relevant to the performance of engagements and defines the scope of internal audit activities. Final approval of the internal audit charter resides with the Audit and Governance Committee.

8.2 In addition to the above, for public sector bodies the charter must also:

- define the terms 'board' and 'senior management' for the purposes of internal audit activity
- cover the arrangements for appropriate resourcing
- define the role of internal audit in any fraud-related work, and
- include arrangements for avoiding conflicts of interest if internal audit undertakes non-audit activities

9. How does the decision contribute to the Council's Corporate Plan?

Good governance contributes to the Council's purpose of "A Well Run Council".

10. What risks are there and how can they be reduced?

N/A

11. Equality Act 2010 (The Act)

11.1 Under the Act's Public Sector Equalities Duty, decision makers are required to consider the need to:

- eliminate discrimination, harassment, victimisation and any other prohibited conduct;
- advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs; and
- foster good relations between people by tackling prejudice and promoting understanding.

11.2 In order to comply with the general duty authorities must assess the impact on equality of decisions, policies and practices. These duties do not prevent the authority from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.

11.3 In making decisions the authority must take into account the potential impact of that decision in relation to age, disability, race/ethnicity (includes Gypsies and Travellers), sex and gender, gender identity, religion and belief, sexual orientation,

pregnant women and new and breastfeeding mothers, marriage and civil partnership status in coming to a decision.

11.4 In recommending this proposal no potential impact has been identified on people with protected characteristics as determined by the Act because:

11.4.1 The report is for information only

12. Carbon Footprint (Environmental) Implications:

12.1 No direct carbon/environmental impacts arising from the recommendations.

13. Are there any other options?

N/A

Director: **FINANCE**

Author: HELEN PUTT/HELEN KELVEY

AUDIT MANAGERS

14. Local Government (Access to Information) Act 1972 (as amended)

Background papers used in compiling this report:-

None

Contact for enquires:
Democratic Services (Committees), Room 4.36
01392 265115

This page is intentionally left blank

Internal Audit Charter

Contents

1. Introduction	2
2. Purpose, Scope and Authority	2
3. Mission Statement of Internal Audit.....	3
4. Core Principles	3
5. Objectives	4
6. Provision and responsibilities	4
7. Code of Ethics.....	5
8. Audit Coverage and Plan	6
9. Service Standards.....	6
10. Reporting	7
11. Quality assurance	8
12. Relationships	8
13. Fraud and irregularities	9
14. Non-conformance	9
15. Review	9
16. Audit Process Diagram	9
17. Document Control	11
18. Change History	11

1. Introduction

1.1 The purpose of this charter is to define what Internal Audit is and explain its purpose, authority and responsibility

1.2 For the purposes of internal audit activity the following terms are defined as follows:

- 'board' – the Audit and Governance Committee
- 'senior management' – the Strategic Management Board

2. Purpose, Scope and Authority

2.1 Purpose and role

The role of Internal Audit is to understand the key risks of the Council

To meet Internal Audit objectives, Internal Auditors are responsible for:

- reviewing and assessing the soundness, adequacy and reliability of financial and non-financial management
- reviewing and assessing the effectiveness of internal controls and, agreeing remedial action with management, where appropriate
- reviewing and assessing procedures to check that the Council's assets and interests are adequately protected and risks are identified and effectively managed
- checking for compliance with legislation, Council policies and procedures
- promoting and assisting the Council in the effective use of resources
- undertaking independent investigations into allegations of fraud and irregularity in accordance with Council policies and procedures and relevant legislation

The Public Sector Internal Audit Standards 2017 (PSIAS) defines Internal Audit as:

"... an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes"

2.2 Scope

There are no restrictions placed on the scope of Internal Audit work. As laid out in Financial Regulations Internal Auditors have unrestricted and unhindered access to all premises, assets and information across the Council as needed to perform their duties.

Financial Regulations 6(a) states:

'Internal Audit may investigate such financial records, systems and management procedures of the Council and its employees as considered necessary for the purposes of audit. For this purpose Internal Audit shall have authority at all reasonable times to visit all Council establishments and have access to all records and property of the Council and may require such explanations/assistance as he/she considers necessary'

2.3 Authority

The authority of the internal audit function is derived from legislation.

Internal Audit is a statutory service in the context of The Accounts and Audit (England) Regulations 2015, which state:

5.—(1) *A relevant authority must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance.*

(2) *Any officer or member of a relevant authority must, if required to do so for the purposes of the internal audit—*

(a) make available such documents and records; and

(b) supply such information and explanations; as are considered necessary by those conducting the internal audit.

(3) *In this regulation “documents and records” includes information recorded in an electronic form.*

In addition, the requirement for an internal audit function for local authorities is implied by Section 151 of the Local Government Act 1972, which required that authorities shall ‘*make arrangements for the proper administration of their financial affairs and shall ensure that one of their officers has responsibility for the administration of those affairs*’.

Exeter City Council has delegated these responsibilities to the Director Finance.

The Council’s own Financial Regulations (6) state that:

The Section 151 Officer shall maintain an adequate and effective system of internal audit of its accounting records and of its system of internal control in accordance with proper practices in relation to internal control.

(a) Internal Audit may investigate such financial records, systems and management procedures of the Council and its employees as considered necessary for the purposes of audit. For this purpose Internal Audit shall have authority at all reasonable times to visit all Council establishments and have access to all records and property of the Council and may require such explanations/assistance as he/she considers necessary.

(b) All employees of the Council through their Director, shall immediately notify Internal Audit of any circumstances which suggest the possibility of irregularity in cash, stock or any other matter which may have financial consequences.

(c) On confirmation of any irregularity or reasonable suspicion thereof, Internal Audit shall advise the Chief Executive & Growth Director, Director Finance and the Monitoring Officer as appropriate.

(d) The audit arrangements of any shared service shall form part of the agreement for that shared service.

3. Mission Statement of Internal Audit

To enhance and protect organisational value by providing risk-based and objective assurance, advice and insight.

4. Core Principles

- Demonstrates integrity
- Demonstrates competence and due professional care
- Is objective and free from undue influence (independent)
- Aligns with the strategies, objectives and risks of the organisation
- Is appropriately positioned and adequately resourced
- Demonstrates quality and continuous improvement
- Communicates effectively
- Provides risk based assurance
- Is insightful, proactive and future focused
- Promotes organisational improvements

5. Objectives

5.1 Internal Audit's main objectives are to:

- To contribute to the achievement of the Council's strategic objectives by providing a quality, independent and objective audit service that effectively meets the Council's needs, adds value, improves operations and helps protect public resources
- Provide a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, internal control and governance processes which includes:
 - agreeing remedial action with management where weaknesses or a breakdown in controls are identified in order to provide assurance on the adequacy and effectiveness of the control environment
 - providing assurance that the Council's operations are being conducted in accordance with external regulations, legislation, internal policies and procedures
 - providing assurance that significant risks to the organisation are identified
 - providing assurance that risks to the achievement of service objectives are being managed
 - highlighting opportunities to reduce costs through greater economy and efficiency with services
- Provide advice and support to management to identify improvements and enable an effective control environment to be maintained
- Promote a counter fraud culture within the Council to aid the prevention and detection of fraud

6. Provision and responsibilities

6.1 Provision of the Internal Audit Function

The Internal Audit Function is provided 'in house' and consists of the Audit Manager and 2 auditors each working 4 days per week, Monday to Thursday.

6.2 Organisational Status

Internal Audit is part of the Finance service. However, in order to maintain its independence Internal Audit has a right of access to the Chief Executive and Growth Director and/or the Leader of the Council and/or the Chair of the Audit and Governance Committee should circumstances warrant such. In addition, there is a right of access to Councillors as a matter of last resort.

6.3 The Audit Manager is responsible:

- in managerial terms (administratively) to the Director Finance
- for the performance of the Internal Audit Service (functionally) to the Audit and Governance Committee

6.4 The Audit Manager's responsibilities to the Audit and Governance Committee include:

- presenting for approval the internal audit charter
- presenting and obtaining approval of the risk-based audit plan of work
- reporting quarterly on the work undertaken by Internal Audit
- reporting any serious weaknesses found in the internal control systems, and any instances where corrective action has not been taken by management

- reporting any instances where responses to audit reports have not been received within a reasonable timescale of the issue of draft and/or final audit reports, and any instances where agreed remedial action has not been implemented within an acceptable time period
- providing an annual audit opinion of the overall adequacy and effectiveness of the Council's internal control environment
- reporting annually on conformance with the Public Sector Internal Audit Standards
- reporting annually performance against the quality assurance and improvement programme
- reporting annually on the Council's counter fraud work
- supporting the Council's risk management function and providing administrative support for the Corporate Risk Register

6.6 The Audit and Governance Committee responsibilities are in accordance with the committee's terms of reference

6.7 Non-audit activities

In exceptional circumstances, Internal Audit may be required to undertake non-audit duties. Where this situation occurs, the Audit Manager will ensure that separation of duties takes place i.e. the auditor undertaking the non-audit task will not be responsible for auditing that area for at least 12 months.

6.8 Consulting Activities

At the specific request of management, Internal Audit may provide consultancy services, provided:

- the internal auditor's independence is not compromised
- the internal audit service has the necessary skills to carry out the assignment, or can reasonably obtain such skills
- the scope of the consultancy assignment is clearly defined
- the audit service has the resources to complete the assignment without compromise to its planned work.

Audit reports relating to consulting activities will not contain an overall opinion or assurance rating and will not be followed up by Internal Audit, however, some audits may be a combination of assurance and consultancy work, in which case, any consultancy work will be included in the normal audit report.

Consulting activities will be conducted in accordance with PSAIS.

7. Code of Ethics

7.1 The Internal Audit Service operates in accordance with the Public Sector Internal Audit standards 2017 (PSIAS) by:

- ensuring that all internal auditors conform to the Code of Ethics principles of integrity, objectivity, confidentiality and competency
- implementing the Attribute and Performance Standards as detailed in Section 5 of the standard

7.2 Internal Audit staff are required to make an annual affirmation of their knowledge of, and compliance with, the PSIAS Code of Ethics and must also have regard to the Committee Standards of Public Life's *Seven Principles of Public Life*.

8. Audit Coverage and Plan

8.1 Audit Strategy

Audit coverage is based on risk. It is informed by the board, senior management, the corporate risk register and horizon scanning for emerging risks. The level of coverage is determined by the business need of the Council and the level of risk identified.

The Audit Manager prepares a risk-based audit strategy and translates this into a four year rolling plan that shows cyclical coverage of audits. All systems rated as 'high' risk are audited annually, 'medium' risk systems are audited every two years and 'low' risk systems audited every four years. Where there is a difference between the strategy/plan and resources available, this is reported to the Audit and Governance Committee.

8.2 Annual audit plan & resourcing

To implement the audit strategy, an annual audit plan is established using a risk-based assessment methodology. The plan determines in broad terms the resources and skills needed, and is used for allocating Auditors' work. Should the plan indicate a need for additional resources, this will be discussed with the Director Finance. The Strategic Management Board and the Chair/Deputy Chair of Audit and Governance Committee along with Directors are consulted on the plan during the planning process. The plan is then presented to senior management for comment prior to being approved by the Audit and Governance Committee in March every year. The plan is flexible and includes a contingency to allow for changes in priorities, emerging risks, ad hoc projects, fraud and irregularity, etc. The plan is continually reviewed against the Council's changing needs and the plan may be revised during the year if Council priorities change. The Audit and Governance Committee will be informed of any changes made to the audit plan.

8.3 The Council will make arrangements for Internal Audit to have adequate budgetary resources to maintain organisational independence.

9. Service Standards

9.1 What you can expect from us:

- Internal Auditors will, at all times, exercise due professional care, act with integrity and take a professional, reliable, independent and innovative approach to their work.
- It is essential that Auditors are impartial so that when an audit opinion is requested it will be unbiased and based upon the facts available. Should a situation arise where impartiality could be questioned, then another Auditor will be assigned to undertake the task concerned.
- Where an auditor was previously employed within a service/area subject to audit then the Audit Manager will ensure that the auditor concerned is not assigned audits in that area until an appropriate amount of time has elapsed (for example, 12 months).
- Where a conflict or potential conflict of interest arises during an audit, which was not foreseen at the start of the audit, this will be reported immediately to the Audit Manager and the auditor will be replaced by another member of the team.

9.2 What we expect from you:

- Requests for information/documents are dealt with in a timely manner
- Managers and staff should co-operate with the Auditors, at all times and behave with courtesy and respect
- Following the issue of a draft report managers should agree to attend a meeting discuss remedial action within 10 working days of issue of the report.

10. Reporting

10.1 Audit reports:

- show the findings based on a risk assessment e.g. high, medium and low or may be advisory (a finding that does not have a risk impact but has been raised to highlight areas of inefficiencies or good practice)
- include an action plan showing the agreed actions and the target date for implementation
- give an opinion of the system as at the time of the audit
- define the circulation of the draft and the final reports

10.2 Audit report circulation/Reporting structure:

- Service Leads and Line managers receive a draft report for discussion followed by the final report
- Directors receive a copy of all final reports relating to their area of work
- Director Finance receives a copy of all reports for information
- CX and Growth Director is advised of any findings where remedial action is not agreed by both management and internal audit and of any remedial action agreed by management but not subsequently implemented
- CX and Growth Director, as line manager, receives a copy of all final reports that contain actions for which the Director Finance is responsible

10.3 Reporting standards

Upon completion of audits, draft audit reports are issued to the relevant line managers for them to confirm the accuracy of the audit findings. Managers are invited to meet with the Auditor within 10 working days to discuss the report and their response to each finding on the draft report. The remedial action agreed is then recorded in the final report, along with dates for action or implementation.

Audit follow-ups are conducted within 12 months of the final report being issued, except for significant issues which will be followed up sooner and monitored more closely, as appropriate,

Where an Audit is conducted annually, the follow-up will form part of the next audit. An opportunity to immediately rectify any outstanding issues will be given but where this is not done the outstanding issues will be reported to the Audit and Governance Committee. The relevant Director will be notified in advance that the matter is being reported to Audit and Governance Committee.

Low risk findings will only be followed up at the next audit, regardless of whether the system is audited annually or not.

Any agreed remedial action not implemented within a reasonable timescale and any 'high' risk findings that are not accepted will be reported to Strategic Management Board and the Audit and Governance Committee in accordance with the committee's terms of reference.

In summary, Internal Audit works to the reporting quality standards of:

- draft audit reports to be issued within 10 working days of the completion of the results table
- final audit reports to be issued within 10 working days of the discussion of the draft audit report

- final reports to be followed-up within 12 months of the date of issue of the final audit report to ensure that the agreed remedial action due for implementation has been completed

11. Quality assurance

11.1 Internal Audit has established a Quality Assurance and Improvement Program (QAIP). This has been designed to provide reasonable assurance to the various stakeholders of the Internal Audit Service that; Internal Audit:

- performs its work in accordance with this Charter, which is consistent with the Public Sector Internal Audit Standards, Definition of Internal Auditing and Code of Ethics;
- operates in an effective and efficient manner; and is perceived by stakeholders as adding value and improving Internal Audit's operations. To that end, Internal Audit's QAIP will cover all aspects of the Internal Audit activity including:
 - ✓ Monitoring the Internal Audit activity to ensure it operates in an effective and efficient manner
 - ✓ Ensuring compliance with the Standards, Definition of Internal Auditing and Code of Ethics
 - ✓ Helping the Internal Audit activity add value and improve organizational operations
 - ✓ Both periodic and ongoing internal assessments
 - ✓ An external assessment at least once every five years, the results of which are communicated to SMB and the Audit & Governance Committee

The Audit Manager is ultimately responsible for the QAIP, which covers all types of Internal Audit activities, including consulting (where applicable).

11.2 External assessments of the internal audit service are also conducted annually by the Council's external auditors.

11.3 Internal auditors are required to enhance their knowledge, skills and other competencies through continuing professional development.

12. Relationships

12.1 General - in all of these relationships the person/s concerned will be treated with respect, courtesy, politeness and professionalism. Any confidential or sensitive issues raised with, or reported to, Internal Audit staff will be dealt with in an appropriate manner. Where issues could cause embarrassment to the Council, the appropriate manager will be advised immediately so that the issue can be addressed without delay.

12.2 Internal - the main contacts are with: Council employees, service leads, line managers, Directors and the Chief Executive and Growth Director. Prior to the start of each audit, the auditor will meet with the manager to complete a pre-audit questionnaire. As part of this process, the auditor will agree with the manager concerned the timing and scope of the audit and the circulation of the audit report.

12.3 Councillors – the main means of communication between Internal Audit and Councillors is via the Audit and Governance Committee which meets 4 times per year.

12.4 External – Internal audit will liaise with the external auditors in order to:

- foster a co-operative and professional working relationship
- eliminate the incidence of duplication of effort

- ensure appropriate sharing of information
- co-ordinate the overall audit effort

13. Fraud and irregularities

13.1 The Audit Manager is responsible for reviewing and updating the Council's Counter Fraud Strategy and for promoting an anti-fraud culture within the Council. This is achieved by the following:

- raising awareness of fraud by providing counter fraud training via an e-learning package to all existing staff and all new staff as part of their induction
- assessing the Council's level of compliance with the recommendations contained in the Fighting Fraud Locally Strategy
- specific detailed testing in high risk areas
- participation in the National Fraud Initiative data matching exercise
- provision of a fraud hotline to allow suspected fraud and irregularity to be reported by telephone/internet directly to Internal Audit either anonymously or with contact detail provided
- investigation of all areas of concern identified through routine audit, reported to management or via the Council's Whistleblowing policy

13.2 Directors are responsible for managing risks in order to prevent fraud, irregularity, waste of resources, etc. Internal Audit will assist service leads and Directors to effectively manage these risks. However, no level of controls can guarantee that fraud will not occur, even when the controls are performed diligently with due professional care.

13.4 Where there is evidence or reasonable suspicion that a fraud or irregularity has occurred, then this must be reported immediately to Internal Audit. All cases will be dealt with in accordance with the Council's 'Counter Fraud Strategy' and 'Whistleblowing Policy' and the Fraud Response Plan.

14. Non-conformance

14.1 Any instances of non-conformance with the definition of Internal Audit, Code of Conduct or the PSIAS will be reported immediately to the Section 151 Officer and reported to the Audit and Governance Committee. For significant breaches, and if deemed appropriate, consideration will be given to inclusion in the Annual Governance Statement.

15. Review

15.1 The Internal Audit Charter will be reviewed biennially by the Audit Manager and presented to senior management and the Audit and Governance Committee for approval.

16. Audit Process Diagram

16.1 See below.



Pre-audit

- Auditor will contact Service Lead to advise of audit, to identify any areas of concern and to ask for a nominated point of contact to liaise with the Auditor
- Auditor meets with Service Lead and/or nominated contact to complete Pre-audit Questionnaire (PAQ) and to discuss proposed scope of audit
- Proposed scope of audit agreed and signed off by the Audit Manager
- Copy of the PAQ sent to Service Lead and/or nominated contact to confirm agreed scope of audit
- The pre-audit phase establishes the areas of risk to be assessed and is an opportunity to raise issues or concerns that would benefit from audit review



Fieldwork

- *Fieldwork Review*
- Auditor working with nominated staff to determine how well the service is managing associated risk and what controls are in place to support this
- The review could be conducted via interviews, detailed testing, analysis of documents
- *Fieldwork Feedback*
- On completion of the fieldwork, Auditor will discuss any identified issues with the Service Lead and/ or nominated contact



Audit Report

- *Draft Report*
- Will be submitted within 2 weeks of completing the review to the Service lead and/or nominated contact
- This provides the Auditor's opinion in accordance with the Internal Audit definitions
- Remedial action to be agreed between all parties at meeting to discuss draft report
- All remedial action agreed must have a named owner and target date
- The remedial action agreed confirms commitment to the action plan and timescales
- *Final Report*
- Auditor issues final report confirming agreed actions and timescales



Post Audit

- *Implementation of remedial Action*
- Agreed actions must be implemented in accordance with the timeframe approved within the final report
- Audit Manager provides a summary of all audit reports to Audit & Governance Committee quarterly
- Members of Audit & Governance may ask for a full copy of any audit report
- *Follow Up*
- The Service Lead or nominated contact to provide update against target dates to Auditor when requested
- Non-implementation of remedial action will be reported to the relevant Director and/or the Chief Executive and may be reported to Audit and Governance Committee

Internal Audit Charter

Document property	Value
Author:	Helen Kelvey / Helen Putt
Source Location:	S:/Audit/Audit Documents
Related Documents:	Audit Manual Quality Assurance and improvement programme Counter Fraud Strategy Whistleblowing Policy
Date Created:	March 2017
Document Status:	Live

17. Document Control

This document is subject to change control and any amendments will be recorded below.

18. Change History

Version	Date	Changes
2.0	March 2015	Reviewed and updated to reflect changes in service provision
3.0	March 2017	Reviewed and updated to reflect changes in senior management structure, inclusion of mission statement and core principles, changes to reporting and follow up processes
4.0	March 2019	General review, minor amendments and housekeeping
5.0	July 2021	General review, minor amendments and housekeeping

This page is intentionally left blank

REPORT TO AUDIT & GOVERNANCE COMMITTEE

Date of Meeting: 29th September 2021

Report of: Corporate Manager (Executive Support)

Title: Local Government Ombudsman's Annual Review of Complaints 2020-21

Is this a Key Decision?

No

Is this an Executive or Council Function?

No

1. What is the report about?

- 1.1. The report explains the role of the Local Government & Social Care Ombudsman (LGO) in investigating and remedying complaints about councils. It also presents the LGO's annual review of complaints about Exeter City Council for the year ending 31 March 2021.

2. Recommendations:

- 2.1. That members note the report and highlight any issues with the complaints referred to in the LGO's annual review.

3. Reasons for the recommendation:

- 3.1. There is a legal duty to communicate to elected members the council's performance in relation to LGO investigations.

4. What are the resource implications including non-financial resources.

- 4.1. There are no resource implications.

5. Section 151 Officer comments:

- 5.1. The financial implication arising from the complaints are relatively small. Therefore there is nothing significant, from a financial point of view, for Council to consider.

6. What are the legal aspects?

- 6.1. There is a duty under section 5(2) of the Local Government and Housing Act 1989 for the council's Monitoring Officer to prepare a formal report to the council (Audit and Governance Committee) on all Ombudsman complaint decisions.
- 6.2. The LGO considers that this duty is satisfactorily discharged if the Monitoring Officer makes a periodic report to the council summarising the findings on all upheld complaints over a specific period. This may be adequately addressed through an annual report on complaints to members, hence this report.
- 6.3. On rare occasions, the LGO can also issue a '*Formal Public Report*' if a local authority, or any part of it:

- has acted or is likely to act in such a manner as to constitute maladministration or service failure perhaps because of the scale of the fault or injustice, or the number of people affected
 - and where the LGO has conducted an investigation in relation to the matter
- 6.4. Under the provisions of The Local Government Act 1974, whenever the LGO issues a Formal Public Report the council is obliged to lay that report before the council for consideration and respond within three months setting out the action taken, or proposed to be taken, in response to the report. The LGO has not issued any Formal Public Reports in relation to Exeter City Council.
- 6.5. In the unlikely event that an authority is minded not to comply with the LGO's recommendations following a finding of maladministration, he would always expect the Monitoring Officer to report this to members under section five of the Act. This is an exceptional and unusual course of action for any authority to take and should be considered at the highest tier of the authority.

7. Monitoring Officer's comments:

- 7.1. Please see the Monitoring Officers' duty set out in paragraph 6 above.

8. Report details:

- 8.1. The LGO investigates complaints from the public about councils and some other bodies providing public services in England. The LGO investigates alleged or apparent maladministration or service failure that have caused injustice to the complainant. Most council services can be investigated including planning, council tax and housing benefit and some areas of housing. Maladministration in broad terms might include:
- flaws in policies or decision making
 - poor administrative practice
 - failure to adhere to or consider properly statutory guidelines
 - failing to consider properly the exceptional circumstances of an individual or a situation
 - not properly considering statutory powers or duties
 - failing to give an adequate service
- 8.2. The LGO will usually only become involved after a council's complaints procedure has been exhausted. If the LGO finds the council acted with fault, which caused the person an injustice, it will recommend a remedy to put things right. The LGO's remedies are aimed at putting the person back in the position they would have been were it not for the fault. Where appropriate it also recommends action to avoid similar issues affecting other people - such as reviewing practice and procedure - and can recommend remedies for other persons affected by faults found in an individual complaint
- 8.3. Details of the complaints received by the LGO about Exeter City Council, and the decisions made by the LGO on those complaints, for the year ending 31st March 2021 are set out Annex A. Members will note that complaints were upheld in two cases. A copy of the LGO's final reports on each complaint are attached at Annex B.

9. How does the decision contribute to the Council's Corporate Plan?

9.1. Effective handling of complaints and following due process are facets of a well-run council.

10. What risks are there and how can they be reduced?

10.1. No risks identified.

11. Equality Act 2010 (The Act)

11.1 Under the Act's Public Sector Equalities Duty, decision makers are required to consider the need to:

- eliminate discrimination, harassment, victimisation and any other prohibited conduct;
- advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs;
- and foster good relations between people by tackling prejudice and promoting understanding.

11.2 In order to comply with the general duty authorities must assess the impact on equality of decisions, policies and practices. These duties do not prevent the authority from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.

11.3 In making decisions the authority must take into account the potential impact of that decision in relation to age, disability, race/ethnicity (includes Gypsies and Travellers), sex and gender, gender identity, religion and belief, sexual orientation, pregnant women and new and breastfeeding mothers, marriage and civil partnership status in coming to a decision.

11.4 In recommending this proposal no potential impact has been identified on people with protected characteristics as determined by the Act because:

11.4.1 The report does not set policy and there is no negative impact.

12. Carbon Footprint (Environmental) Implications:

12.1 Not applicable

13. Are there any other options?

13.1 Not applicable.

**Bruce Luxton
Corporate Manager (Executive Support)**

Local Government (Access to Information) Act 1972 (as amended)
Background papers used in compiling this report:-

None

ANNEX A

Reference	Category	Decided	Decision	Decision Reason	Remedy	Service improvement recommendations
19014539	Environmental Services & Public Protection & Regulation	01 Feb 2021	Upheld	Maladministration and injustice	Apology and financial redress for avoidable distress/time and trouble.	None
19018752	Planning & Development	30 Oct 2020	Upheld	Maladministration and injustice. No further action as already remedied	None	None
19015113	Housing	11 Aug 2020	Incomplete/Invalid	Insufficient information provided by customer to proceed	None	None
19016398	Planning & Development	30 Nov 2020	Not Upheld	No maladministration	None	None
20003670	Planning & Development	02 Oct 2020	Closed after initial enquiries	Out of time - not made in 12 months	None	None
20005602	Environmental Services & Public Protection & Regulation	30 Sep 2020	Incomplete/Invalid	Insufficient information provided by customer to proceed	None	None
20006428	Housing	14 Oct 2020	Referred back to council for local resolution	Premature decision - advice given	None	None
20007394	Corporate & Other Services	23 Nov 2020	Advice given	Previously considered and decided	None	None
20009282	Housing	12 Feb 2021	Closed after initial enquiries	Out of time - not made in 12 months	None	None
20014237	Housing	25 Mar 2021	Incomplete/Invalid	Insufficient information to proceed and PA advised	None	None

The Ombudsman's final decision

Summary: Mr X complained about the Council's failure to notify him about his neighbour's planning application, which he believes will affect his amenity. There was fault in the way the Council made its decision, for which it has already apologised. The fault made no difference to the outcome of its planning decision.

The complaint

1. Mr X complained about the Council's failure to notify him about his neighbour's planning application. The Council accepted it was at fault and has offered compensation for Mr X.
2. Mr X did not accept the Council's offer, because he did not feel it adequately compensated for the impact the development will have on his amenity.

The Ombudsman's role and powers

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

How I considered this complaint

5. I read the complaint and discussed it with Mr X's representative. I read the Council's response to the complaint and considered documents from its planning files, including the plans and the case officer's report.
6. I gave the Council and Mr X an opportunity to comment on an earlier draft of this decision and I took account of the comments I received.

What I found

Planning law and guidance

7. Councils should approve planning applications that accord with policies on the local development plan unless other material planning considerations indicate they should not.

-
8. Planning considerations include things like:
 - access to the highway;
 - protection of ecological and heritage assets; and
 - the impact on neighbouring amenity.
 9. Planning considerations do not include things like:
 - views over another's land;
 - the impact of development on property value; and
 - private rights and interests in land.
 10. Councils may impose planning conditions to make development acceptable in planning terms. Conditions should be necessary, enforceable and reasonable in all other regards.
 11. Planning enforcement is discretionary and formal action should happen only when it would be a proportionate response to the breach. When deciding whether to enforce, councils should consider the likely impact of harm to the public and whether they might grant approval if they were to receive an application for the development or use.
 12. Regulations set out the minimum requirements for how councils publicise planning applications.
 13. For major development applications, councils must publicise the application by:
 - a local newspaper advertisement; **and** either
 - a site notice; **or**
 - serving notice on adjoining owners or occupiers.
 14. For all other applications, including minor developments, councils must publicise by either:
 - a site notice; **or**
 - serving notice on adjoining owners or occupiers.
 15. As well as regulatory minimum requirements, councils must also produce a Statement of Community Involvement (SCI). The SCI sets out the Council's policy on how it will communicate with the public when it carries out its functions. It is not unusual for SCI policy to commit councils to do more than the minimum legal requirements, for example, to put up a site notice **and** to serve notice on adjoining owners or occupiers.
 16. This Council's SCI says that for minor developments, it will publicise applications by either:
 - a site notice; **or**
 - serving notice on adjoining owners or occupiers.

Background

17. Mr X's neighbour submitted a planning application. It was for development at the rear of the neighbour's home.
18. The Council accepts it was at fault because it intended to send Mr X a notification letter but did not do so. The Council says it has investigated what happened and

found that the mistake was due to a simple error. There was a plan marked with properties to be notified, including Mr X's, but no letter was sent.

19. Before Mr X came to the Ombudsman, the Council had accepted fault, apologised and offered compensation.
20. I have checked the Council's records, looked at the plans and the case officer's report. The case officer report included:
 - a description of the proposal and site;
 - a summary of relevant planning history;
 - comments from neighbours and other consultees;
 - relevant planning policy and guidance;
 - an appraisal of the main planning considerations, including impact on amenity and the nature of the site; and
 - the officer's recommendation to approve the application, subject to planning conditions.

My findings

21. The application is for minor development. Under its SCI, the Council has the option of using either a site notice or neighbour notification letter. The Council says it normally uses neighbour notification letters, but did not send one to Mr X. This is fault.
22. Whenever we find fault, we need to determine whether it caused an injustice to the complainant. In relation to a planning decision, the first step in this process is to ask whether the fault made any difference to the outcome. If we find it is likely the outcome would have been different, we then assess what happened with what would have happened to measure the injustice.
23. In this case, I can see the case officer took account of the material planning considerations, including the impact the development would have had on Mr X's home and amenities. Mr X lost his opportunity to comment and is justifiably disappointed. I think the apology the Council has already given is an adequate remedy for the fault I have found.
24. Even if Mr X had been notified and sent his concerns/objections to the Council, I cannot say the outcome would have been different. Because of this, I cannot say Mr X was caused a significant injustice that has not already been remedied.

Final decision

25. There was fault in the way the Council made its decision, but it did not make a difference to the outcome of the planning decision. The apology the Council has given is an adequate remedy for the disappointment caused to Mr X for its failure to notify him.

Investigator's decision on behalf of the Ombudsman

This page is intentionally left blank

The Ombudsman's final decision

Summary: The complainants complain about the Council's approach to a noise problem from their upstairs neighbour's flat. They say the Council's poor handling of the case, including, wrongly revoking a Home Improvement Notice, caused them significant distress. They also complain about the way the Council approached their complaints about their neighbour's property management. We find the Council was not at fault for revoking the Home Improvement Notice but is at fault for failing to investigate if the Home Improvement Notice had been complied with after evidence suggested it had not. While the Council was initially helpful, there is also some fault in the general way the Council approached the complaint. We have made recommendations with the aim of providing some resolution.

The complaint

1. The complainants, Ms B and Ms C, complain that the Council:
 - wrongly closed their original complaint for no good reason;
 - failed to properly test sound insulation works it had required their neighbour, Mr D, to perform under a Home Improvement Notice, ("the Notice") and;
 - consequently, wrongly revoked the Notice.
2. Ms B and Ms C also complain that the Council failed to address their neighbour's poor management of his property, which is a house of multiple occupation, currently used by students.
3. They complain about the way the Council has, in general, handled the case and their complaint.
4. Ms B owns the flat and Ms C rents it. Ms B says the value of her flat has been diminished because of the landlord's actions/inaction and the Council's failure to address the issues.
5. Ms C says she has had to vacate the property while Mr D's tenants are in occupation because of the distress the noise levels in the above flat cause. She says she has had to seek medical help.
6. Ms B also says her mental health has suffered because of the prolonged distress she has suffered.

The Ombudsman's role and powers

7. We cannot investigate late complaints unless we decide there are good reasons. Late complaints are when someone takes more than 12 months to complain to us about something a council has done. (*Local Government Act 1974, sections 26B and 34D, as amended*)
8. We investigate complaints about 'maladministration' and 'service failure'. 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*)
9. 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

10. I spoke with Ms C and reviewed the complaint file.
11. I reviewed the Council's response to my enquiries and the relevant legislation.
12. Both the Council and the complainants had the opportunity to comment on draft decisions. I have taken any comments into consideration before issuing this final decision.
13. The Ombudsman does not ordinarily investigate complaints where someone has taken more than twelve months to complain about the issues to us. However, the events in this complaint are tied to decisions and actions the Council took in 2017. Further, the complainants have not allowed the issues to rest, having continually complained to the Council about the same issues prior to 2017. I have not decided to go back as far as 2015, when issues around management of Mr D's property were first raised. But I consider I have good reason to investigate from January 2017 to the date the complaint was made to us.

What I found

Relevant law

14. The Housing Act 2004, ("the Act") sets out that councils have a general duty to take enforcement action where it has identified a 'category 1 hazard' at a residential premises. This is a hazard considered a serious and immediate risk to a person's health and safety.
15. Where a council identifies a 'category 2 hazard', a council has the power to use a number of enforcement powers, including serving an Improvement Notice under section 12 of the Act.
16. Where an owner or landlord agrees to take the action required by the council, it might be appropriate to wait before serving a notice unless the owner fails to start the work within a reasonable time. The authority will need to take its own view of what is reasonable in the circumstances. There may be circumstances, for example, where a category 2 hazard has been identified and the occupants are vulnerable, where authorities do not wish to delay beginning formal enforcement action. (*2.18 - 2.19 Housing, Health and Safety Rating System, Enforcement Guidance, Housing Act 2004, Part 1, Housing Conditions. ("The HHSRS")*)

-
17. Satisfying the requirements of the current Building Regulations, the supporting Approved Documents and relevant standards and Codes of Practices will usually achieve the ideal for the majority of hazards. (4.18, (“The HHSRS”))
 18. Section 31 and Schedule 3 to the Act enable authorities to take the action required by an improvement notice itself, with or without the agreement of the person on whom the notice was served...Authorities may have to carry out works without agreement where a notice has not been complied with. (5.13, (“The HHSRS”))
 19. Councils must revoke an improvement notice if they are satisfied that the requirements of the notice have been complied with. (The Act, section 16(1))
 20. It is an offence for a person on whom an improvement notice is served, not to comply with the notice. (The Act, section 30(1))
 21. A Council ‘may’ revoke an improvement notice if it considers it is appropriate to revoke the notice. (The Act, section 16(2) (b))
 22. Councils can take the same action again if they consider the action taken by them so far has not proved satisfactory. (The Act, section 7(3))

Houses of multiple occupancy

23. Councils must keep the housing conditions in their area under review with a view to identifying any action that may need to be taken by them under the provisions of the Housing Act 2004. (The Act, section 3(1))
24. Councils can prosecute landlords for breaching management regulations. (6.5, (“The HHSRS”))

Background

The Council considers serving a Hazard Awareness Notice on Mr D

25. This chronology includes key events in this case and does not cover everything that happened.
26. Ms B has owned her flat (‘the lower flat’) since the late 1990s. Ms C lives in the lower flat, although she says she has been unable to do so for large periods of time because of the distress that the noise in Mr D’s flat above, (‘the upper flat’) causes her.
27. Ms B has been complaining to the Council about various issues with the upkeep of the upper flat since 2015.
28. In late 2016, a Council officer, Officer P, visited the lower flat. In January 2017, Officer P wrote to Ms B saying she considered the noise hazard from the upper flat to be a band E (noise), Category 2 hazard. She said this meant there was a low likelihood of severe or serious harm, but that stress caused by the noise may result in warranting some medical attention.
29. Initially the Council viewed that a Hazard Awareness Notice would be sufficient. However, upon considering Ms C’s protests that the noise was affecting her health, officers conducted further noise monitoring.
30. Around this time, Ms B also informed the Council that she had already undertaken works to reduce the noise on her side of the property.

Mr D undertakes testing – the May 2017 report - and possible other action

31. The Council conducted some further noise monitoring and in March 2017 said it had sufficient evidence to take action. Officer P said it would ask Mr D to undertake a number of actions to remedy the problem. These included completing

works to achieve building regulation standards and testing afterwards, detailing the works undertaken.

32. Officer P said the Council had to give Mr D the opportunity to do the above work by informal agreement first. She said if he did not agree, the Council *may* serve a statutory notice. She also said that if Mr D failed to carry out the works, the Council *may* carry out the works in default.
33. There was some delay. There were tenants occupying the upper flat, which Mr D had to be considerate of. In May 2017, he instructed an acoustic expert to complete the relevant tests, as set out in my para 31 (a) above. Specifically, the expert tested the floor between Mr D's living room and Ms C's bedroom. It did not test the ceiling in Ms C's bedroom.
34. The airborne noise test failed. Following the May 2017 report, Mr D was advised what steps he needed to take to correct the problem. No communication was made with Ms B to suggest that she needed to complete any works following the findings in the May 2017 report.

The Council say it will serve a statutory notice on Mr D and/or complete works in default

35. In June 2017, the Council confirmed in writing to Ms B that Mr D was "...under an obligation to carry out the sound insulation work." In a second email it said, "...if he does not carry out the work the Council will be required to serve a statutory notice."
36. On 22 June 2017, Officer P said that after the initial work was carried out, affecting the bedroom area, it would, "...review the property to determine that the noise hazard has been reduced to an acceptable standard." It said it would do this before considering whether to require sound insulation work to be completed in other parts of Mr D's property.

Council says it will consider next steps

37. However later in the month the Council said it could not confirm whether the Council would carry out the works in default or not. It said this would be considered if the Council decided to serve an improvement notice.
38. The Council said that when deciding on what 'appropriate action' it should take, it was guided by the HHSRS Guidance. It said policy was to ensure that the work carried out is reasonably practicable at reducing noise. It gave an example of where work carried out is expensive but does not improve anything.

August 2017 to March 2018

39. In August 2017, the works had still not been completed. Ms B's MP wrote to the Council on her behalf. The Council responded to her MP. It said that even though the hazard at Ms B's flat was low level, "...as noise from the upstairs room can be heard in the lower flat presenting a potential risk of harm to health and wellbeing, and the case has been ongoing for a number of years, it was considered that some form of action should be taken."
40. It said that work had been required of Mr D. It said it would review next steps when Mr D received a quote from a soundproofing company.
41. In October 2017, Ms B provided the Council with an inventory of works she said had already been carried out to the ceiling of the lower flat.

-
42. Following this, the records show Ms B had a conversation with Dr F, an acoustics specialist. He told her he thought soundproofing should be carried out from both above and below.
43. On 16 November 2017, Dr F carried out another acoustics test on the property, following the information provided by Ms B. The Council says it did not receive this report until 3 December 2017.
44. The report said that the floor above Ms B's bedroom, needed sound insulation. It also suggested some work should be done to a bedroom window.
45. It was recommended that Dr F, or a member of his team, should visit the property for a site visit once the carpets were lifted, to check for any other potential issues.
46. On 15 November 2017, a senior officer, Officer Z, sent Ms B a letter saying he had completed a review of the case. In summary he said:
- The issues between the flat were a Party Wall Act issue and the Council could not get involved.
 - The Council could not get involved further as it did not have the legislative powers to do so.
 - Dr F recommended that the most effective resolution to the issue would be to conduct sound insulation on both sides of the party structure. Officer Z said he agreed with this view.
47. Ms B said she was surprised by this. She said the Council had never before mentioned anything about the Party Wall Act and had in fact said it would serve a statutory notice on Mr D if he did not complete the works as required. She said the Council was reneging on its promise to make sure the work was done and even to do the work in default if it was not carried out.
48. Ms B contacted her local councillor. He wrote to the Council, asking it to explain its apparent change of tack.
49. On 24 November 2017, the Council responded. It said again that the Council could not get involved in the case. Mrs B understood that the case had been closed. The Council refute this. It points to ongoing correspondence about the work that needed to be done in December 2017. I have seen this correspondence and it shows the Council was still considering how to approach the problem in December 2017.
50. It said it wrote to Ms B in January 2017 although Ms B said she did not receive a letter and the Council do not have a copy of that letter.
- The Council serves a Notice on Mr D**
51. Ms B issued a formal complaint about the Council closing the file in January 2018.
52. In February 2018, Officer Z and other officers met with Ms B and Ms C. Following that meeting, the Council reviewed the case.
53. The Council did not keep any minutes of the meeting. Ms B says, at the meeting, the Council said the sound insulation work Ms B had already carried out on her flat was defective. She said no good reason was given for this view and she insisted it was contrary to the findings in the May 2017 report.
54. The Council says these comments are consistent with the comments made in the later report in June 2018 and by the report commissioned by Ms B at a later stage. I will call it "Ms B's report."

-
55. I will refer to the findings of these reports in more detail at a later stage in this decision. However, in summary:
- The June 2018 report discussed the likelihood of whether resilient bars had actually been installed in the work previously done on Ms B's side of the party wall. It concluded that the work done was, "consistent with the claim the resilient bars had been installed."
 - Ms B's report suggested some works could be done to Ms B's flat as well as the work required by Mr D.

The Council reviewed the case again.

56. It decided to ask Mr D to complete the work.
57. The recommendations it set out varied slightly to those set out previously. There was no longer any specific requirement to carry out testing. But it was stressed, among other things, that Mr D should 'upgrade or replace as necessary to comply with' the required standards.
58. The Notice also required Mr D to produce a "certificate of completion" from an approved acoustic consultant detailing the work undertaken *and* its compliance with the relevant standards.
59. Mr D appealed the Notice. While waiting for the appeal hearing, the Council paid 50 per cent of the costs of a new independent acoustics report in June 2018, ("the June 2018 report"). This report specifically investigated *both* sides of the partition between Ms B's lower flat and Mr D's upper flat.

The June 2018 report:

- said the work done appeared to be in agreement with the list of work Ms B had provided. The work assessed was consistent with the claim that resilient bars had been installed.
 - recommended works be completed from Mr D's side of the partition
 - recommended some work could be done to Ms B's side of the partition as there was a 'possible sound flanking path' at the top of Ms C's bedroom window.
60. The report was not shared with Ms B or C until March 2019.

The Tribunal hearing and determination

61. On 14 August 2018, Mr D's appeal against the service of the Council's Notice was heard.
62. The Tribunal decided the Notice should be varied. It accepted Mr D had already completed testing. It provided more time "for the need to involve Dr [F] in assessing the works as they progress." Otherwise, the terms of the Notice remained the same.
63. Ms B says she understands Dr F was not handed a copy of the Tribunal judgment.
64. The Tribunal stated that the June 2018 report, 'showed the way forward.'
65. Mr D accepted that the Category 2 hazard at the premises was 'by reason of the transmission of airborne noise from the [upper flat] to the [lower flat] by reference to the living room area of the ground floor.'
66. While the June 2018 report clarified other work that needed to be done, the Council's view was that earlier reports revealed 'unacceptable airborne noise'. The Council said Mr D had an obligation to complete the works.

-
67. The Council said testing of the party walls would not address, ‘the expert evidence already obtained about the cause of the noise transmission.’ The Council submitted that, “There is now certainty about the work required” and, “there is no further testing required.”
68. The Tribunal judge said that ‘[Mr D] has been identified as the person primarily responsible for the removal of the hazard...’
69. He also said:
- The Council had been a “very helpful third party in seeking solutions”.
 - There was a need to involve Dr F in “...assessing the works as they progress.”
 - The June 2018 report confirmed the nature of the works required in essence. The Judge commented that, “Patience must be limited when a person’s health is at risk.”

After the works were allegedly completed

70. On 7 January 2019, Ms B told the Council that in her opinion the work had not been completed in line with the Improvement notice. She asked for confirmation it had received a completion certificate and plans as per the Notice. She said she would wait to hear from the Council if it needed access to the flat for the final sound test.
71. Officer P responded, saying that she had received confirmation that the works had been completed in accordance with the ACT specification and she would be visiting the property the same day to look at the work done.
72. The records show the Council received confirmation from Dr F that the works had been completed ‘as per our specification’.
73. However, Ms B says that Dr F told her he had not been able to visit the property during the works and could not confirm if the works had been completed or completed correctly.
74. On 21 January 2019, the Council revoked the Notice, stating it was satisfied the terms had been complied with.
75. Ms B again asked for a copy of the June 2018 report, the completion certificate and a plan showing the areas where the work was completed. She also asked for confirmation that Dr F had been involved.
76. Officer Z did not immediately respond to this request but on 7 February 2019 wrote to her, saying:
77. Mr D’s side of the property now met regulation standards and the Council therefore had no further legal action it could take against Mr D.
78. The Council said it had reached its determination by:
- receiving full documentation from Mr D, and
 - conducting an inspection of the work completed. (In response to our enquiries, the Council said that as the works are specialist, it was not an officer’s role to certify them. When the Council officer visited, as the carpets had been relayed, it was not possible to check the works had been done but the Council instead relied on photographs provided by the contractors.)
79. It did not initially respond to Ms B’s request for a completion certificate.

-
80. The Council said that the failure of the airborne noise test suggested that the work Ms B had done to the property had not been successful. Officer Z suggested Ms B complete her own survey.
81. Ms B said she needed to see the June 2018 report to ascertain what needed to be done. She reminded Officer Z that the Tribunal judge had said the June 2018 ‘showed the way forward’. Ms B says that the fact the Council did not provide her with a copy of the report until *after* the works were supposed to be completed is a clear indication that the Council only expected works to be completed by Mr D.
82. Ms B says she received a copy of the June 2018 report about two weeks later.
- Ms B instructs acoustic experts**
83. In May 2019, Ms B commissioned her own report. (“Ms B’s report”). The author of the report did not conduct an assessment from both sides of the party structure.
84. It said:
- Ms B’s ceiling construction was not as had been assumed in the June 2018 report. Ms B will need to upgrade the ceiling construction before sound insulation testing.
 - Mineral wool insulation had been ‘omitted in all areas investigated’. This was the responsibility of Mr D and should be installed before testing.
 - The Improvement Notice had not been complied with in full.
 - Testing compliance is normally demonstrated by undertaking testing.
 - It was expected that the Council had been ‘premature’ in issuing a revocation of the Improvement Notice.
 - Because of the omission of mineral wool insulation, the party floor may not achieve the minimum performance standards, even if the work recommended to Ms B’s flat was completed.
85. In other correspondence, the Council said that:
- “...there is no such thing as a completion certificate” but the Council was satisfied the improvement notice had been complied with. The Council later described the use of the phrase, ‘completion certificate’ as ‘clumsy’.
 - Dr F “...has been involved in liaising with [the Council] on behalf of Mr [D] up until we were satisfied that the notice had been complied with”.
 - There was no requirement for a final noise assessment.
 - An officer took photos of the work during a site visit to confirm it was done. (Later, the Council said that an officer did not take photos but was given copies of the relevant photos).
 - The acoustics report said that mineral wool should be installed across both properties but it did not say by whom.
86. In its stage one response to Ms B’s complaint, the Council said it was not necessary to complete a post work survey because it was probable that the noise would not improve until Ms B completes improvement work from her side.
87. The Council added that in hindsight, it should have served an Improvement Notice on Ms B as well.
88. It offered Ms B permission to apply for a grant of up to £5000 to carry out improvement work. It says this is the maximum amount of grant available under

the policy for these purposes. Usually, to qualify for this grant, it is required that there be a category 1 hazard. The Council says it has waived this requirement because of the circumstances of this case.

Analysis

89. The Council did not have to intervene to address the category 2 hazard at Ms B's flat. Initially, it viewed that only a Hazard Awareness Notice was appropriate. However, it took account of the way in which Ms C was being affected by the prolonged noise hazard at the property. It had the discretion to take action and it decided to do so.
90. Ms B seems to be under the impression that the Council was always clear that it would complete the works in default if Mr D failed, but this was not the case. Initially, the Council said it *may* serve a statutory notice on Mr D and it also only said it *may* complete the works in default.
91. However, after the May 2017 report, the Council's communication was initially more reassuring for Ms B. She was told that if Mr D did not undertake to make sound insulation improvements, as recommended by the Council, the Council *would* serve a statutory notice. Ms B said she was also told that if Mr D completed the works, the Council would 'review' the property to determine if the work had been effective.
92. However, this was only to determine if work was necessary across the whole of the property. And later in the month, the Council reverted to being less forthcoming in its offer of help. It said it could not confirm if the works would be carried out upon default or not. And it noted that it had not decided to serve an improvement notice at that stage.
93. The Council was right to try and negotiate informally with Mr D before serving a Notice. The Guidance says it might be appropriate to wait before serving a Notice. Mr D had agreed to pay for a report testing the acoustics in the flats. It would not have been appropriate to move to serve a formal notice on him at that stage. There was some delay, but Mr D had taken steps to resolve the problem.
94. Ms B's councillor had concerns about the Council's correspondence with Ms B and Ms C. I understand his concerns. At the least, its communication, about whether it would provide support, was very confusing. This is fault, but while I understand Ms B and Ms C were frustrated, I do not consider this amounted to a significant injustice. But the Council's sudden decision to seemingly retract from involvement in the case in November 2017, did.
95. The Council says it had not closed the case. I have seen records that support this. However, it did give Ms B that impression. This view was understandable, given the Council told Ms B it could not get involved in the case.
96. This approach did not make sense to Ms B in the light of what the Council had said up to that point. This was the first time the Council had said that it was unable to help the complainants because of the Party Wall Act. It was also not correct to say it could do nothing to help her. It had, rather, taken a decision to withdraw its open support.
97. The Council told the local MP in September 2017 that it was awaiting a quote from acoustics specialists before considering next steps. The Council said that, because of the potential risk to health and wellbeing and because of the case having been ongoing for a number of years, 'some form of action should be taken.' Then, suddenly the Council seemingly withdrew its support, saying that it

-
- had no legal right to get involved, (which was not, in any event, correct). This is fault.
98. This fault caused Ms B and Ms C an injustice. They were understandably distressed and felt it necessary to complain to bring the Council back to its previous position.
99. I accept however that the Council was, in the background, continuing its work on the case. It was in communication with Mr D and it was making efforts to find resolution. As Mr D raised queries about the Council's approach, it was correct that the Council should consider its position before proceeding. It is regrettable that through this period, Ms C says she find it so hard to cope that she had to sleep on a friend's sofa. But I do not find the Council at fault for delaying action.
100. There was another period of delay while Mr D appealed the March 2018 improvement notice. This was not the fault of the Council.
101. The works were then, the Council was told, completed. The HHSRS says that councils may revoke a Notice if it considers it appropriate to do so. The guidance therefore recognises this is a matter of judgement.
102. It also says that satisfying the requirements of current building regulations, will usually achieve the ideal for the majority of hazards. This provides a guide to what councils might consider appropriate.
103. In this case, the Council considered it appropriate to revoke the Notice because it was, it says, satisfied that the requirements of the Notice had been met. I have to decide if it came to that conclusion reasonably. I consider that it did.
104. It was reasonable to expect the only way one could be satisfied there had been compliance as required by the Notice, was if compliance had been tested. But Dr F told the Council he considered the work done at Mr D's flat had been completed in line with the specification.
105. The law says the Council only had to consider it was appropriate to revoke the Notice. It would have been preferable for Dr F to have been given a copy of the Tribunal judgment, to have been more aware of the emphasis the Judge had placed on his involvement, "...in assessing the works as they progress.". But, ultimately, he provided the Council with his professional opinion that the works had been done. The Council was not at fault for revoking the Notice. It was reasonable to expect the required works had been completed and that the terms of the Notice had been satisfied.
106. But the Council was at fault in other ways. It should not have said its officer took photos of the work, rather than merely accepting copies of photos from Mr D. This could have given the impression that its officer had properly inspected the works when this was not the case. In saying that Dr F was involved in liaising with [the Council] up until we were satisfied that the notice had been complied with", it may have given the impression that, post the Tribunal hearing, Dr F was in regular contact with the Council during the completion of the works. I have not seen evidence this was the case.
107. When the Council was given evidence, which suggested Mr D had not completed the works in the Notice, it chose to insist this was because Ms B had failed to complete works. It should have investigated whether it had been too quick to revoke the Notice and whether it needed to consider issuing another Notice. It should have done so particularly because it had accepted the work had been undertaken, very much on face value.

-
108. The Council says the only way the matter could have been conclusively investigated would have been to take up the floorboards in Mr D's flat or take down the ceiling in Ms B's flat. But if the Council had shown the Tribunal report to Dr F, he would have understood that the Judge had said there was a need to involve him in "...assessing the works as they progress." If that had been done, it would have been possible to ascertain if the work was being done in full during the process. Further, while the Home Improvement Notice did not specifically require testing to be completed, it did state, clumsily as it turns out, that a certificate of completion would be produced. It was within the Council's gift to determine that Dr F's communication satisfied this requirement. But, when evidence was produced that showed some of the work might not have been completed, the Council should have investigated.
109. The Council has pointed out that Ms B's report was conducted without having access to Mr D's side of the party structure. But even so, the author of that report concluded that the mineral wool installation had not taken place. The Council should have been interested in that information. There were options open to it. The HHSRS is clear that councils can take the same action again if they consider the action taken by them so far has not proved satisfactory.
110. The Council did not have to get involved in these issues at the start. But it did. Having recognised the potential damage to Ms C's wellbeing, it had given Ms B and Ms C confidence the issues would be addressed with its support. Having done so, it should have followed through on its involvement. It showed consideration for the position Ms B found herself in by offering her access to grant funds. But, Ms B should not have to take a risk on completing work that may still not alleviate the noise issue if Mr D failed to adhere to the Improvement Notice. It is understandable that Ms B would expect Mr D to comply with the Improvement Notice *first*, before undergoing the significant disturbance that would be brought about by actioning works to her side of the party wall. The Council's failure to ensure the Improvement notice has been complied with is fault.
111. Further, when presented with Ms B's expert report, which showed the absence of mineral wool, the Council said the previous report had not been clear about whose responsibility it was to install the mineral wool. The records I have seen indicate this part of the work was understood to be Mr D's responsibility. To give the impression that this was not the understanding is fault.
112. The Council said it did not consider a post work survey was necessary. It said this was because it was probable the noise would not improve until Ms B completed her works. That would be the case if there was no question that Mr D had completed the works. When questions were raised about that, the Council should have investigated. This was fault.
113. This fault has caused Ms B and Ms C injustice. Ms B and Ms C have no reasonable recourse against Mr D because the Council revoked its Notice. They have produced evidence to say that because of the difficulties with noise between the flats, the value of the lower flat has reduced by £10,000. Ms C says she has not been able to live at the lower flat while the upper flat is occupied.

Property management issues

114. I am only considering the Council's response to issues raised about the management of Mr D's property and how the complainants say that affected them, from the end of 2018. I do not consider there is good reason to investigate further back.

-
115. In late 2017 the complainants provided photographs of the outside of Ms B's property. She was concerned about an issue with Mr D's fence, with weeds and with other matters. The Council says officers visited and at one point helped a neighbour clear some detritus. In June 2018, the Council responded that this was a civil matter. It said that the issues Ms B had described were not a sufficient nuisance for the Council to act on.
116. The Council offered to refer Ms B to the Community Safety Partnership's Neighbour Dispute Service. This offer was not taken up. Ms B says that Mr D refused to engage in mediation.
117. In November 2018, the Council asked Mr D to take action about the falling fence. Ms B says Mr D did not do so and the Council took no further action.
118. In March 2019 Ms B sent the Council photographs of the collapsed fence. Officer Z then said this was not the Council's responsibility and referred Ms B to the Borough Council. The Council says it referred Ms B to the Highways Authority, which was the appropriate authority to address that issue.
119. In May 2019 Ms B made a Community Trigger application to deal with all the issues she had raised about her neighbour.
120. In June 2019, the Community Trigger team responded to her application. It said that the issues she had raised were already subject to the complaints process with the Council, which it said was the most appropriate way to address her issues.

Analysis

121. It is a matter for the Council's professional judgement to ascertain whether the issues Ms B and Ms C raised about the condition of Mr D's property, were significant enough to warrant action or not.
122. The Council referred Ms B to the appropriate authority with regard to the issue around the fence. While Ms B and Ms C considered the state of the property to be distressing, the decision to act or not is one that the Council can take, so long as due consideration has been given. The evidence shows that officers did visit and did not consider the condition of the property was so significant it warranted the Council taking action. I cannot criticise that decision.
123. When Ms B tried to complain using the Community Trigger procedure, she was told her issues were already being considered by the Council. This could not have been correct since she had been told by Officer Z that the Council had no authority to consider the complaints she had made. This must have been very frustrating for Ms B and Ms C. However, the Council was not at fault for this communication.

Recommended action

124. Within one month of my final decision (and in the case of 124 (d)) as soon as possible, the Council should:
- a) Apologise to Ms B and Ms C for the fault identified in this decision.
 - b) Pay Ms B the sum of £500 for the distress involved in pursuing these matters.
 - c) Pay Ms C the sum of £500 to acknowledge the prolonged distress she suffered while living in a property with unacceptable noise levels, acknowledging the prolonged distress caused by the Council's refusal to engage with Ms B and

Ms C after they produced evidence in May 2019 that indicated the works in the Notice may not all have been completed.

- d) Reconsider the information provided by Ms B's expert report in May 2019. The Council should instruct an expert to assess if it agrees with that report, that the Notice was not complied with. If it is found that the Notice was not complied with, the Council should consider what its next steps are. It should, in any case, provide a report to Ms B, Ms C and the Ombudsman, clearly explaining the course of action it decides to take, based on the evidence.

Final decision

125. I have found the Council at fault and made recommendations to address the injustice caused by that fault and to bring about some resolution. I have now completed my investigation.

Investigator's final decision on behalf of the Ombudsman

This page is intentionally left blank

REPORT TO AUDIT AND GOVERNANCE COMMITTEE

Date of Meeting: 29 SEPTEMBER 2021

Report of: Chief Executive & Growth Director

Title: Corporate Risk Register

Is this a Key Decision?

No

Is this an Executive or council function?

Risk management is a council function.

Risk Management is an important element of the council's Code of Corporate Governance. Regular monitoring of the council's corporate risks helps to ensure that the council's business is conducted in accordance with the law and proper standards, that public money is safeguarded and properly accounted for and used economically, efficiently and effectively.

1. What is the report about?

- 1.1 The report advises the committee of the council's risk management progress and presents the updated Corporate Risk Register (Appendix A).

2. Recommendations:

- 2.1 That the committee reviews and notes Corporate Risk Register

3. Reasons for the recommendation:

- 3.1 To comply with the council's Risk Management Policy which states that this committee is responsible for monitoring and reviewing the Council's risks and reporting all new and updated risks to the Chief Executive and Growth Director.

4. What are the resource implications including non-financial resources.

- 4.1 Directors and Senior Managers, as appropriate, are asked to update the Corporate Risk Register on a quarterly basis. The register is reviewed regularly by the Chief Executive and Growth Director, the Strategic Management Board and the Health and Safety Board. This process is currently facilitated by Internal Audit.

5. Section 151 Officer comments:

- 5.1 The key financial risks facing the Council are addressed in this report. In particular, Members should note the extension of the risk to the wider capital programme. This has the potential to be significant financially. In the short term, it is likely that there will be some revisions to the programme to transfer funding between schemes. Members may also need to be aware that schemes are at risk of delay owing to factors outside of the Council's control. Members should also note the mitigations in place and review their effectiveness.

6. What are the legal aspects?

- 6.1 None identified

7. Monitoring Officer's comments:

- 7.1 It is essential that the corporate risk as identified in the risk register is carefully monitored and where possible, measures are put in place to reduce/mitigate the identified risk as will help the Council achieves its identified goals and priorities.

8. Report details:

- 8.1 The Corporate Risk Register (Appendix A) has been reviewed and updated by members of SMB as follows:

- 8.2 Lack of leadership capacity to effectively deliver additional Council objectives and priorities (*risk ref 3*)

Risk was changed from high to low in July. This is as a result of a number of interventions including, early engagement with the challenge of MTFP, identifying a clear strategy to address priorities to ensure balance of efficiencies, reductions and growth to support achievement of corporate goals. – it is proposed that as this risk has been mitigated to low risk that it is removed from the register for review by Audit & Governance.

- 8.3 Inability to deliver carbon neutral operations for Exeter City Council by 2022 (*risk ref 8*)

SMB have agreed that this risk is removed from the register as unachievable and it would appear that the only resolution actually agreed by members is that: "Exeter City Council commit to their operations becoming carbon neutral ahead of the 2030 date and mobilise resource to develop internal plans to deliver the target."

The expectation is that the team, when in post, will be looking to set out a plan for delivery of a net zero Council.

- 8.4 Increased cost of all capital building projects (*risk ref 9*)

This risk previously specifically related to St Sidwells Point, however, it is proposed that this risk is now expanded to cover all capital building projects as it is felt that this better reflects the risk to the Council. As has been widely reported, cost inflation has grown significantly in construction. In addition to the specific challenges facing St Sidwell's Point and the Bus Station, this pressure is applying to the wider capital programme, particularly, but not limited to, the £37 million condition survey programme. As the financial impact is potentially significant, the risk previously reported in respect of St Sidwell's Point is being expanded to include the whole capital programme.

- 8.5 An update on each risk can be found in the notes column of the Corporate Risk Register (Appendix A)

9. How does the decision contribute to the Council's Corporate Plan?

- 9.1 This decision helps to ensure the delivery of the council's purpose 'Well Run Council'.

10. What risks are there and how can they be reduced?

- 10.1 Any risks should be captured in either this document or the operational risk register.

11. Equality Act 2010 (The Act)

11.1 Under the Act's Public Sector Equalities Duty, decision makers are required to consider the need to:

- eliminate discrimination, harassment, victimisation and any other prohibited conduct;
- advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs;
- and foster good relations between people by tackling prejudice and promoting understanding.

11.2 In order to comply with the general duty authorities must assess the impact on equality of decisions, policies and practices. These duties do not prevent the authority from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.

11.3 In making decisions the authority must take into account the potential impact of that decision in relation to age, disability, race/ethnicity (includes Gypsies and Travellers), sex and gender, gender identity, religion and belief, sexual orientation, pregnant women and new and breastfeeding mothers, marriage and civil partnership status in coming to a decision.

11.4 In recommending this proposal no potential impact has been identified on people with protected characteristics as determined by the Act because:

11.4.1 The report does not set policy.

12. Carbon Footprint (Environmental) Implications:

12.1 Not applicable

13. Are there any other options?

13.1 Not applicable.

Chief Executive and Growth Director

Local Government (Access to Information) Act 1972 (as amended)

Background papers used in compiling this report:-

Contact for enquires: Democratic Services (Committees)01392 265275

This page is intentionally left blank

Corporate Risk Register

Review Month:

September 2021

Ref	Date Risk Identified	Risk Owner	Inherent Risk			Existing Mitigations & Controls (What has been done to control the risk?)	Residual Risk			Further Mitigations & Controls to be put into place	Target Implementation Date	Notes
			L'hood	Impact	Risk Score		L'hood	Impact	Risk Score			
1	Failure to deliver anticipated benefits of major projects (St Sidwell's Point and Bus & Coach Station)											
	<p><u>Potential Causes:</u></p> <ul style="list-style-type: none"> - Failure to procure appropriate operator for leisure centre - Adverse weather / other delays typical of such projects <p><u>Potential Impacts:</u></p> <ul style="list-style-type: none"> - Increased costs to Council from project overspends or overruns - Not realising financial and cultural benefits anticipated from project delivery - Damage to Council's reputation and reduced credibility to deliver major projects in future 											
	October 2017	JP Hedge - Director Culture, Leisure and Tourism	3	3	9	<ul style="list-style-type: none"> - Recruited experienced Project Manager, Quantity Surveyor and delivery team - Established high level Programme Board to oversee progress and delivery - Contractor appointed to build the facility, following a 2 stage collaborative approach in procurement. - Fixed price Design & Build Contract, with a limited amount of Provisional Sums. - Technical Assurance & Audit team has been procured to monitor compliance with the Contract, review ongoing performance and positively challenge the build team to help promote the identification and resolution of potential issues / problems. 	2	3	6	- Ongoing reporting of progress and potential issues to Client lead.	Ongoing October 2020	Sept 2021 - no further update

Corporate Risk Register

Review Month:

September 2021

Ref	Date Risk Identified	Risk Owner	Inherent Risk			Existing Mitigations & Controls (What has been done to control the risk?)	Residual Risk			Further Mitigations & Controls to be put into place	Target Implementation Date	Notes
			L'hood	Impact	Risk Score		L'hood	Impact	Risk Score			
2	<p>Insufficient business continuity arrangements to recover critical services effectively</p> <p><u>Potential Causes:</u></p> <ul style="list-style-type: none"> - Critical services not identified - Insufficient plans in place to recover critical services - Lack of testing of plans to ensure arrangements suitable <p><u>Potential Impacts:</u></p> <ul style="list-style-type: none"> - Essential services not recovered in timely fashion - Adverse media and public criticism leading to lack of trust in council - Non compliance with Civil Contingency Plan 											
Page 70	April 2013	Karime Hassan - Chief Executive	3	4	12	<ul style="list-style-type: none"> - List of critical services agreed with SMB - Corporate Business Continuity Plan approved by SMB which sets out roles and responses to certain events (loss of building, loss of ICT etc.) - IT Disaster Recovery Plan in place - Business Continuity plans developed for all L10Critical services - Review of BCM undertaken by Internal Audit following implementation of plans in response to the Covid19 pandemic. Review focused on what worked well and what didn't work so well with a view to ensuring the plan is fit for purpose moving forward. This report is with SMB. 	2	3	6	<ul style="list-style-type: none"> - Regularly review business continuity plans to ensure they are fit for purpose - Business continuity testing to be carried out in line with corporate policy. 	Ongoing March 2022	<p>September 2021:</p> <p>Further work to be undertaken to establish the costs and implications of a formal standby system. Will require member approval</p>

Corporate Risk Register

										Review Month:	September 2021	
Ref	Date Risk Identified	Risk Owner	Inherent Risk			Existing Mitigations & Controls (What has been done to control the risk?)	Residual Risk			Further Mitigations & Controls to be put into place	Target Implementation Date	Notes
			L'hood	Impact	Risk Score		L'hood	Impact	Risk Score			
3	Lack of leadership capacity to effectively deliver additional Council objectives and priorities											
	<p><u>Potential Causes:</u></p> <ul style="list-style-type: none"> - Significant draw on management resources following unanticipated new commitments or changes in political expectations - Medium Term Financial Plan will be under strain because of national decisions on New Homes Bonus and re-setting business rates <p><u>Potential Impacts:</u></p> <ul style="list-style-type: none"> - Higher likelihood of potential governance and performance failures due to stretched resources - Limited capacity for leading and delivering change activity impacting upon achievement of councils strategic priorities - Staff morale and burnout if over prolonged period 											
Page 71	June 2019	ECC Executive 'Karime Hassan - Chief Executive & Growth Director	4	4	16	<ul style="list-style-type: none"> - Experienced and resilient senior management team - Organisational culture with values set up to deliver - Succession planning / effective deputies - Strong record of bringing in funding to support new initiatives / agenda and additional agenda. - Director appointed for Liveable Exeter housing programme - Place Board give visibility to broader programme and access to national funding routes - A Civic university agreement will bring strategic focus from key institutions on the challenges facing the city of Exeter and the ambitions identified in the Exeter 2040 vision. - Liveable Exeter Place Board engages the leadership of the cities institutions in city wide challenges and increased leadership capacity being deployed to the cities challenges - The corporate goals could be redefined to reduce their scope so that they are more narrowly defined so that only matters that the council can control would be measured. This would make the goals more achievable but would fail to deliver the Exeter 2040 vision. 	1	4	4	<ul style="list-style-type: none"> - Support development of political discipline regarding understanding of challenges when embarking on new initiatives and recognition of resourcing levels within the Council. - Encourage more robust peer challenge amongst Members - Review method of celebrating achievements of council - Consider leadership development of tier 3/4 managers to develop strategic capability - A Civic university agreement will bring strategic focus from key institutions on the challenges facing the city of Exeter and the ambitions identified in the Exeter 2040 vision. - Liveable Exeter Place Board engages the leadership of the cities institutions in city wide challenges and increased leadership capacity being deployed to the cities challenges - The corporate goals could be redefined to reduce their scope so that they are more narrowly defined so that only matters that the council can control would be measured. This would make the goals more achievable but would fail to deliver the Exeter 2040 vision. 	TBC	<p>September 2021:</p> <p>Risk was changed from high to low in July. This is as a result of a number of interventions including, early engagement with the challenge of MTFP, identifying a clear strategy to address priorities to ensure balance of efficiencies, reductions and growth to support achievement of corporate goals. – it is proposed that as this risk has been mitigated to low risk that it is removed from the register for review by Audit & Governance.</p> <p>To be removed - see covering report.</p>

Corporate Risk Register

Review Month:

September 2021

Ref	Date Risk Identified	Risk Owner	Inherent Risk			Existing Mitigations & Controls (What has been done to control the risk?)	Residual Risk			Further Mitigations & Controls to be put into place	Target Implementation Date	Notes
			L'hood	Impact	Risk Score		L'hood	Impact	Risk Score			
4	<p>Inability to deliver carbon neutral aspirations for Exeter by 2030</p> <p><u>Potential Causes:</u></p> <ul style="list-style-type: none"> - Financial pressure and economics of carbon reduction - Behavioural challenges over influencing businesses and public - Technical capability to deliver - Lack of control over all stakeholders (businesses, visitors etc.) - Political environment and acceptance of policy changes required - Misalignment with Devon Climate Plan - Failure to engage with resident and business of Exeter to ensure solutions proposed meet real need <p><u>Potential Impacts:</u></p> <ul style="list-style-type: none"> - Reputational - Failure to deliver inclusive growth and retain vibrancy of Exeter as a great place to live - Conflict within Region - Short term changes may not be sustainable 											
08.11.19	Executive	4	3	12	<ul style="list-style-type: none"> - Strategic partnerships - 12 Goals defined for the city to provide framework for carbon neutral. Goals reflect priorities of business and residents - Plans in place to develop roadmap for carbon neutral 2030 - Other major public sector organisations have already committed to becoming carbon neutral (e.g. University of Exeter, Devon County Council)- - SWEEG have been appointed to start work on the City Council Carbon Action Plan following on from the successful carbon baseline study. This will examine our carbon production at a service level and provide practical actions and measures to reduce our production to net zero by changing the way we work or offsetting. Work is continuing on bringing forward proposals for resources to deliver the carbon net zero programme. 	4	3	12	<ul style="list-style-type: none"> - Continue to invest in supporting ECF as a partner organisation to ensure that the ambition to be net-zero is continually communicated and residents and businesses are engaged; ensuring all voices are heard and the solution being developed are benefitting the residents and business. - Improve national communication positioning Exeter as a leading sustainable City highlighting what we are doing - through ECF and Livable Exeter activities - Ensure clear alignment with DERG and national climate action plans to ensure Exeter's plan is incorporated 	Apr-30	September 2021 : No further update	

Corporate Risk Register

Review Month:

September 2021

Ref	Date Risk Identified	Risk Owner	Inherent Risk			Existing Mitigations & Controls (What has been done to control the risk?)	Residual Risk			Further Mitigations & Controls to be put into place	Target Implementation Date	Notes
			L'hood	Impact	Risk Score		L'hood	Impact	Risk Score			
5	<p>Failure to meet Exeter's Housing supply needs as a planning authority and meet strategic 5 years ambitions</p> <p>Potential Causes:</p> <ul style="list-style-type: none"> - Inadequate Land supply - Not granted enough planning permissions - Student development cannot be included in housing supply figures - House builders drip feeding - Political / community buy in to developments - Exeter Local Plan not progressing quickly enough, encounters delays in programme, or is delayed by external factors such as changes to the Planning system or though protracted discussions with neighbouring authorities re region wide issues. <p>Potential Impacts:</p> <ul style="list-style-type: none"> - Vulnerability to development coming forwards/gaining consent which is not in keeping with the character of the city and which may be contrary to strategic ambitions - such as the 2040 Vision or net-zero commitment. - Financial risks with increased appeals, and potentially lost income - Social outcomes - inequality, rising social service costs - significant waiting list - Reputational impact if development on not appropriate location 											
	June 2013	Bindu Arjoon - Director	4	3	12	<ul style="list-style-type: none"> - Brownfield opportunities identified and developed into the Liveable Exeter strategy - The Liveable Exeter programme has secured further funding to support work on the Liveable programme - Higher density developments being encouraged within the city centre. -Social Housing being developed following the lifting of borrowing cap- ambition for 500 homes over 10 years' - Appropriately briefing members to ensure robust decision making processes - The 5 year land supply position has further improved with land supply currently at 4 years and 7 months. 	3	2	6	<ul style="list-style-type: none"> - The Local plan is continuing to progress with a timetable now established and the statement of community involvement developing. - Selling positive image of high quality high density brownfield developments through the Liveable Exeter programme. - using existing planning policy to resist inappropriate development proposals in order to continue to protect the character and beauty of the city. - regular updating of the 5 year land supply position in order to closely monitor land supply in the city 	Ongoing	September 2021 - no further update.

Corporate Risk Register

										Review Month:	September 2021	
Ref	Date Risk Identified	Risk Owner	Inherent Risk			Existing Mitigations & Controls (What has been done to control the risk?)	Residual Risk			Further Mitigations & Controls to be put into place	Target Implementation Date	Notes
			L'hood	Impact	Risk Score		L'hood	Impact	Risk Score			
6	<p>Failure to adapt council workforce to ensure appropriate skills and experience</p> <p><u>Potential Causes:</u></p> <ul style="list-style-type: none"> - Ageing workforce (half of staff over 50, considerable enough) - Difficulty to recruit into key areas - professional areas (planners, lawyers) - Empowerment, skills and engagement of managers to enable this change <p><u>Potential Impacts:</u></p> <ul style="list-style-type: none"> - Loss of experience - Increased spending on agency workers - Not having cost effective council services delivering the right outcomes - Service disruption - Cost of appeals / challenges across the council services - Increased stress / pressure on workforce 											
Page 74	June 2019	Baan Al-Khafaji	3	3	9	- Market supplement scheme in place - Apprenticeship opportunities for new and existing staff - Employing part qualified staff and training them (internal and external) - procurement, planning etc. - Improvements in metric tracking (age, gender, skills profiles) - Business Partnering model allowing for greater collaboration between service areas and HR - Metrics reported to SMB	2	3	6	- Ensure robust implementation of new workforce planning process (local mgmt team led) - Utilising agile program to compliment modernisation of work environment - Review of progress against GDR.	Ongoing	September 2021: No further update

Corporate Risk Register

Review Month:

September 2021

Ref	Date Risk Identified	Risk Owner	Inherent Risk			Existing Mitigations & Controls (What has been done to control the risk?)	Residual Risk			Further Mitigations & Controls to be put into place	Target Implementation Date	Notes
			L'hood	Impact	Risk Score		L'hood	Impact	Risk Score			
7	<p>Maintaining the Financial Sustainability of the Council</p> <p>Potential Causes:</p> <ul style="list-style-type: none"> - Fair funding review from central government involving rebaselining of business rates (income loss of £2.5m per annum) and determination of a new formula which could have funding implications. - Inability to deliver £6m savings target over three year period - Move to 75% business rate retention rather than government grant increases volatility of income and dependence upon growing local economy and business rates. - Inability to grow Exeter city centre and associated business rates etc. - Policy, regulatory or legislative changes which are not fully funded from central govt. - Failure to realise commercial ambitions of council <p>Potential Impacts:</p> <ul style="list-style-type: none"> - unable to balance budget - reduced income for council services - larger than anticipated cuts (in year or over longer term) - reduction in reserves - impacts on council services and therefore resident outcomes 											
	January 2018	Dave Hodgson - Director Finance	4	4	16	- Detailed MTFP assessed and agreed with Members - savings plan agreed and being implemented with suitable governance arrangements in place. - Budget for 2021-22 agreed with significant reserves to protect against Covid related income losses. - Significant investment in city centre regeneration (st sidewall's point & bus station) including developing a new vision for the rest of the site which includes mixed use - Business Development manager extended to continue to identify and grow commercial opportunities - Strong level of unringfenced general fund reserves to protect against shocks	2	4	8	- Continue to respond to consultations making case for council - Lobby government for relaxation of council tax increase restrictions - Further development of role and scope of business development manager position - The emergency budget and subsequent government support in respect of compensation schemes for income losses has enabled the Council to set aside funds to protect against further income losses as a result of continued restrictions in place to protect against Covid. The Council has a clear strategy to address the £6m savings required, although the exact timing of Government decisions around Business Rates and New Homes Bonus remains uncertain.	Dec-21	September 2021: The MTFP has been updated to reflect the latest expectations surrounding Government funding. Further development of the proposals, planned during September and October.

Corporate Risk Register

Review Month:

September 2021

Ref	Date Risk Identified	Risk Owner	Inherent Risk			Existing Mitigations & Controls (What has been done to control the risk?)	Residual Risk			Further Mitigations & Controls to be put into place	Target Implementation Date	Notes
			L'hood	Impact	Risk Score		L'hood	Impact	Risk Score			
8	<p>Inability to deliver carbon neutral operations for Exeter City Council by 2022</p> <p>The Council have committed to make their own operations carbon neutral ahead of 2030 in order to lead the City by example. There is a risk that this is not achieved.</p> <p>Potential Causes:</p> <ul style="list-style-type: none"> - Failure to establish a clear target and trajectory to reduce carbon impact from Council operations - Failure to communicate and engage with staff at all levels to understand the changes required and to identify solutions - Inability to establish baseline and indicators that can measure progress - Unclear ownership of cross-directorship activity and failure to identify/deliver efficient action - Conflicts between carbon reduction and other strategic priorities e.g. cost savings - Failure to balance need for immediate practical action with need for analysis of baseline - Failure to understand the scale of resources (human and financial) required to deliver change - Financial pressures mean resources are not available <p>Potential Impacts:</p> <ul style="list-style-type: none"> - Reputational - Carbon reduction targets will become harder as we approach 2030 which mean the financial investment will increase - Central government may mandate changes that are costly to implement and dont meet local needs 											
	08.11.19	'David Bartram - Director Net Zero Exeter & City Managemen	4	3	12	<p>Full Council have agreed to make operations of Exeter City Council carbon neutral</p> <p>Corporate Energy team has already delivered impactful projects linked to energy reduction and renewal energy generation.</p> <p>Passive Haus projects demonstrating commitment to energy efficient council housing stock.</p>	4	3	12	<p>Develop cross-directorship sustainability plan that incudes: 1.energy (reduction and generation); 2. mobility (Council fleet and staff travel); 3.Sustianability (air quality, biodiversity, resource management); 4. capability (skills, data, operational processes)</p> <p>- Appointment of Director/Senior Officer to assess cross-directorship sustainability performance and identify areas for improvement as well as tracking and reporting progress on carbon performance</p> <p>- Undertake full review of internal policies and processes that are in conflict with carbon neutral aspirations and highlight opportunities for change</p> <p>- Improve communications of Council activities to make own operations carbon neutral and showcase as exemplar to other organisations</p>	Apr-22	<p>September 2021:</p> <p>SMB have agreed to remove this item. Expectation that the team, when in post, will be looking to set out a plan for delivery of a net zero Council.</p>

Corporate Risk Register

Review Month:

September 2021

Ref	Date Risk Identified	Risk Owner	Inherent Risk			Existing Mitigations & Controls (What has been done to control the risk?)	Residual Risk			Further Mitigations & Controls to be put into place	Target Implementation Date	Notes
			L'hood	Impact	Risk Score		L'hood	Impact	Risk Score			
9	<p>Increased cost of all capital building Projects</p> <p>Potential Causes:</p> <ul style="list-style-type: none"> - There will be increased costs as a direct result of actions required to manage the new risks associated with COVID 19 risk - Shortages of materials and labour causing delay and increased costs across the capital programme. <p>Potential impacts</p> <ul style="list-style-type: none"> - Increased costs to Council - Delay in all projects, predominantly St Sidwell's Point and the resulting loss of income and also the condition survey projects, leading to prolonged periods of buildings being below the standard the Council is aiming for. 											
Page 77	August 2021	Dave Hodgson - Director Finance	4	4	16	The global economic impacts are difficult to mitigate. Members may need to reprioritise, accept higher tender costs or delay the capital programme. Those projects already underway will see additional costs	4	4	16	Review timing of existing capital programme	Feb-22	<p>September 2021:</p> <p>As has been widely reported, cost inflation has grown significantly in construction. In addition to the specific challenges facing St Sidwell's Point and the Bus Station, this pressure is applying to the wider capital programme, particularly, but not limited to, the £37 million condition survey programme. As the financial impact is potentially significant, the risk previously reported in respect of St Sidwell's Point is being expanded to include the whole capital programme.</p>

This page is intentionally left blank