



Please ask for Amanda Clayton
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The Chair and Members of Standards
and Audit Committee

19 November 2019

Dear Councillor,

Please attend a meeting of the STANDARDS AND AUDIT COMMITTEE to be held on WEDNESDAY, 27 NOVEMBER 2019 at 2.00 pm in Committee Room 1, Town Hall, Rose Hill, Chesterfield, the agenda for which is set out below.

AGENDA

Part 1(Public Information)

1. Declarations of Members' and Officers' Interests relating to Items on the Agenda
2. Apologies for Absence
3. Minutes (Pages 3 - 8)
4. Summary of Internal Audit Reports Issued (Pages 9 - 50)
5. Mazars 2019/2020 Progress Report (Pages 51 - 62)
6. CSPL Review of Local Government Ethical Standards - amendments to procedures (Pages 63 - 104)

Proposed changes to Council procedures and guidance in response to CSPL Review

7. Local Government Act 1972 - Exclusion of Public

Chesterfield Borough Council, Town Hall, Rose Hill, Chesterfield S40 1LP

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To move "That under Section 100(A)(4) of the Local Government Act 1972 the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A of the Act".

Part 2 (Non Public Information)

8. Procurement (Pages 105 - 116)

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Randy', written in a cursive style.

Local Government and Regulatory Law Manager and Monitoring Officer

STANDARDS AND AUDIT COMMITTEE**Wednesday, 25th September, 2019**

Present:-

Councillor Rayner (Chair)

Councillors Brady
KellmanCouncillors T Murphy
Snowdon

*Matters dealt with under the Delegation Scheme

**11 DECLARATIONS OF MEMBERS' AND OFFICERS' INTERESTS
RELATING TO ITEMS ON THE AGENDA**

Councillor Mark Rayner announced that he was a member of the board of Tapton Innovation Centre as a council appointed role with a non-pecuniary interest.

12 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Caulfield and A Brittain.

13 MINUTES**RESOLVED –**

The Minutes of the previous meetings of the Standards and Audit Committee held on 17 July 2019 were approved and signed by the Chair as a correct record.

**14 TREASURY MANAGEMENT ANNUAL REPORT 2018/19 AND
MONITORING REPORT 2019/20**

The Chief Finance Officer presented a report for Members to consider the Annual Treasury Management Report for 2018/19 and the Treasury Management activities for the first five months of 2019/20.

The report confirmed that during 2018/19 the Council had complied with its legislative and regulatory requirements.

RESOLVED –

That it be recommended to Full Council that:

1. the outturn Prudential Indicators for 2018/19 be approved;
2. the treasury management stewardship report for 2018/19 be approved;
3. the treasury management position for the first five months of 2019/20 be noted.

15 SUMMARY OF INTERNAL AUDIT REPORTS ISSUED 2019/20

The Internal Audit Consortium Manager presented a report summarising the internal audit reports issued during the period 1 June 2019 to 16 August 2019, in respect of reports issued relating to the 2019/20 internal audit plan.

It was noted that six reports had been issued during this period and had been given the following levels of assurance:

- 'Substantial Assurance' – 2
- 'Reasonable Assurance' – 4

The committee was informed that no fraud had been discovered.

New members of the committee asked for clarification on what checks are in place to ensure that the recommendations are acted upon. The Internal Audit Consortium Manager explained that officers are required to determine timescales for the recommendations to be implemented and then any outstanding recommendations are presented to this committee every six months. The senior leadership team and corporate management team are committed to ensuring that the work of the audit team is acted upon without delay. It was agreed that a full audit report be included with the agenda pack of the next committee meeting to enable members to observe the whole process.

*** RESOLVED –**

That the report be noted.

16 OUTSTANDING INTERNAL AUDIT RECOMMENDATIONS

The Internal Audit Consortium Manager presented a report summarising the outstanding internal audit recommendations.

The committee raised concerns around three particular areas with outstanding recommendations. It was agreed that officers from each of the three service areas be invited to the next meeting of the committee to give a full overview of the progress that has been made.

RESOLVED –

1. That the report be noted.
2. That the Assistant Director for Customers, Commissioning and Change, the Client Officer and the Executive Director attend the next Standards and Audit Committee to provide further updates in relation to specific areas of concern.
3. That a further summary of outstanding internal audit recommendations be submitted to the Standards and Audit Committee in April 2020

17 ANNUAL AUDIT LETTER 2018/2019

The Annual Audit Letter from Mr Michael Norman of Mazars had been received for the year 2018/19.

The Annual Audit Letter summarised the outcome from the external auditor's work at the Council during 2018/19, including reference to:

- The unqualified conclusion on the authority's arrangements to secure value for money;
- The unqualified opinion on the authority's financial statements; and
- Confirmation of the audit fee for 2018/19 as £40,383 excluding VAT.

It was noted that Mazars had not found it necessary to make any recommendations in this letter. Mr Norman explained that councils have a statutory requirement to set a balanced budget and Mazars maintain an open dialogue with officers to advise on budget plans.

*** RESOLVED –**

That the Annual Audit Letter for 2018/19 be received.

18 CIPFA STATEMENT ON THE ROLE OF THE HEAD OF INTERNAL AUDIT

The Head of the Internal Audit Consortium presented a publication to the committee that had been republished by the Chartered Institute of Public Finance and Accountancy (CIPFA) on the role of the Head of Audit. It was noted that although there had been no major changes since 2010 there would be value in reacquainting members with the statement.

The statement highlighted five key principles for the Head of Internal Audit and the committee was assured that the Consortium abide by these principles.

RESOLVED –

That the arrangements and processes set out in the report meet the requirements of the CIPFA statement on the Role of the Head of Internal Audit.

19 RIPA - IPCO INSPECTION

The Monitoring Officer presented a report on the outcome of a routine inspection by the Investigatory Powers Commissioner's Office into the Council's compliance with the Regulation of Investigatory Powers Act (RIPA).

It was heard that the last inspection had taken place in 2016 and the recommendation at that point was for all authorising officers to be regularly trained. This training had been carried out but as yet the Council had not exercised its RIPA powers.

The outcome of this report was a recommendation concerning best practise for online activity. Officers' personal social media profiles should

not be used for investigatory purposes, particularly because this practice puts welfare and safety of those officers at risk. Any such investigations should be carried out in line with relevant Codes of Practice and with properly authorized council profile.

It was noted that the inspection had been useful in terms of reviewing processes and the next one would be scheduled for three years time.

RESOLVED –

1. That the report be noted.
2. That the Local Government and Regulatory Law Manager (RIPA Senior Responsible Officer) be authorised to make the relevant changes to Council RIPA policy and procedures.

20 LOCAL GOVERNMENT & SOCIAL CARE OMBUDSMAN ANNUAL REVIEW LETTER 2018/2019

The Monitoring Officer presented a report to the committee informing members about the Local Government and Social Care Ombudsman Annual Review Letter.

It was confirmed that there had been no complaints upheld by the Ombudsman against the Council in the last five years which was significantly less than the national average of 43% a year.

RESOLVED –

That the report be noted.

21 LOCAL GOVERNMENT ACT 1972 - EXCLUSION OF PUBLIC

***RESOLVED –**

That under Section 100(A)(4) of the Local Government Act 1972 the public be excluded from the meeting for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A of the Act.

22 APPOINTMENT TO INDEPENDENT REMUNERATION PANEL

The Senior Democratic and Scrutiny Officer presented a report to the committee to seek approval for the appointment of the Independent Remuneration Panel for 2019-2023.

It was advised that a vacancy for the panel had been advertised and a suitable candidate had been identified. It was recommended to the committee that the two existing members of the panel remain and that the candidate who had been interviewed by the Monitoring Officer and the Senior Democratic and Scrutiny Officer be appointed.

The deadline for written representations to the panel was highlighted as 14th October 2019.

RESOLVED –

That the following individuals be appointed to the Independent Remuneration Panel for 2019-2023;

Tim Nye
Andy Watterson
Nick Chischniak

For publication

Summary of Internal Audit Reports Issued 2019/20

Meeting:	Standards and Audit Committee
Date:	27th November 2019
Cabinet portfolio:	Governance
Report by:	Internal Audit Consortium Manager

For publication

1.0 **Purpose of report**

- 1.1 To present for members' information a summary of Internal Audit Reports issued during the period 17th August 2019 to 1st November 2019 in respect of reports issued relating to the 2019/20 internal audit plan.

2.0 **Recommendation**

- 2.1 That the report be noted.

3.0 **Report details**

- 3.1 The Public Sector Internal Audit Standards require that the Internal Audit Consortium Manager reports periodically to the Standards and Audit Committee in respect of performance against the audit plan. Significant risk and control issues should also be reported.
- 3.2 Attached, as Appendix A, is a summary of reports issued covering the period 17th August 2019 to 1st November 2019, for audits included in the 2019/20 internal audit plan. This period 9 reports have been issued

1 with Substantial assurance and 7 with Reasonable assurance and 1 with Limited assurance.

- 3.3 Appendix A shows for each report a summary of the scope and objectives of the audit, the overall conclusion of the audit and the number of recommendations made / agreed where a full response has been received.
- 3.4 The conclusion column of Appendix A gives an overall assessment of the assurance that can be given in terms of the controls in place and the system’s ability to meet its objectives and manage risk in line with the definitions below.

Assurance Level	Definition
Substantial Assurance	There is a sound system of controls in place, designed to achieve the system objectives. Controls are being consistently applied and risks well managed.
Reasonable Assurance	The majority of controls are in place and operating effectively, although some control improvements are required. The system should achieve its objectives. Risks are generally well managed.
Limited Assurance	Certain important controls are either not in place or not operating effectively. There is a risk that the system may not achieve its objectives. Some key risks were not well managed.
Inadequate Assurance	There are fundamental control weaknesses, leaving the system/service open to material errors or abuse and exposes the Council to significant risk. There is little assurance of achieving the desired objectives.

- 3.5 In line with what has been agreed previously by this Committee Members have received a full copy of the “Limited” assurance internal audit report – Car Parks Income (Appendix C). A summary of the main issues and risks arising can be found at Appendix B. The Town Centre Operations Manager will be at the meeting to provide an update on the actions taken since the completion of the audit.
- 3.6 The Committee also requested at its last meeting to see a full copy of the Corporate Health and Safety Report. This was to gain a better understanding of the internal audit process and because Corporate Health and Safety has previously been identified as a weakness for the Council that the Committee has been monitoring progress on. A full copy of this report can be seen at Appendix D. Whilst further improvement is required it should be noted that the assurance rating from January 18 of “Inadequate” has now moved to “Reasonable”.
- 3.7 In respect of the audits being reported, it is confirmed that there were no issues arising relating to fraud that need to be brought to the Committees attention.
- 3.8 The production of this report ensures that Members charged with governance are aware of any internal control weaknesses or fraud identified by internal audit.

4.0 **Alternative options and reasons for rejection**

- 4.1 The report is for information.

5 **Recommendation**

- 5.1 That the report be noted.

6 **Reasons for recommendation**

- 6.1 To inform Members of the internal audit reports issued in order that the strength of the internal controls in place can be assessed.

Decision information

Key decision number	N/A
Wards affected	All
Links to Council Plan priorities	This report links to the Council's priority to provide value for money services.

Document information

Report author	Contact number/email
Jenny Williams – Internal Audit Consortium Manager	01246 345468 Jenny.williams@chesterfield.gov.uk
Background documents These are unpublished works which have been relied on to a material extent when the report was prepared.	
Appendices to the report	
Appendix A	Summary of Internal Audit Reports Issued
Appendix B	Summary of points arising in respect of Limited assurance internal audit Report – Car Parks Income
Appendix C	Car Parks Income Report
Appendix D	Corporate Health & Safety Report

Chesterfield Borough Council – Internal Audit ConsortiumReport to Standards and Audit CommitteeSummary of Internal Audit Reports Issued 17th August 2019 to 1st November 2019

Report Ref No.	Report Title	Scope & Objectives	Assurance Level	Date			Number of Recommendations	
				Report Issued	Response Due	Response Received	Made	Accepted
006	Venues	Covering systems and procedures at the Pomegranate Theatre, the Winding Wheel and Visitor Information Centre.	Reasonable	21/8/19	12/9/19	10/9/19	9 (4M 5L)	8
007	Council Tax	To ensure that bills are raised promptly and accurately and that there are debt collection procedures in place	Reasonable	4/9/19	25/9/19	17/9/19	11L	10
008	Car Park Income	To review the adequacy of income and banking records and to ensure that the correct fees and charges are levied.	Limited	9/9/19	30/9/19	30/9/19	10 (5M 5L)	10

Report Ref No.	Report Title	Scope & Objectives	Assurance Level	Date			Number of Recommendations	
				Report Issued	Response Due	Response Received	Made	Accepted
009	Outdoor Facilities Income	Reviewing income and banking controls in respect of the miniature train, lease of ponds, fishing licences, hire/lease of bowling clubs, football and cricket pitches, hire of open spaces for events and tennis courts.	Reasonable	25/9/19	16/10/19	1/10/19	6 (2M 4L)	6
010	Data Protection & FOI requests	Review of compliance with GDPR, policies, responsibilities, training, breaches. Adequacy of Publication Scheme and dealing with FOI requests within timescales.	Reasonable	30/9/19	21/10/19	18/10/19	5(1H 2M 2L)	5
011	National Non Domestic Rates	To ensure that bills are raised promptly and accurately and that there are debt collection procedures in place	Substantial	30/9/19	21/10/19	1/10/19	2L	2

Report Ref No.	Report Title	Scope & Objectives	Assurance Level	Date			Number of Recommendations	
				Report Issued	Response Due	Response Received	Made	Accepted
012	Museum & Revolution House Income	To review processes in respect of cash and banking, security, stock takes, insurance, budget.	Reasonable	3/10/19	24/10/19	29/10/19	6M	6
013	Property Inspections Follow Up	To ensure that previous internal audit recommendations have been implemented in terms of gas safety, solid fuel, electrical safety, smoke detector and carbon monoxide detector tests.	Reasonable	14/10/19	1/11/19	6/11/19	7 (4M 3L)	7
014	Corporate Health & Safety	To ensure that legislation is complied with, officers are appropriately trained and that the Recovery Plan is being actioned.	Reasonable	16/10/19	6/11/19	25/10/19	3M	3

H = High Priority M = Medium Priority L = Low priority

Car Parks Income – Main Issues and Risks Arising

- 8 recommendations were made at the previous audit none of which had been implemented. The risk is that identified weaknesses remain in place and could lead to financial loss etc.
- Discounted parking scratch cards had been issued without the delegated authority to give discounts. This could have an impact on expected income levels.
- Financial stationary in terms of blue badge annual passes was poorly controlled. This means passes could have been given out inappropriately.
- Daily cash records and collection sheets were not always being checked and signed. This means that any potential theft / fraud may not be identified.
- Income variances from cash machines were not always being investigated. This means that any potential theft / fraud may not be identified.
- Comprehensive independent management checks on banking etc. were not being completed. This means that any potential theft / fraud may not be identified.

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Bolsover, Chesterfield and North East Derbyshire District Councils'

Internal Audit Consortium

Internal Audit Report

Authority:	Chesterfield Borough Council
Subject:	Car Park Income
Date of Issue:	9th September 2019
Level of Assurance	Limited Assurance
Report Distribution:	Commercial Service Manager Town Centre Operations Manager



INTERNAL AUDIT REPORT

Car Park Income

Introduction

A routine internal audit of the systems and control procedures relating to the collection, recording and banking of income arising from the operation of the Council's car parks has recently been completed.

Scope and Objectives

The scope and objectives of the audit was to ensure that income records are maintained and that there are adequate controls and procedures in place. Areas reviewed were:

- Previous Recommendations
- Parking Fees and Charges
- Controlled financial stationery
- Cash floats
- Banking procedures and records
- Internal checks and procedures
- Ticket procurement, stocks and issues
- Machine Testing
- Discounted parking schemes i.e. monthly and annual permits
- Employee parking permits
- Arrangement with Derbyshire County Council in respect of on-street parking
- New car parks/machines
- Comparison of actual income/expenditure to budgets

It has been decided to carry out certain tests on a cyclical basis therefore the following were not included in the scope of this audit:

- Ticket Advertising
- Machine fault recording and investigation
- Security and procedures in relation to emptying car park machines
- Back-up procedures for car park equipment

Conclusion

As a result of the audit it is considered that the current systems provide **Limited Assurance** on the basis that, despite agreement, all previous recommendations have been restated (Certain important controls are either not in place or not operating effectively. There is a risk that the system may not achieve its objectives. Some key risks were not well managed.), see appendix 1.

Acknowledgement

The Auditors would like to thank the Car Parks staff for their helpful assistance during the audit.

Findings and Recommendations

Previous Audit Recommendations

1. During the previous audit 8 recommendations were made. A review of these recommendations established that all previous recommendations have not been implemented, despite agreement, see table below and appendix 2:

Previous Audit Recommendations	
Completed	0
In Progress	1
Not Completed	7

Incomplete recommendations are restated as part of this audit
(See R1, R4, R5, R6, R7 & R8)

2. In the previous audit a recommendation was made to “*ensure that a record of faults reported and repairs completed is maintained*”. Fault reporting was not included as part of this audit scope, however, a conversation with the Car Parks and CCTV Supervisor established that records of faults are being maintained for Skidata and Metric Machines but not for the Hectronic pay and display machines.

Recommendation	
R1	As recommended in the previous audit it should be ensured that a record of faults reported and repaired is completed and maintained Priority: Low

3. During the 2016/17 audit, a recommendation was made in regards to discounted parking schemes, this area was not included in the scope of the previous audit as it was part of the cyclical tests but reviewed as part of this audit. It was identified that the recommendation was partially completed however further work was required **(See R2)**.

Fees and Charges

4. A report was approved by cabinet on 30/01/2018 detailing the price changes for the car parks run by CBC for implementation in the 2018/19 financial year.
5. Within this report it stated “*That if the income target is achieved in 2018/19 there will be no increase in tariffs in 2019/20 but the prices will be reviewed for 2020/21*” however, it was ascertained that the interpretation was that fees would be reviewed bi-annually, not linked to budgets. Consequently the Town Centre Operations Manager agreed to remove this paragraph from future fees and charges reports.
6. It was evidenced that the car park systems and the Council’s website reflected the current and up to date prices.

Controlled Financial Stationary

7. All general receipt books in stock at the last audit and all books issued since the previous audit were accounted for during this audit.

8. Stock testing was conducted and the following documentation was checked:
 - Surface parking scratch cards
 - Residents scratch cards
 - Blue badge scratch cards
 - Resident's permits
 - Visitor's permits
 - Staff permits
 - Blue badge annual passes

9. All controlled stationary is held in locked storage cupboards accessible only by the car parks officers.

10. Stock testing of car park scratch cards identified the following:
 - Using previous audit stock checks, invoices and purchase orders from the scratch card supplier since the last audit it was confirmed that all ordered scratch cards were received and that current scratch cards stock levels agree with calculated stock levels
 - No records are maintained of stock in hand (**See R4**)
 - All scratch cards issued were adequately recorded
 - A review of the scratch cards being sold from the Visitor information centre established that these sales are being adequately recorded
 - A review of the scratch card sales from the Beetwell street multi-storey car park revealed that scratch card sale were recorded with minor variances (£3.60 Since January 2019).
 - A review of scratch card sales from the support services department identified that sales were being adequately recorded however 1 book of 10 scratch cards was currently missing.

11. It was identified that discounted parking scratch cards had been issued to a few local business when sold in large quantities (e.g. University of Derby). A conversation with the car parks staff established that these discounts had been organised by the Town Centre Operations Manager. A review of the Fees and Charges report for 2018/19 and 2019/20 identified that no delegated authority has been granted for price changes on car parking fees.

Recommendation	
R2	<p>It is essential that the all prices charged comply with the fees and charges approved by the cabinet. Consideration should be given to including delegated authority for discounts within the next fees and charges report</p> <p>Priority: Medium</p>

12. Stock testing of residents, visitor and staff permits identified the following:
 - Using invoices and purchase orders from the printing supplier it was confirmed that all ordered permits were received and that current permit stock levels agreed with calculated stock levels
 - No records are maintained of stock in hand (**See R4**)
 - Permits get logged onto a database when they are issued; these records are not comprehensive as permit details are overwritten when they are renewed
 - No record of spoil permits are retained

- Review of the parking permit records between January 2019 and the 31st July 2019 established the following:

	Zone A			Zone B			Zone C			Park Lane
	Business	Resident	Visitor	Business	Resident	Visitor	Business	Resident	Visitor	Resident
Recorded	9	93	103	2	134	150	2	133	139	12
Not recorded /spoilt	1	15	12	0	18	10	8	31	11	1
Total Used	10	108	115	2	152	160	10	164	150	13
% Not recorded/spoilt	10.00%	13.89%	10.43%	0.00%	11.84%	6.25%	80.00%	18.90%	7.33%	7.69%

- A review of business permits for Zone C identified that these permits had been issued but not recorded in the database
- It was calculated that a total of 12.1% of permits used within the period where either not recorded on the database or spoilt.

Recommendation	
R3	Consideration should be given to reviewing the current system for recording residential parking permits to ensure comprehensive record exists Priority: Low

- A conversation with the Car Parks and CCTV Supervisor established that administration of residents parking is due to be returned to DCC in approximately February 2020.
- Stock testing of the blue badge annual passes and scratch cards identified the following:
 - The original order of 400 annual passes and the sales logs from the MSCPs were used to agree remaining passes left, however no distribution records are held by Car Parks Administration
 - Since the previous audit 2 passes have been issued by Car Parks Administration however no records were retained
 - A review of the current stock and records for the blue badge scratch cards established that these are being adequately used and recorded

Recommendation	
R4	As recommended in the previous 2 audits complete records should be kept and maintained of all controlled financial stationary including the following: <ul style="list-style-type: none"> Amount of stationary received including checking the delivery Amount of stock currently held with current references Spoilt or damaged stationary needs to be recorded to reduce the risk of fraud Any disposals should be recorded and authorised Priority: Medium

Cash Floats

15. A review of all cash floats, ticket machine floats and unbanked income was undertaken on 10/07/2019. Cash floats were checked and agreed to the FMS however parking machines could not be checked as these were self-maintained by the parking machines. Since the previous audit the following was identified:
- The Saltergate MSCP closed then demolished and rebuilt. The cash floats were banked
 - A float of £50 was agreed for use by the car parks staff to top up the parking machines with 10p coins. It was identified £60 was in this float at the time of the audit and it was agreed the float could be increased from £50 to £60
 - The new Saltergate car park opened on 30th July 2019. Cash floats for the new car parking machines have been issued (not checked as part of the audit)
 - A year end adjustment had been completed on the Car Parks float account leaving an incorrect overall balance

Adjustments were made to the car parks floats account on the FMS to correct the issues identified and to ensure that the car parks float account was accurate.

16. It was established that due to the failure of the Beetwell Street MSCP management system, details of cash in the parking machines were not accessible.

Banking Procedures and Records

17. Details of income banked for the period 14/05/2019 – 13/06/2019 (weeks 8–11) were extracted from paying in slips retained by Accountancy Service. Amounts banked were reconciled to the following source documents:
- Daily surface collection sheets (including individual machine audit tickets)
 - Daily MSCP income sheets (including individual APS machine reports)
 - Daily MAN cash reports (MSCP kiosks)
 - PDQ card payment transaction reports
 - DCC on street collection sheets (including individual machine audit tickets)
 - Administration office cash book and general receipt book
18. Income banked reconciled back to all source documentation and there were no issues with the accounting treatment and coding of income in respect of VAT.
19. From a review of the cash collection records the following was identified:
- It was considered that car parking machines are emptied at reasonable intervals to mitigate the risk of holding excessive levels of money
 - A Car Park Attendant signature was missing on 13/60 (21%) collection sheets
 - A Cashier signature was missing on 6/60 (10%) collection sheets

Recommendation	
R5	As recommended in the previous 2 audits it should be ensured that all daily cash records and collection sheets are correctly signed and checked when received by the admin office Priority: Medium

20. Currently, card transactions are recorded on a database, cash on a spreadsheet (“cashbook”) and cheques in a general receipt book.

Recommendation	
R6	As recommended in the previous audit, consideration should be given to recording income (cash & card) in one place i.e. the cashbook Priority: Low

21. A section of the cashbook details the sequential audit ticket numbers to ensure that these are recorded in order and that no machine income is missing. A sample of 4 weeks (weeks 8 – 11) were checked with the following results:
- There were a total of 26 incorrect entries of audit references and 12 incorrectly recorded amounts in the cash book when compared to the audit tickets **see R8**
 - 6 audit tickets (1%) did not run in sequential number order **see R8**
22. Three days of Kiosk income was sampled for Beetwell Street MSCP to ensure that all scratch cards can be traced back to the sales record (Limited information available due to management system failure).
23. Sampling of scratch card sales from the VIC was undertaken to ensure the correct income had been received. 1 month’s income return was confirmed as accurate with no issues.

Income Differences on Machine Emptying

24. Daily expected income, actual income and variances are recorded on the income recording spreadsheet by car parks admin, it was established that there are no variance reports available on this spreadsheet
25. In previous audits it was established that a variance reporting procedure had been communicated to the car parks staff where any variance over £50 is to be investigated, if no satisfactory conclusion is reached then the information is passed to the Town Centre Operations Manager and Internal Audit. This policy and limit was set based on the previous parking machines which were known to have significant machine failures. As new machines have been installed and should be operating more effectively, it was established that any variance over £20 should be investigated.
26. A review of the variances from 14/05/2019 to 16/06/2019 identified 2 variances over £20 of which only 1 had an adequate audit trail/investigation. Although variances have reduced since the previous audit, due to current findings the 2 previous recommendations have been merged & restated (previously R4 & R6).

Recommendation	
R7	As recommended in the previous audit, it should be ensured that the car parks variance reporting procedures are reviewed including variance amounts (£) and that these are adhered to. This should include formulating the cashbook to accurately report weekly/monthly variances of which then could easily be checked by management on a regular basis Priority: Medium

Internal Checks and Procedures

27. During the audit it was established that independent management checks are being completed on randomly selected days each week by the Parking & CCTV Supervisor. One of these days is then also checked by the Town Centre Operations Manager each month.
28. 2 days of banking income was selected at random to ensure all documentation was checked appropriately, findings were as follows:
- Collection sheets were signed by management to confirm the check had taken place
 - Amounts banked reconciled to the collection sheets
 - Variances between audit tickets/cash banked and cashier variances were present on the collection sheets and therefore it was assumed these had been checked
 - 1 collection sheet was missing a car park attendant signature
 - 1 collection sheet was missing a cashier signature
 - There was a difference between the MANCASH audit ticket and what was recorded on the collection sheet
29. Furthermore, it was confirmed that the above checks did not include;
- checking the collection sheet information was correctly entered into the cashbook
 - Income received and recorded in the general receipts book

Recommendation	
R8	<p>As recommended in the previous audit, it should be ensured that appropriate independent management checks are introduced and regularly completed for the following areas:</p> <ul style="list-style-type: none"> • Audit tickets are sequential numbered • Variances • General Receipts (Cheque Payments) • MANCASH • Cross-referencing source documentation with the cashbook <p>Priority: Medium</p>

Ticket Procurement, Stocks and Issues

30. Tickets are purchased through Paperwork UK (formerly Browns Advertising) at a price agreed through a formal contract that expires in September 2022.
31. Since the previous audit, the practice of recording stock of tickets stopped when the Car Park team moved to the Town Hall and tickets started to be stored at Beetwell Street MSCP. No testing could be completed to ensure stock levels were correct.

Recommendation	
R9	<p>Recommence the stock ticket record to track deliveries, issues and used stock to reduce the risk of loss and potential over-ordering</p> <p>Priority: Low</p>

Machine Testing

32. Machines are usually tested when they are emptied and the car park attendants deliver the “test tickets” to the Car Park office daily. The Parking & CCTV Supervisor reviews these but no longer retains them due to lack of storage space.
33. It was discussed during the audit that the purpose of test tickets is to ensure the machines are working correctly to reduce any loss of income. Mitigating factors included the public and car park enforcement officers informing the Council of machine faults and therefore it was agreed not retaining the tickets presented a very low risk. However, it was suggested that test tickets should be retained for a minimum period of 1 month to ensure an audit trail exists to show machines are being regularly tested and any faults identified are being actioned in a timely manner.

Parking Permits

34. Annual and monthly permits issued for use at surface car parks and Saltergate were tested to ensure the correct income and been received.

Saltergate

35. Saltergate permit holders were transferred to Rose Hill car park during its re-build. Rose Hill permits are programmed on the Skidata database but this does not produce reports very easily and therefore a separate spreadsheet is maintained. All permits were business annual permits.
36. 100% (17) of permits tested had not been charged in line with the fees and charges as outlined in the Cabinet Report (compared to 60% (3/5) previously), a discount of £70 had been given for each permit. **See R2**

Surface Car Parks

37. A spreadsheet is maintained by the car park team of surface car park permits. A random sample of 5 permit holders (2 annual, 3 monthly) were selected and all had been charged the correct amount.
38. As part of the current tender (see para 45) this manual system will be placed by a computerised “Pay by Phone” system.

Employee Parking Permits

39. Guidelines and application forms for staff parking permits were found on Aspire. There are two types of staff permits:
 - Employees pay £10 per month and can use specified surface car parks
 - Employees may be given a Rose Hill permit paid for by the budget holder

£10 p/m permits

40. A spreadsheet is used to record staff members with a permit. A random sample of 5 employees were cross-referenced with the payroll system to ensure £10 p/m was being deducted, no issues were found.
41. As per the guidelines, employees are charged £5 if they lose their permit and ask for replacement. 3 employees were chosen at random and it was evidenced they had paid £5 for a replacement permit.
42. Permits are kept in the car park office, it was confirmed during the stock-take that all stock was present.

Rose Hill Permits

43. Staff with a Rose Hill permit are recorded within the Skidata database and on a spreadsheet, these records were cross-referenced and appeared to be up-to-date.
44. A CMT member must authorise a Rose Hill permit, this is usually done by email of which the car park team save on the network. A random sample of 5 employees were tested of which all had authorisation.
45. The guidelines updated in July '19 stated that permits should be valid for Mon-Fri only. 2/5 employees were found to have permits valid for 7 days due to the fact that this is the system default. The Parking & CCTV Supervisor was advised of the findings and will investigate whether the default can be changed to 5 days.

Arrangements between CBC and DCC

46. CBC collects income from on-street machines owned by Derbyshire County Council (DCC). A new agreement is currently being drawn up and will run until February 2020 when it is expected DCC will take back this responsibility.
47. On a quarterly basis the Senior Accounting Technician extracts details of income from the financial management system, deducts the agreed management fee and makes a bank payment to DCC. Quarter 1's payment was reviewed and found to be correct.

New Car Parks/Machines

48. Saltergate re-opened late July '19 and the machines/system was installed as part of the build. A few problems have arisen and are being dealt with by the supplier. The new management system and reporting function introduces more controls than is currently in place at any other car park.
49. Beetwell St Multi-Storey Car Park, Rose Hill and Soresby Street are currently being operated on 3 different systems. These are part of a tender due to go live approx. September '19. The tender will specifically state that new machines will need to be able to interface with

Saltergate's new management system to reduce the multiple systems/procedures in place currently.

50. Ashgate Road car park closed in July 2018 and the ticket machine was moved to Holywell Cross car park to replace an old machine by Camak (repairs contractor).
51. Electrical points were installed in July '19 at 3 car parks through the D2N2 partnership at no cost to CBC. Chargemaster supplied, installed and will maintain the equipment with CBC receiving the fee for parking, and Chargemaster for the electricity use. A review of the agreement highlighted that it ended in October 2019 but discussions with the Town Centre Operations Manager confirmed it should state October 2029 and needs correcting.

Recommendation	
R10	Ensure the agreement with Chargemaster is updated to reflect the actual end date of October 2029 <i>Priority: Low</i>

Budget Monitoring

52. It was confirmed that regular budget monitoring is undertaken by the Town Centre Operations Manager and reported to the Finance and Performance Board.
53. Income for 2018/19 was reviewed and found to be £56,000 below budget.
54. The overall budget for 2019/20 for all car park codes (0150, 0151, 0152 and 0153) was reviewed up to period 4. Income was below budget but expenditure was too so overall there was a surplus of £139,000 against budget.

Appendix 1

Internal Audit Consortium Opinion Definitions

Assurance Level	Definition
Substantial Assurance	There is a sound system of controls in place, designed to achieve the system objectives. Controls are being consistently applied and risks well managed.
Reasonable Assurance	The majority of controls are in place and operating effectively, although some control improvements are required. The system should achieve its objectives. Risks are generally well managed.
Limited Assurance	Certain important controls are either not in place or not operating effectively. There is a risk that the system may not achieve its objectives. Some key risks were not well managed.
Inadequate Assurance	There are fundamental control weaknesses, leaving the system/service open to material errors or abuse and exposes the Council to significant risk. There is little assurance of achieving the desired objectives.

Appendix 2

Previous Recommendations

Recommendation		Priority	Implemented?
R1	<p>As recommended in the previous audit complete records should be kept and maintained of all controlled financial stationary including the following:</p> <ul style="list-style-type: none"> • Amount of stationary received including checking the delivery. • Amount of stock currently held with current references • Spoilt or damaged stationary needs to be recorded to reduce the risk of fraud <p>Any disposals should be recorded and authorised</p>	Medium	No – restated see R4
R2	<p>It should be ensured that appropriate independent management checks are introduced and regularly completed for the following areas:</p> <ul style="list-style-type: none"> • Multi-storey car parks scratch card sales records to ensure they are being correctly recorded • Sequential audit ticket references from the parking machines • Identified variances in the amount banked to ensure they are investigated and reported correctly • The checks of the amounts banked should include the verification of the amount collected to the receipt provided by cashiers 	High	Partially Implemented – restated see R4 and R8
R3	<p>As recommended in the previous audit it should be ensured that all daily cash records and collection sheets are correctly signed and checked when received by the admin office</p>	Medium	No – restated see R5
R4	<p>The spreadsheet should be formulated to ensure accurate reporting of machine collection/banking variances with actual weekly variance being calculated</p>	Low	No – see R7 (merged)
R5	<p>It would be prudent to commence recording card payment transactions within the new income spreadsheet</p>	Low	No – see R6
R6	<p>It should be ensured that the car parks variance reporting procedures are reviewed including variance amounts (£) and that these are adhered to</p>	Medium	No – see R7 (merged)
R7	<p>A review of general receipts issued should be undertaken periodically with amounts banked being confirmed to Cashiers receipts</p>	Low	No – see R8
R8	<p>It should be ensured that a record of faults reported and repaired are completed and maintained.</p>	Low	No – see R1

Cyclical Tests 16/17

16/17 R5	Consideration be given to reviewing all current monthly permits that have been issued as multiple purchases or for multiple months to ensure the correct amounts has been charged	Low	No – restated in a different format see R2
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Internal Audit Report – Implementation Schedule

Report Title:	Car Parks Income	Report Date:	9th September 2019
		Response Due By Date:	30th September 2019

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	Recommendations	Priority (High, Medium, Low)	Agreed	To be Implemented By:		Disagreed	Further Discussion Required	Comments
				Officer	Date			
R1	As recommended in the previous audit it should be ensured that a record of faults reported and repaired is completed and maintained	Low	Yes	LH AB	31/10			
R2	It is essential that the all prices charged comply with the fees and charges approved by the cabinet. If discounts are applied these should be approved by the relevant cabinet member. Consideration should be given to including delegated authority for discounts within the next fees and charges report	Medium	Yes	AB	31/10			
R3	Consideration should be given to reviewing the current system for recording residential parking permits to ensure comprehensive record exists	Low	Yes	AB LH AS	30/11			
R4	As recommended in the previous 2 audits complete records should be kept and maintained of all	Medium	Yes	LH AS AB	31/10			

Recommendations	Priority (High, Medium, Low)	Agreed	To be Implemented By:		Disagreed	Further Discussion Required	Comments
			Officer	Date			
controlled financial stationary including the following: <ul style="list-style-type: none"> • Amount of stationary received including checking the delivery • Amount of stock currently held with current references • Spoilt or damaged stationary needs to be recorded to reduce the risk of fraud • Any disposals should be recorded and authorised 							
R5 As recommended in the previous 2 audits it should be ensured that all daily cash records and collection sheets are correctly signed and checked when received by the admin office	Medium	Yes	LH AS AB	31/10			
R6 As recommended in the previous audit consideration should be given to recording income (cash & card) in one place i.e. the cashbook	Low	Yes	LH AS AB	31/10			
R7 As recommended in the previous audit it should be ensured that the car parks variance reporting procedures are reviewed including variance amounts (£) and that these are adhered to. This should include formulating the cashbook to accurately report	Medium	Yes	LH AS AB	31/10			

Recommendations	Priority (High, Medium, Low)	Agreed	To be Implemented By:		Disagreed	Further Discussion Required	Comments
			Officer	Date			
weekly/monthly variances of which then could easily be checked by management on a regular basis							
R8 As recommended in the previous audit It should be ensured that appropriate independent management checks are introduced and regularly completed for the following areas: <ul style="list-style-type: none"> • Audit tickets are sequential numbered • Variances • General Receipts (Cheque Payments) • MANCASH • Cross-referencing source documentation with the cashbook 	Medium	Yes	LH AS AB	31/10			
R9 Recommend the stock ticket record to track deliveries, issues and used stock to reduce the risk of loss and potential over-ordering	Low	Yes	LH AS	31/10			
R10 Ensure the agreement with Chargemaster is updated to reflect the actual end date of October 2029	Low	Yes	AB	31/10			

Please tick the appropriate response (✓) and give comments for all recommendations not agreed.

Signed Service Manager:	Andy Bond	Date:	30/9/2019
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Note: In respect of any High priority recommendations please forward evidence of their implementation to internal audit as soon as possible.

Bolsover, Chesterfield and North East Derbyshire District Councils'

Internal Audit Consortium

Internal Audit Report

Authority:	Chesterfield Borough Council
Subject:	Corporate Health and Safety
Date of Issue:	16th October 2019
Assurance Level Provided	Reasonable
Report Distribution:	Assistant Director Health & Wellbeing Corporate Health and Safety Advisor



**CHESTERFIELD
BOROUGH COUNCIL**



**North East
Derbyshire
District Council**

INTERNAL AUDIT REPORT

HEALTH AND SAFETY

Introduction

In accordance with the 2019 internal audit plan, an internal audit of the processes and procedures in respect of Corporate Health & Safety has been completed.

Scope and Objectives

The purpose of the audit was to report a level of assurance on the adequacy of corporate systems in place to meet the Council's statutory obligations on health and safety as employer and provider of services and facilities to customers and the public. Areas reviewed as part of this audit included: -

- Follow up of previous internal audit recommendations
- Allocation of responsibility for Health and Safety
- Compliance with Health and Safety legislation
- Comprehensive policies are in place
- Qualifications of Health and Safety employees are appropriate
- Training provided and records maintained
- Performance Management / Benchmarking
- Accident Reporting
- Health and Safety inspections / audits
- Contractor Management
- Health and Safety budget
- Progress made against the Health & Safety Recovery Plan

Conclusion

The conclusion of the audit was that the reliability of the internal controls operating in the system reviewed was assessed as **Reasonable** - the majority of controls are in place and operating effectively, although some control improvements are required. The system should achieve its objectives. Risks are generally well managed.

At the last audit in January 2018 a conclusion of inadequate was reached - there are fundamental control weaknesses, leaving the system/service open to material errors or abuse and exposes the Council to significant risk. There is little assurance of achieving the desired objectives.

As a result of the 2018 audit, a Health and Safety Group was formed and a Health and Safety Recovery Plan developed. The Health and Safety Recovery Plan included the Internal Audit recommendations but also addressed wider issues as well.

The findings of this audit are that significant progress has been made in implementing both the internal audit recommendations and the Health and Safety Recovery plan however there is still work to be done. It is considered that the best way forward is to formally sign off the Health and Safety Recovery Plan recommendations that have been implemented and to formulate a new plan that incorporates the findings of this review.

Findings and Recommendations

Follow up of Previous Internal Audit Recommendations

1. At the last audit 20 recommendations were made. At this review it was established that 12 recommendations have been implemented and 8 are in the process of being implemented. The actions that are in progress have been raised again within the body of this report.

Allocation of Responsibility for Health and Safety

2. There is a Council Health and Safety Committee that meets on a regular basis. The Committee discuss the following items on a routine basis:-
 - Corporate accidents and incidents report
 - Corporate Management team reports
 - Health and Safety Recovery Plan
 - Asbestos issues
 - Ad hoc issues / reports
3. The Council's Corporate Health and Safety Policy 2017 specifies the roles of all members and Council Officers in relation to health and safety and is clear that everybody has a role to play. Members of the Corporate Management Team attend the Council Health and Safety Committee on a regular basis and produce management team reports.
4. Health and Safety is a standing item on the Performance Development Reviews of all staff and this process should identify any training needs and ensure that employees know their responsibilities.

Compliance with Health and Safety Legislation

5. The Corporate Health and Safety Advisor monitors changes to Health and Safety legislation by way of the Health & Safety Executive (HSE) website/bulletins and professional journals. Health and Safety Essentials also send fortnightly updates and have a comprehensive database which includes risk assessments that can be adapted for use by CBC.
6. When new and amended legislation comes into force and when the HSE issues new and amended approved codes of practice, the Health and Safety Advisor updates the Council's corporate H&S arrangements to ensure compliance with the changes.

7. The Health and Safety Advisor is also a member of the Derbyshire Safety Group that meets every quarter.

Comprehensive Policies are in place

8. The Corporate Health and Safety policy was reviewed and approved by the Council's Health and Safety Committee on the 27th June 2018 and can be located on the intranet. The policy is due for review again before the end of 2019.
9. At the last audit it was identified that there are a raft of other health and safety policies that are out of date. A consultant was appointed to review all of the Council's policies and concluded that there were only minor issues with the current policies. The Health and Safety Advisor is working through the policies to make the required amendments. It is hoped that all of the policies will have been reviewed and approved by March 2020. Following approval the revised policies should be placed on the intranet.

Qualifications of Health and Safety Employees are Appropriate

10. The Corporate Health and Safety Advisor confirmed that he is a Chartered Member of the Institute of Occupational Safety and Health and undertakes Continuous Professional Development.

Training Provided and Records Maintained

11. At the last audit health and safety training was not mandatory and completion of the modules on Learning Pool was poor.
12. Now, all required health and safety training is identified during PDR's and managers should ensure that this is completed. Training is available on Aspire Learning Pool and is supplemented with classroom based training.
13. Aspire Learning keeps a record of the training completed by each employee and if a course is mandatory then a reminder is sent when that training is due to be completed again.
14. The table below details the health and safety courses that are now mandatory and the % of staff that have completed these as at the 3rd September 2019. It can be deemed that the completion rates although not perfect are at a high level.

Course	% of staff that have completed
Fire Safety	84.4%
Office Safety	94.9%
Manual Handling	89.5%
Principles of Risk Assessment	88.3%
Managing Health & Safety	89.4%
Working at Height	97.9%
Asbestos Awareness	96.9%
Legionella Awareness	100%
Control of Hazardous Substances	97.7%

15. In addition to this 10 new starters were selected and all of these were found to have completed the relevant Health and Safety training for their role. This is in contrast to the last audit when none of the new starters sampled had completed the training.

16. Work is continuing to improve and assess learning needs linked to job roles.

Performance Management / Benchmarking

17. There are no performance indicators as such but the Health and Safety Recovery Plan identifies the areas that the service needs to focus on and improve. The Health and Safety Advisor also has 7 PDR objectives.

18. The problem with benchmarking is that it is very difficult to compare like with like even when looking at similar authorities. This is not a priority for the service at the moment it may be something that could be revisited in the future.

Accident Reporting

19. All work related accidents and incidents, including road traffic accidents, near misses, acts of violence, damage to property, environmental incidents, cases of work related ill health and dangerous occurrences, must be reported immediately by the employee involved to their line manager.

20. The line manager is responsible for recording the accident or incident on the SHE system, for ensuring a full investigation into the accident or incident is undertaken and for inviting the relevant employee health & safety representative to take part in the investigations.

21. There is an accident reporting procedure on the intranet and this specifies that it is also a requirement that managers record all work related ill health including stress on to the SHE system.

22. The accidents and incidents report to the Council Health and Safety Committee in February 19 demonstrated that there are still many occasions when managers are not completing the column in respect of "action taken to prevent a re-occurrence". This was

discussed with the Health and Safety advisor who confirmed this was a common problem and involved a lot of work for him in chasing up managers. This column had been removed from later Health and Safety Committee reports due to its lack of completion. It is important that the Committee is aware if managers are not appropriately investigating accidents in order that action can be taken.

23. At the time of the audit the Health and Safety Advisor sent an e mail out to all managers reminding them of the need to complete an investigation and to record the actions taken to prevent a re-occurrence on the SHE system. This could also be important in the event of an insurance claim to be able to prove that an investigation has taken place.
24. In terms of the SHE system, meetings have been held with Bassetlaw (system administrators) to enable the better understanding of the system and to improve the use of it. Some “super users” have been created and trained however a few of those have now left the Council.
25. There has been no training in recent years for CBC managers that may need to enter accident details or work related incidences. At the time of the audit the Health and Safety Advisor e mailed managers to forward any names of staff requiring training. About 30 responses were received. The training is to be provided by Bassetlaw.
26. As detailed above, work related stress absences should be recorded on the SHE system however this is clearly not happening in every instance:-
 - At the Health and Safety meeting in June HR reported that 1st Jan – 31st March 2019 there were 11 work related stress absences totaling 260 days. For the same period 1 work related stress absence was recorded in SHE for a period that just says over 7 days.
 - In August for the period 1st April – 30th June 2019 HR reported 3 work related stress instances with 37 lost days but the SHE system recorded 1 absence of 54 days.
27. At the time of the audit an e mail was sent to all managers by the Corporate Health and Safety Advisor reminding them of the requirement to record all work related stress absences on the SHE system.
28. At the time of the last audit the idea of reconciling the 2 systems was rejected in favour of finding a different solution. This issue is raised in a recommendation at the end of the report.

	Recommendation
R1	That the column in Health and Safety Committee reports detailing the action taken to prevent the re-occurrence of an accident be re-instated in order that the Committee can review and call officers to account if necessary (Priority: Medium)

Health and Safety Inspections / Audits

29. Service Heads are responsible for undertaking Health and Safety inspections of their areas. Monthly inspections are performed by officers, quarterly inspections with Union representatives and an annual inspection with a Member and the Executive Director.
30. The inspections are then reported to the Council Health and Safety Committee by each Assistant Director.
31. Internal Audit have also now built in to their testing schedules for the main operational areas to ensure that managers are undertaking health and safety checks.
32. The inspections undertaken by the Health and Safety advisor re commenced in August 19 after a long gap. A timetable of inspections has been devised for the 2019/20 financial year. August and Septembers checks have been completed. It is important that this timetable is adhered to.
33. In addition to the above QLM Leisure Safe were employed to review the arrangements at the Healthy living centre. Certification was gained; a score of 69.12% was achieved with 65% being the necessary score to achieve certification. The recommendations and learning from this report are now to be applied to Queens Park Leisure Centre.

Contractor Management

34. A lot of work has been undertaken in respect of contractor management since the last audit. The Code of Practice Managing Contractors Working for or on Behalf of the Council policy was updated in September 2018 and is on the intranet along with a raft of other relevant documents. Training was also supplied to Officers in June 2019.

Health and Safety Budget

35. Corporate Health and Safety have their own budget cost centre however this only consists of employee expenses, transport and supplies and services, this expenditure is recharged out. Departments within the Authority have their own budgets for training / health and safety issues.

36. The budget for the second health and safety officer that was not replaced is now being utilised to cover the costs for fire risk assessments that are carried out by a consultant.

Progress Made Against the Health and Safety Recovery Plan

37. The Health and Safety Recovery Plan was developed following an “inadequate” audit report in January 2018. The Recovery Plan was wider than but incorporated the internal audit recommendations.

38. Progress against the Recovery Plan has been reported to the Health and Safety Committee quarterly between April 18 and February 19 however there has not been an update to Committee since then. At the time of the Audit the Assistant Director Health and Wellbeing provided a further update to internal audit (August 19).

39. Progress against the Recovery Plan was reviewed by internal audit and was largely in line with the update provided by the Assistant Director Health and Wellbeing. All actions are either completed or progressing. Areas identified by the audit and / or the recovery plan that are still in progress are:-

- Review of policies is not yet complete
- Continued development of the SHE system required
- Aspire to be updated with new policies once completed and approved
- Culture improvement ongoing
- Further work required on the assessment of learning needs for specific roles
- Lone worker policy review to be completed

40. Progress has also been monitored by the Health and Safety Group that was established specifically for this purpose. A number of the Group have now left / are leaving the Council.

	Recommendations
R2	<p>That completed actions on the Health and Safety Recovery Plan be signed off and that a new plan be developed that includes the issues identified as still in progress by this audit. These issues are :-</p> <ul style="list-style-type: none"> • That the structure / resource levels of Corporate Health and Safety is kept under review • Review of policies to be completed. Policies to be approved and placed on the intranet. • That the Asbestos Management Plan and Policy are placed on the intranet • That SHE training is provided to all officers that may need to log an

	<p>accident or work related stress (that have not yet had it).</p> <ul style="list-style-type: none"> • That use of the SHE system is developed including a range of management reports • That further work is undertaken to embed health & safety in to the culture e.g. ensuring that all work related stress is logged on the SHE system, that fire risk assessment actions are completed in a timely manner and that accidents are fully investigated with actions taken to avoid a re-occurrence being logged. • That the Lone Worker review and Policy are completed <p>(Priority :Medium)</p>
<p>R3</p>	<p>That the composition, meeting frequency and purpose of the Health and Safety Group be re visited following the departure of several Members of the Group.</p> <p>(Priority : Medium)</p>

Acknowledgement

41. The auditor would like to thank the Health and Wellbeing Manager and the Corporate Health and Safety Advisor for their helpful assistance during this audit.

Internal Audit Consortium Opinion Definitions

Assurance Level	Definition
Substantial Assurance	There is a sound system of controls in place, designed to achieve the system objectives. Controls are being consistently applied and risks well managed.
Reasonable Assurance	The majority of controls are in place and operating effectively, although some control improvements are required. The system should achieve its objectives. Risks are generally well managed.
Limited Assurance	Certain important controls are either not in place or not operating effectively. There is a risk that the system may not achieve its objectives. Some key risks were not well managed.
Inadequate Assurance	There are fundamental control weaknesses, leaving the system/service open to material errors or abuse and exposes the Council to significant risk. There is little assurance of achieving the desired objectives.

Internal Audit Report – Implementation Schedule

Report Title:	Corporate Health and Safety	Report Date:	16 th October 2019
		Response Due By Date:	6 th November 2019

	Recommendations	Priority (High, Medium, Low)	Agreed	To be Implemented By:		Comments
				Officer	Date	
R1	That the column in Health and Safety Committee reports detailing the action taken to prevent the re-occurrence of an accident be re-instated in order that the Committee can review and call officers to account if necessary.	Medium	Y	MJ	Dec 19	
R2	<p>That completed actions on the Health and Safety Recovery Plan be signed off and that a new plan be developed that includes the issues identified as still in progress by this audit. These issues are :-</p> <ul style="list-style-type: none"> • That the structure / resource levels of Corporate Health and Safety is kept under review • Review of policies to be completed. Policies to be approved and placed on the intranet. • That the Asbestos Management Plan and Policy are placed on the intranet 	Medium	Y	IW	March 2020	All points below to be accommodated

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Recommendations	Priority (High, Medium, Low)	Agreed	To be Implemented By:		Comments	
			Officer	Date		
<ul style="list-style-type: none"> • That SHE training is provided to all officers (that have not yet had it) that may need to log an accident or work related stress. • That use of the SHE system is developed including a range of management reports • That further work is undertaken to embed health & safety in to the culture e.g. ensuring that all work related stress is logged on the SHE system, that fire risk assessment actions are completed in a timely manner and that accidents are fully investigated with actions taken to avoid a re-occurrence being logged. • That the Lone worker review and Policy are completed 						
R3	That the composition, meeting frequency and purpose of the Health and Safety Group be re visited following the departure of several Members of the Group.	Medium	Y	IW	March 2020	

Signed Head of Service:	Ian Waller	Date:	25/10/19
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Note: In respect of any High priority recommendations please forward evidence of their implementation to internal audit as soon as possible.

Please tick the appropriate response (✓) and give comments for all recommendations not agreed.

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Standards and Audit Committee Progress Report – November 2019

Chesterfield Borough Council

Year ending 31 March 2020





CONTENTS

Audit Progress

Appendix A – Technical Update

1. AUDIT PROGRESS

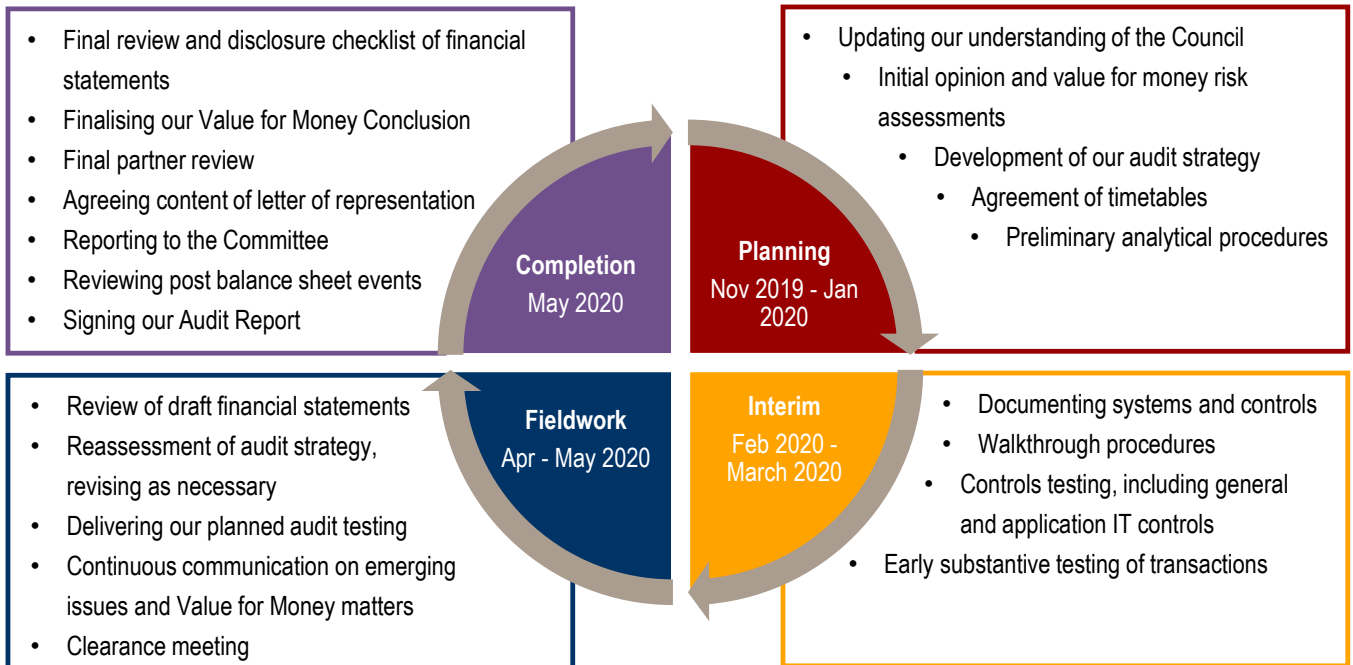
This is our first progress report in respect of the 2019/20 audit year. The report includes updates for the Committee on the progress on our audit of the Council and other non audit work, and our usual summary of recent relevant technical and sector publications.

Changes to the Mazars Audit team

Since the last meeting of the Committee Mark Dalton has taken over from Mark Surridge as the Mazars Director and Engagement Lead for the Audit. Mark Dalton will be attending the Committee's February 2020 meeting to present our 2019/20 Audit Strategy Memorandum.

Audit of the accounts and Value for Money Conclusion

We have been holding our normal planning meetings with senior managers to inform our risk assessments and to update our understanding of the current priorities and challenges the Council faces. Our provisional timetable of work is set out in the diagram below. On completion of the planning and risk assessment work we will bring our Audit Strategy Memorandum to the Standards and Audit Committee for consideration. Our risk assessment process will continue throughout the year.



Based on our planning work to date we do not expect the profile of the accounts audit risks to be significantly different to that reported in our previous year's Audit Strategy Memorandum, with the audit risks and areas of management judgement likely to again include:

- Management override of controls
- Valuation of land and buildings
- Valuation of pension liabilities

We expect our Value for Money risk assessment to again be focused on the Council's arrangements for sustainable resource deployment and its medium term budget pressures.

At this stage, there are no matters arising from our planning work to date which we are required to report to the Committee.

Non Audit Work

We have been engaged to carry out the Reporting Accountant's report work on the Council's 2018/19 Pooling of Housing Capital Receipts Return. The fee for this work is £4,000 and the reporting deadline is 7 February 2020. The work is in progress and there are no matters arising that we need to report to the Committee at this stage.

2. NATIONAL PUBLICATIONS

This section includes, for the Committee's information, summaries of recent technical and other sector publications which we believe are relevant to your broader responsibilities. The reports covered in this appendix, and the key messages, are:

	Publication/update	Key points
National Audit Office (NAO)		
1.	Guidance for Audit Committees on 'Cloud' services	Outlining cloud services and their use in government, this guide suggests questions to ask at planning, implementation and management stages.
2.	Local Enterprise Partnerships: an update on progress	This report follows up the NAO's 2016 report and provides their latest assessment of the current arrangements.
3.	Support for children with special educational needs and disabilities in England	While some children with special educational needs and disabilities (SEND) are receiving high-quality support, many others are not getting the help they should. Local authorities are coming under growing financial pressure as the demand for supporting school pupils with the greatest needs rises.
4.	Consultation – new Code of Audit Practice from 2020	The second stage of consultation is to take place in the second half of 2019. New Code to take effect from 2020/21.
5.	Exiting the EU: supplying the health and social care sectors	This report examines the progress made by DHSC – working with other government departments, NHS and social care providers, and with private sector suppliers – in implementing the Continuity of Supply Programme. It sets out DHSC's plan and records the progress made.
Chartered Institute of Public Finance and Accountancy (CIPFA)		
6.	Local Government Chief Finance Officers losing confidence in ability to deliver services	CIPFA's survey found that Local authority CFOs were less confident in their organisation's future financial positions than they were in 2018/19.
7.	CIPFA launches new Financial Management Code	The new Code is the first from the Institute in almost 15 years, and brings together many areas of local government financial management into one place.

2. NATIONAL PUBLICATIONS

	Publication/update	Key points
Local Government Association (LGA)		
8.	Outcomes from the Counter Fraud Fund	This report sets out the outcomes from the Counter Fraud Fund (CFF), established by the Ministry for Housing, Communities and Local Government (MHCLG), for which councils were able to bid in the autumn of 2014.
9.	A Councillor's guide to Digital Connectivity	Explores the main issues and challenges facing local areas and guidance from experienced councillors who have already undertaken work to get their communities better connected. It also provides a brief overview of Government policy and a glossary of widely used terms.
10.	A Councillor's guide to Procurement	Includes a toolkit that enables councils to set their own objectives and measure their own progress.
Ministry of Housing, Communities and Local Government		
11.	Review of local authority financial reporting and external audit	Announcement of a wide ranging review of financial reporting and external audit in the sector
Public Sector Audit Appointments Ltd		
12	Local Audit Quality Forum	Slides from the latest event and notification of the next meeting 25 November 2019
13	Local Government audit opinions issued by 31 July 2019	Press release relating to the increase in delays in issuing audit opinions

2. NATIONAL PUBLICATIONS

1. Guidance for Audit Committees on Cloud based services, April 2019

Outlining cloud services and their use in government, this guide suggests questions to ask at planning, implementation and management stages.

Public and private sector organisations are increasingly adopting cloud services with the aims of reducing costs, increasing efficiency and transforming their operations. Government policy supports this move but recognises that accessing systems through the internet can bring new contracting models and new challenges. Some organisations may lack the capacity or expertise to select the right product for their needs, implement it securely and manage it effectively.

The guidance provides an overview of cloud services and outlines government policy on their use. It then sets out specific questions for audit committees to consider asking when engaging with their management at three stages:

Assessment of cloud services – looking at cloud services as part of organisational and digital strategies; the business case process; and due diligence.

Implementation of cloud services – considering system configuration; data migration; and service risk and security.

Management of cloud services – covering operational considerations; the need for assurance from third parties; and the capability needed to manage live running.

The guidance points to and complements detailed cloud guidance available elsewhere.

<https://www.nao.org.uk/report/guidance-for-audit-committees-on-cloud-services/>

2. Local Enterprise Partnerships: an update on progress, May 2019

This report sets out:

- changes to the role and remit of LEPs since we last reported in 2016 (Part One);
- the Department's and LEPs' progress with strengthening governance, assurance and transparency (Part Two); and
- funding spent through LEPs to date and future funding arrangements (Part Three).

With the significant amount of public funding now delivered through LEPs and the recent failure of the GCGP LEP, there is a clear rationale for more demonstrable good governance in LEPs and better oversight by the Department. We recognise the inherent tension the Department faces in developing a system of governance over a delivery model based on the devolution of funding and responsibilities to ad hoc, business-led partnerships. The Department has responded by implementing the recommendations of the Ney Review and some of those made by the Committee. While the assurance framework is stronger, backed up by checks on compliance, it is not proven yet whether these measures will be effective in detecting and responding to governance failures over significant sums of public money.

The Department's accounting officer is accountable for the Local Growth Fund delivered through LEPs. However, the Department has made no effort to evaluate the value for money of nearly £12 billion in public funding, nor does it have robust plans to do so. The Department needs a grip on how effectively these funds are used. It needs to act if it wants to have any hope of learning the lessons of what works locally for future interventions in local growth, including the new UK Shared Prosperity Fund.

<https://www.nao.org.uk/report/local-enterprise-partnerships-an-update>

2. NATIONAL PUBLICATIONS

3. Support for pupils with special educational needs and disabilities in England, September 2019

While some children with special educational needs and disabilities (SEND) are receiving high-quality support, many others are not getting the help they should, according to the National Audit Office (NAO). Local authorities are coming under growing financial pressure as the demand for supporting school pupils with the greatest needs rises.

In its report, the NAO estimates that the Department for Education (DfE) gave local authorities £9.4 billion to spend on support for pupils with SEND in 2018-19 – 24.0% of their total core grant for schools. While the DfE has increased school funding, the number of pupils identified as having the greatest needs – those in special schools and with education, health and care plans (EHC plans)¹ in mainstream schools – rose by 10.0% between 2013-14 and 2017-18. Over the same period, funding per pupil dropped by 2.6% in real terms for those with high needs, and also decreased for those without EHC plans.

Local authorities are increasingly overspending their budgets for children with high needs. In 2017-18, 81.3% of councils overspent compared with 47.3% in 2013-14. This is primarily driven by a 20% increase in the number of pupils attending special schools instead of mainstream education. Local authorities have also sharply increased the amount they spend on independent special schools – by 32.4% in real terms between 2013-14 and 2017-18. In some cases, this is due to a lack of appropriate places at state special schools.

In response to overspending against these budgets, local authorities are transferring money from their budgets for mainstream schools to support pupils with high needs. They are also using up their ringfenced school reserves, which have dropped by 86.5% in the last four years. This is not a sustainable approach.

Stakeholders in the sector have raised concerns that the demand for special school places is growing because the system incentivises mainstream primary and secondary schools to be less inclusive. Mainstream schools are expected to cover the first £6,000 of support for a child with SEND from existing budgets and cost pressures can make them reluctant to admit or keep pupils with SEND. Another barrier is that schools with high numbers of children with SEND may also appear to perform less well against performance metrics.

Pupils with SEND, particularly those without EHC plans, are more likely to be permanently excluded from school than those without SEND. Pupils with SEND accounted for 44.9% of permanent exclusions in 2017/18. Evidence also suggests that pupils with SEND are more likely to experience off-rolling – where schools encourage parents to remove a child primarily for the school's benefit – than other pupils.

While Ofsted has consistently rated over 90% of state special schools as good or outstanding, most pupils with SEND attend mainstream schools. Short Ofsted inspections of 'good' mainstream schools are not designed to routinely comment on SEND provision, so provide limited assurance of its quality.

The NAO has also raised questions about the consistency of support across the country as there are substantial unexplained variations between different local areas. Joint Ofsted and Care Quality Commission inspections indicate that many local areas are not supporting children as effectively as they should be.

The NAO recommends that the DfE should assess how much it would cost to provide the system for supporting pupils with SEND created by the 2014 reforms and use this to determine whether it is affordable. The Department needs better measures of the effectiveness of SEND support in preparing pupils for their adult lives and should make changes to funding and accountability arrangements to encourage and support mainstream schools to be more inclusive. It should also investigate the reasons for local variations to increase confidence in the fairness of the system, identify good practice and promote improvement.

Since the report was completed, on Friday 6 September, the DfE announced a review of support for pupils with SEND.

<https://www.nao.org.uk/press-release/support-for-pupils-with-special-educational-needs-and-disabilities-in-england/>

2. NATIONAL PUBLICATIONS

4. Consultation – new Code of Audit Practice from 2020, NAO, May 2019

The NAO is now consulting on the draft text of the new Code of Audit Practice. The consultation is open to everyone and information about how to respond can be found in the consultation document. The consultation will close on 22 November 2019.

Schedule 6 of the Act requires that the Code be reviewed, and revisions considered at least every five years. The current Code came into force on 1 April 2015, and the maximum five-year lifespan of the Code means it now needs to be reviewed and a new Code laid in Parliament in time for it to come in to force no later than 1 April 2020.

NAO is now consulting on the draft text of the new Code and it has published a consultation document, which highlights the key changes to each chapter of the draft Code. The consultation document and a copy of the draft Code can be found at the links below.

The consultation is open until 22 November 2019.

NAO plans to finalise the Code by the end of 2019, ready to be laid in Parliament early in 2020. The new Code will apply from audits of local bodies' 2020-21 financial statements onwards.

<https://www.nao.org.uk/code-audit-practice/code-of-audit-practice-consultation/>

5. Exiting the EU: supplying the health and social care sectors, September 2019

Given the pace of DHSC's work, the report does not reach a final conclusion on the value for money of DHSC's response. Nevertheless, the NAO considers it important to record now where DHSC has got to as it takes forward these preparations and to set out the remaining areas of risk.

The report finds that DHSC has done a great deal of work to prepare for a no-deal exit. It identified several high-risk areas and took steps to fill gaps in the information it held, for example on the reliance of supplies on the short Channel crossings. It worked effectively with stakeholders in the medicines industry to understand the challenges they face in the event of a no-deal exit and to address them, for example by providing additional warehouse capacity. However, there remains a significant amount to do before 31 October, in particular to ensure that:

- government has a full picture of preparedness across the supplier base;
- sufficient cross-government freight capacity is in place; and
- social care providers such as nursing homes are fully prepared.

The report concludes that in the event of a no-deal exit, DHSC would be working in a highly uncertain environment and operating all the elements of its plan would be a hugely demanding task.

<https://www.nao.org.uk/report/exiting-the-eu-supplying-the-health-and-social-care-sectors/>

2. NATIONAL PUBLICATIONS

6. Local Government Chief Finance Officers losing confidence in ability to deliver services, July 2019

Local authority CFOs are less confident in their future financial positions than they were in 2018/19 reveals new research from the Chartered Institute of Public Finance and Accountancy (CIPFA) today. Seventy per cent of respondents to CIPFA's CFO Confidence Survey reported they were either slightly less or much less confident in their financial position for 2020/21 than they were in 2018/19.

Sixty eight per cent said they were either slightly less or much less confident in their ability to deliver services for the same time period.

The majority of respondents (62%) reported equal confidence in their financial position for 2019/20 as they had in 2018/19.

The survey also showed that the area of greatest pressure for top tier authorities remains children's social care, with the number of authorities rating it the most high pressure area rising by six percentage points since the last survey in 2017.

Adults' social care was the area of second highest pressure. The greatest pressures for district authorities were housing, cultural services, and environmental services.

<https://www.cipfa.org/about-cipfa/press-office/latest-press-releases/local-government-chief-finance-officers-losing-confidence-in-ability-to-deliver-services>

7. CIPFA launches new Financial Management Code, October 2019

CIPFA has launched its Financial Management (FM) Code, to drive improvement in financial management for councils across the United Kingdom.

The new Code is the first from the Institute in almost 15 years, and brings together many areas of local government financial management into one place. It follows extensive engagement with senior leaders in public finance from across the country.

The FM Code is based on a set of standards and principles, including organisational leadership, transparency, assurance and sustainability. Its aim is to place financial management at the heart of policy and decision making in local government.

Although the FM Code comes into effect from April 2020, in recognition of the pressures facing local authorities, 2021/22 will be the first full compliance year for the Code. This allows authorities a shadow year to work towards full implementation.

CIPFA will be providing support and guidance over the next 12 months to aid this process.

<https://www.cipfa.org/about-cipfa/press-office/latest-press-releases/cipfa-launches-new-financial-management-code>

2. NATIONAL PUBLICATIONS

8. Outcomes from the Counter Fraud Fund, July 2019

The Local Government Association (LGA) worked with the Chartered Institute of Public Finance and Accountancy (CIPFA) to capture the learning from the 60 successful bids from 52 lead authorities in terms of both how the fund was developed and managed at the local level together with the links with other relevant agencies (including MHCLG); the impact of the programme to date; and any lessons and insights that could be gained from participating councils that could feed into future activity in this area.

This report brings together the conclusions from the analysis provided by the CIPFA survey and provides an overview of activity, highlighting themes that run within or across projects as a whole, an indication of the extent of the savings accruing from activity made possible through the counter fraud fund and losses/costs avoided or recovered, together with some case studies. It also summarises the key findings from four projects looking specifically at the potential threat from serious and organised crime to publicly procured services in local government, sponsored by the Home Office.

<https://www.local.gov.uk/outcomes-counter-fraud-fund>

9. A Councillor's guide to Digital Connectivity , October 2019

This guide is structured to provide councillors with key information on digital connectivity. It explores the main issues and challenges facing our local areas and includes hints, tips and case studies from experienced councillors who have already undertaken work to get their communities better connected. It also provides a brief overview of Government policy and a glossary of widely used terms. Finally, it sets out the vital role councillors can play in this area by:

- educating residents, voluntary and third-sector groups and businesses on the benefits of faster, more reliable connectivity
- bringing communities together to advocate for improved digital connectivity by applying for grants or aggregating their demand to persuade telecommunications providers to build the necessary infrastructure on their road
- helping residents consider where it is most appropriate to build new digital infrastructure, such as a phone mast, to improve residents' and businesses' connectivity whilst conserving local landscapes
- working in partnership with council portfolio holders, officers and other local stakeholders to consider the role your council can play in helping to improve communities' digital connectivity.

<https://www.local.gov.uk/councillors-guide-digital-connectivity-0>

10. A Councillor's guide to Procurement, October 2019

The LGA worked closely with councils to develop the National Procurement Strategy 2018 and a toolkit that enables councils to set their own objectives and measure their own progress. The National Procurement Strategy puts the councillor role front and centre and this guide has been produced specifically with councillors in mind. It looks at the roles councillor's play – both executive members and those engaged in overview and scrutiny work – and provides hints and tips on how to get the best out of procurement and contract management. Just as in the national strategy the focus is on delivering the council's objectives. Councillors do not need to be procurement professionals. But they do need to be able to ask the right questions and that is where this guide comes in.

<https://www.local.gov.uk/councillors-guide-procurement-2019-edition>

2. NATIONAL PUBLICATIONS

11. Review of local authority financial reporting and external audit

The independent review led by Sir Tony Redmond is seeking views on the quality of local authority financial reporting and external audit. This consultation closes at 5pm on 20 December 2019

This call for views invites views, information and evidence on, in particular:

- definitions of audit and its users
- the expectation gap
- audit and wider assurance
- the governance framework
- audit product and quality
- auditor reporting
- how local authorities respond to audit findings
- the financial reporting framework

The call for views is aimed at anyone with a direct or indirect interest in local authority audit and financial reporting

<https://www.gov.uk/government/consultations/review-of-local-authority-financial-reporting-and-external-audit-call-for-views>

12. Local audit quality forum June 2019 slides

The local audit quality forum meeting place in which all of the parties which share a responsibility for audit quality can share experiences and good practice. The June 2019 slides are now available. The forum addressed 'practical help for Audit Committees', including the following:

- what should the Audit Committee look for in the financial statements?
- what is it like being an Audit Committee Chair;
- support for Audit Committees from CIPFA;
- how can Internal Audit help the Audit Committee to deliver its remit;
- support from the Local Government Association for Audit Committees; and
- new Code of Audit Practice consultation.

The next Forum meeting is in November 2019. Local bodies, including Lincolnshire County Council, who have opted into PSAA's national scheme are entitled to attend LAQF events free of charge (up to two delegates per body).

<https://www.psa.co.uk/wp-content/uploads/2019/06/10-07-19-LAQF-Presentation-Slides.pdf>

13. Local Government audit opinions issued by 31 July 2019, August 2019

PSAA issued a press release after the end of the 2018/19 audit deadline to highlight the increase in the number of audit opinions that were not available by 31 July 2019. Reporting an increase in the number of opinions not available, the press release highlights the factors that have driven the increase in delays.

<https://www.psa.co.uk/2019/08/news-release-local-government-audit-opinions-delivered-by-31-july-2019/>

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COMMITTEE ON STANDARDS IN PUBLIC LIFE REVIEW OF LOCAL GOVERNMENT ETHICAL STANDARDS PROPOSED AMENDMENT TO PROCEDURES

MEETING: (1) STANDARDS AND AUDIT COMMITTEE
(2) CABINET MEMBER FOR FINANCE AND GOVERNANCE

DATE: (1) 27TH NOVEMBER 2019
(2) tbc

REPORT BY: MONITORING OFFICER

WARD: ALL

FOR PUBLICATION

1.0 PURPOSE OF REPORT

1.1 To seek members' approval to changes in Council procedure and guidance following consideration by the Committee, in February and April, of the review by the Committee on Standards in Public Life (CSPL) on local government ethical standards.

2.0 RECOMMENDATION

2.1 The Council's procedures for consideration of complaints against members be amended as set out in Appendix 2 and 3 and guidance on declaration of gifts and hospitality be updated, in accordance with the committee response to the CSPL best practice recommendations.

3.0 BACKGROUND

3.1 The current standards system has been in place since changes were introduced by the coalition government in the Localism Act 2011. While

simplifying the members' ethical standards system, dispensing with much bureaucracy, and closing the national body overseeing standards (Standards for England), after several years of operation there is a growing belief that the current system lacks teeth and consistency.

- 3.2 The annual report on standards to this committee in February referred to the recommendations of the CSPL review, published late January¹.
- 3.3 A detailed further report on the review was submitted to the Committee in April to ascertain the extent of members' support for various suggested best practice amendments to policies and procedures.

4.0 CSPL REVIEW AND COMMITTEE RESPONSE

Members are reminded about the CSPL review:

The Report

- 4.1 The 110 page CSPL report was published on 21st January 2019. It made 15 best practice recommendations that local authorities should adopt and a further 26 recommendations for action by government or other organisations.

Executive Summary

- 4.2 While the complete report can be accessed online, the 3 page executive summary is attached at Appendix 1 to the April report. The overriding message of the review is that high standards of conduct in local government are needed to protect the integrity of decision making, maintain public confidence and safeguard local democracy.
 - 4.3 The CSPL report concludes that while the vast majority of councillors and officers maintain high standards of conduct, some councillors nationally do not behave properly, most of the cases relating to bullying, harassment or disruptive behavior. In some cases misconduct is persistent or repeated.
 - 4.4 The government has yet to respond to the CSPL report.
- ##### *Committee views*
- 4.5 The April report to this Committee examined the review themes and recommendations. The Council's standards system compared well to the recommendations. Members' views in April are summarized in column 7 of Appendix 1.

¹ <https://www.gov.uk/government/collections/local-government-ethical-standards>

5.0 PROPOSED CHANGES TO COUNCIL PROCEDURES AND GUIDANCE

- 5.1 In response to members views, proposed action is set out in italics in column 7 of Appendix 1. Draft amendments have been made to the Council's procedures for considering complaints against councilors and for hearings. These are shown in red in Appendix 2 and Appendix 3 respectively.
- 5.2 The Local Government Association is beginning to consider a new draft Code of Conduct. A seminar has been arranged in January, to which Monitoring Officers have been invited, to discuss what changes are needed.
- 5.3 Accordingly, no changes are currently recommended to the wording of the Council's Code of Conduct.
- 5.4 In view of this, best practice changes relating to Gifts and Hospitality (declaration of gifts and hospitality totaling £100 and over in any one year) are proposed to be added to member guidance on gifts and hospitality, rather than the wording of the Code of Conduct itself at this stage.

6.0 CONCLUSIONS

- 7.1 The CSPL report was welcomed by members with support given to the Monitoring Officer for certain best practice changes to procedures.
- 7.2 These changes have now been incorporated into draft changes to Council procedures and guidance.

7.0 RECOMMENDATION

- 8.1 The Council's procedures for consideration of complaints against members be amended as set out in Appendix 2 and 3 and guidance on declaration of gifts and hospitality be updated, in accordance with the committee response to the CSPL best practice recommendations.

8.0 REASON FOR RECOMMENDATION

- 8.1 To enable the Council to operate the ethical standards system effectively and as recommended by the Committee on Standards in Public Life in accordance with best practice and as required by the law.

GERARD ROGERS
MONITORING OFFICER

Further information from Gerard Rogers, Monitoring Officer and Regulatory & Local Government Law Manager, Legal Services - Tel 345310 or gerard.rogers@chesterfield.gov.uk

APPENDIX 2

Part 1

CSPL Best Practice Recommendations

1	2	3	4	5	6	7
Page 67	CSPL Review Best Practice Recommendations	CBC current position	R A G	Proposal (April 2019)	R A G	Committee view April 2019 <i>Action</i>
BP1	Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.	Not in current code. Not currently an issue at CBC		<p>Could incorporate. Not currently an issue as there have not been significant allegations of this.</p> <p>Standards Committee Members would like definition of threshold for what amounts to a breach of the code</p>		<p>No current need</p> <p>Information about thresholds added to procedural guidance</p>

1	2	3	4	5	6	7
	CSPL Review Best Practice Recommendations	CBC current position	R A G	Proposal (April 2019)	R A G	Committee view April 2019 <i>Action</i>
BP2	Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.	Not in current code. Not currently an issue at CBC		<p>Requirement to cooperate: Could incorporate in the Code, though this has not been an issue in Chesterfield to date.</p> <p>Trivial and malicious allegations: It is not seen how the code can prevent this, other than by saying that to make such complaints would be a breach of the Code, however, assessment includes outcomes that could be used in these circumstances e.g. the Complaint should not be investigated because it is vexatious, malicious or obsessive.</p> <p>More explanation in the procedure or on website as to role of the council and</p>		No current need Added to procedure

1	2	3	4	5	6	7
	CSPL Review Best Practice Recommendations	CBC current position	R A G	Proposal (April 2019)	R A G	Committee view April 2019 <i>Action</i>
				assessor/investigator etc might aid clarity.		
BP3	Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.	Not currently. Have been awaiting CSPL review		The CSPL review has been promised for several years and review of code postponed pending this. This recommendation seems to contradict the report's recommendation for a national code to achieve consistency across authorities. Local reviews would result in a divergence and multiplicity of codes over time, possibly diluting effectiveness and generate confusion again.		No current need
BP4	An authority's code should be readily accessible to both councillors and the public, in a	While not on the home screen of the council's website, it can be reached quickly by searching on 'complain' or complaint' which takes one to a		A copy of the Code and the complaints procedure could be deposited at the Customer		A copy of the Code of Conduct to

1	2	3	4	5	6	7
	CSPL Review Best Practice Recommendations	CBC current position	R A G	Proposal (April 2019)	R A G	Committee view April 2019 <i>Action</i>
	prominent position on a council's website and available in council premises.	page with details of the code and the complaints process: https://www.chesterfield.gov.uk/your-council/the-council/your-councillors/complaints-about-members.aspx		Services Centre, or available to be printed off there. There is a complaint or comment tab on the home page of the website which goes to a generic council complaint form: https://secure.chesterfield.gov.uk/forms/?contactus . While this could be used for a councillor complaint, a link to the additional information (left) has now been added.		be deposited at Customer Services Centre
BP5	Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.	There is currently no legal requirement for members to update interests as necessary after election. Such information is available on ModGov under each member's		Democratic Services to remind members at least quarterly in the councillor e-newsletter. Little advantage in it being available as CSV, though consider making it available as a		Members to be regularly reminded to update the register <i>Regular newsletter to</i>

1	2	3	4	5	6	7
	<p>CSPL Review Best Practice Recommendations</p>	<p>CBC current position</p>	<p>R A G</p>	<p>Proposal (April 2019)</p>	<p>R A G</p>	<p>Committee view April 2019</p> <p><i>Action</i></p>
		<p>name, and members are reminded to update annually.</p> <p>Council also has voluntary registration below £50.</p> <p>https://www.chesterfield.gov.uk/your-council/the-council/your-councillors/members-interests.aspx</p>		<p>table showing all councillors (currently only accessible by individual councillor name)</p> <p>CSPL recommends to government requirement that G&H totalling £100 over a year from a single source should also be registered. We could voluntarily adopt this.</p> <p>Recommendation: that the Code of Conduct be amended to require gifts and hospitality totalling £100 over a year from a single source should be registered by members.</p>		<p><i>members</i></p> <p><i>This to be incorporated in <u>guidance</u> on gifts and hospitality, pending wider changes to the Code.</i></p>

1	2	3	4	5	6	7
	CSPL Review Best Practice Recommendations	CBC current position	R A G	Proposal (April 2019)	R A G	Committee view April 2019 <i>Action</i>
BP6	Councils should publish a clear and straightforward public interest test against which allegations are filtered.	Not currently. Cases assessed on case by case basis.		<p>The CSPL Report gives as an example of best practice the Northern Ireland Local Government Commissioner for Standards public interest test:</p> <p>1 ‘CAN’ we investigate your complaint?</p> <ul style="list-style-type: none"> • Is the person you are complaining about a councillor? • Did the conduct occur within the last six months? • Is the conduct something that is covered by the code? <p>2 ‘SHOULD’ we investigate your complaint?</p> <ul style="list-style-type: none"> • Is there evidence which supports the complaint? • Is the conduct something which it is possible to investigate? • Would an investigation be 		

1	2	3	4	5	6	7
	CSPL Review Best Practice Recommendations	CBC current position	R A G	Proposal (April 2019)	R A G	Committee view April 2019 <i>Action</i>
				proportionate and in the public interest? <u>Recommendation:</u> that the councillor complaints procedure be amended to include this test or a similar public interest test.		Members supported addition of this to procedures. <i>This wording added to Council procedure on complaints against members</i>
BP7	Local authorities should have access to at least two Independent Persons.	CBC has 3 IPs. CSPL proposes 2 years maximum		No change currently necessary, but review if term is changed to 2 years.		No current need

1	2	3	4	5	6	7
	CSPL Review Best Practice Recommendations	CBC current position	R A G	Proposal (April 2019)	R A G	Committee view April 2019 <i>Action</i>
		term, CBC currently allows 4 plus renewal. Two IPs were appointed at the end of 2018 for 4 years, the third IP's first term ends towards the end of 2019 and it is intended to ask if they want to continue for another term				
BP8	An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.	CBC does this. IP asked to give views at assessment stage and at hearing. A councillor may speak with an IP about a complaint.		No change necessary		No change necessary
BP9	Where a local authority makes a decision on an allegation of misconduct following a formal	Where a breach is found the decision would be published on the website. It would contain this level of		No change necessary		No change necessary

1	2	3	4	5	6	7
	CSPL Review Best Practice Recommendations	CBC current position	R A G	Proposal (April 2019)	R A G	Committee view April 2019 <i>Action</i>
	investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.	detail. Where no breach found, the councillor decides whether or not there is publication. Elsewhere in the report the CSPL proposes that all decisions are published				
BP10	A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.	CBC does this https://www.chesterfield.gov.uk/your-council/the-council/your-councillors/complaints-about-members.aspx		No change necessary		No change necessary
BP11	Formal standards complaints	Not required at present. Difficult to		This would need to be adopted by		To liaise with

1	2	3	4	5	6	7
	CSPL Review Best Practice Recommendations	CBC current position	R A G	Proposal (April 2019)	R A G	Committee view April 2019 <i>Action</i>
	about the conduct of a parish councillor towards <i>[sic]</i> a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.	see how this could be required, especially as it would mean that a complaint direct by a clerk would be usually then be rejected. Complaints by a clerk might be symptomatic of wider disfunction at a parish council		the Town or Parish Council. Suggest liaison on this with the parish councils.		parish clerks <i>To liaise with parish/town council clerks</i>
BP12	Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.	The MO does this and it is usually not an unreasonable burden. Some local authorities have many parish councils and it can take much of a MOs time.		No change necessary		No change necessary
BP13	A local authority should have	This occurs in practice and the		Could make this explicit.		Procedures

1	2	3	4	5	6	7
	CSPL Review Best Practice Recommendations	CBC current position	R A G	Proposal (April 2019)	R A G	Committee view April 2019 <i>Action</i>
	procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.	<p>regulatory solicitors are alive to the risks and take appropriate steps, though there is no formal procedure.</p> <p>Would ask a MO from a neighbouring authority is a conflict prevented MO, DMO and the regulatory solicitors from looking at a complaint.</p> <p>We have previously been asked to investigate complaints for other authorities under the former Code of Conduct. Reciprocal arrangements would be made again if necessary.</p> <p>While a councillor on one case has not understood role of investigator (suggested they were acting for the complainant), the greater issue is suspicion by the complainant that they will not get a fair hearing by committee due to political interests</p>		<p>Greater liaison with MOs of neighbouring authorities and MO networks.</p> <p>Monitoring Officer could consider whether or not the investigator should be a solicitor and the solicitor attends instead as advocate at hearing.</p> <p>Information on website on how conflicts by assessor, investigator, IP and committee are prevented. However, pressure to have an 'independent' examination should be considered on a case by case basis.</p>		<p>to be amended to make this clearer</p> <p><i>Procedures amended</i></p>

1	2	3	4	5	6	7
	CSPL Review Best Practice Recommendations	CBC current position	R A G	Proposal (April 2019)	R A G	Committee view April 2019 <i>Action</i>
		or that IPs may be biased.				
BP14	Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.	Not currently at CBC		Liaise with Internal Audit with a view to greater information in annual governance statement. Less easy to legally require transparency		<i>Liaising with internal audit</i>
BP15	Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.	Generally this is currently done on an ad hoc basis in view of low frequency of complaints		Explore ways of formalising this, though given low frequency of complaints at Chesterfield, these should remain ad hoc.		To discuss with groups <i>Monitoring Officer to raise with</i>

1	2	3	4	5	6	7
	CSPL Review Best Practice Recommendations	CBC current position	R A G	Proposal (April 2019)	R A G	Committee view April 2019 <i>Action groups</i>
	Green		9		12	
	Yellow		5		3	
	Red		1		0	

Part 2

CSPL Recommendations to Government

1	2	3	4	5	6	7
	Recommendation	Responsible body	Comment	Voluntarily adopt?	R A G	Committee view April 2019 Action
R1	The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government.	Local Government Association	The current code of conduct uses the 2012 LGA model code	N/A - Requires updated LGA model code.		

R2	<p>The government should ensure that candidates standing for or accepting public offices are not required publicly to disclose their home address. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to clarify that a councillor does not need to register their home address on an authority's register of interests.</p>	Government	<p>Regulations in effect March 2019 for local elections.¹</p> <p>Home address are not published on register of interests in 'sensitive' cases. Members will be advised of the right to apply for this once elected. Government says:</p> <p><i>"The Government would encourage monitoring officers to look sympathetically at such requests where there are legitimate concerns of abuse or intimidation."</i></p>	<p>In effect already</p> <p>We must require addresses, unless deemed sensitive, until the law is changed.</p>	
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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/784214/Letter_from_the_Minister_for_Local_Government.pdf

R3	Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly-accessible social media. Section 27(2) of the Localism Act 2011 should be amended to permit local authorities to presume so when deciding upon code of conduct breaches.	Government	Requires a change in the law. Each case assessed on its merits currently.	No – needs change in law.		
R4	Section 27(2) of the Localism Act 2011 should be amended to state that a local authority's code of conduct applies to a member when they claim to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority.	Government	This is a provision akin to previous statutory model members' codes, to cover the 'do you know who I am...' type situation.	No – needs change in law.		

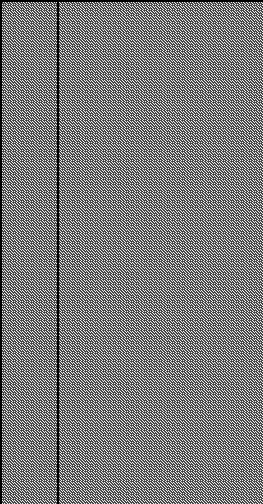
R5	The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to include: unpaid directorships; trusteeships; management roles in a charity or a body of a public nature; and membership of any organisations that seek to influence opinion or public policy.	Government	Requires legislation	No – needs change in law.		
R6	Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record any gifts and hospitality received over a value of £50, or totalling £100 over a year from a single source. This requirement should be included in an updated model code of conduct.	Government	There is already a register for gifts and hospitality over £50, and a voluntary register for under £50. Gifts totalling £100 over a year could be included in our Code of Conduct prior to a model code.	Yes <u>Recommendation:</u> That the Council's members' code of conduct is amended to include disclosure of gifts and hospitality totalling £100 over a year.		Support the change <i>Guidance to require this, rather than Code amendment at this stage</i>

<p>R7</p>	<p>Section 31 of the Localism Act 2011 should be repealed, and replaced with a requirement that councils include in their code of conduct that a councillor must not participate in a discussion or vote in a matter to be considered at a meeting if they have any interest, whether registered or not, “if a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your consideration or decision-making in relation to that matter”.</p>	<p>Government</p>	<p>The effect of Section 31 is that where a member at a meeting is aware they have a disclosable pecuniary interest in the matter they must declare that interest (if not already registered) (and notify the MO of the interest within 28 days) and must not participate (further) in any discussion or vote on the matter. Local rules can also require a member leave the room.</p> <p>This reverts to a test applied under the previous members’ conduct regime. The test is akin to the common law test for bias.</p>	<p>Pending any legislation, this test could be included in member training.</p> <p><u>Recommendation:</u> That members be advised in training and guidance that they should not participate in a discussion or vote in a matter to be considered at a meeting if they have any interest, whether registered or not, if a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice their consideration or decision-making in relation to that matter.</p>		<p><i>Incorporated in training and guidance</i></p>
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R8	The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.	Government	<p>We currently appoint IPs for 4 years, with ability to renew for a further 4.</p> <p>In an authority with 3 IPs and relatively few complaints, a term of 2 years + 2 would mean that an IP would have less opportunity to build skills and experience. It is suggested that the council makes representations in the event that there is government consultation on this provision.</p>	Not deemed appropriate unless there is a change in the law.		
R9	The Local Government Transparency Code should be updated to provide that the view of the Independent Person in relation to a decision on which they are consulted should be formally recorded in any decision notice or minutes.	Government	<p>Not the current practice on assessment decisions, would be recorded in hearing decisions, but not minutes.</p> <p>Pending update of the code, we could seek views of our IPs with a view to recording.</p>	<p>Yes, but in summary form.</p> <p>Recommendation: That, where appropriate, a summary of the IPs view be included in decisions and minutes.</p>		No current action necessary

R10	A local authority should only be able to suspend a councillor where the authority's Independent Person agrees both with the finding of a breach and that suspending the councillor would be a proportionate sanction.	Government	This has the effect of an IP having the power to overrule a Standards hearing's decision relating to a suspension penalty. While their view should be taken into account, this recommended change gives too much power into an unelected person.	Currently no power to suspend. Consider making representations if government consultation.		
R11	Local authorities should provide legal indemnity to Independent Persons if their views or advice are disclosed. The government should require this through secondary legislation if needed.	Government / all local authorities	The Council could voluntarily adopt this provision. Enquiries are being made of the Council's insurance officer.	Subject to advice.		Council insurers advise that IPs are covered

R12	Local authorities should be given the discretionary power to establish a decision-making standards committee with voting independent members and voting members from dependent parishes, to decide on allegations and impose sanctions.	Government	The Council has a standards committee with 2 non-voting parish council representatives. Since the 2011 changes to the standards system it no longer may have voting independent members, but could decide to have non-voting independent members attend Standards Committee. Independent members are different to Independent Persons.	<p>Could consider non-voting Independent Members for the committee.</p> <p><u>Recommendation:</u> That the committee considers whether or not non-voting independent members of the committee would help enhance standards of conduct for the council, and, if appropriate, how many.</p>		No current action
R13	Councillors should be given the right to appeal to the Local Government Ombudsman if their local authority imposes a period of suspension for breaching the code of conduct.	Government	No current right of appeal to the LGO, and no current power of suspension.	No – needs change in law.		

<p>R14</p>	<p>The Local Government Ombudsman should be given the power to investigate and decide upon an allegation of a code of conduct breach by a councillor, and the appropriate sanction, on appeal by a councillor who has had a suspension imposed. The Ombudsman's decision should be binding on the local authority.</p>	<p>Government</p>	<p>This recommendation is unclear, as it appears to propose an investigatory and determining role for the LGO, when the local authority carries out investigations and makes decisions. Will the LGO be reviewing a decision or considering afresh?</p>	<p>No – needs change in law.</p>	
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R15	<p>The Local Government Transparency Code should be updated to require councils to publish annually: the number of code of conduct complaints they receive; what the complaints broadly relate to (e.g. bullying; conflict of interest); the outcome of those complaints, including if they are rejected as trivial or vexatious; and any sanctions applied.</p>	Government	<p>Standards and Audit Committee considers the MO's annual report on standards which contain this level of information. Given how few complaints are received, these statistics are not currently published as it would be relatively easy to identify the councillors effected when no breach is found (breach of their data protection rights), especially if no breach is found. But this information could be published voluntarily in summary form as good practice.</p>	<p><u>Recommendation:</u> that the committee considers whether or not to publish summary information about complaints and their outcome.</p>	<p>No current action</p>
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R16	Local authorities should be given the power to suspend councillors, without allowances, for up to six months.	Government	There was a power to suspend under the previous standards system. It was used positively in some cases to give time for member retraining.	No – needs change in law.		
R17	The government should clarify if councils may lawfully bar councillors from council premises or withdraw facilities as sanctions. These powers should be put beyond doubt in legislation if necessary.	Government	Some councils already consider that they have this power, and this has not been tested in the courts. Chesterfield has not needed to consider this issue yet, but would, pending legislation, if appropriate.	Consider, pending legislation, if appropriate for a standards case.		No current action
R18	The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.	Government		No – needs change in law.		

R19	Parish council clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks.	Parish councils	For parish councils. This council could enquire about level of qualification required at its two parishes.			
R20	Section 27(3) of the Localism Act 2011 should be amended to state that parish councils must adopt the code of conduct of their principal authority, with the necessary amendments, or the new model code.	Government		No – needs change in law.		
R21	Section 28(11) of the Localism Act 2011 should be amended to state that any sanction imposed on a parish councillor following the finding of a breach is to be determined by the relevant principal authority.	Government	Currently this Council can only recommend to a parish which sanction is appropriate, but the parish cannot choose a different sanction.	No – needs change in law.		

R22	The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 should be amended to provide that disciplinary protections for statutory officers extend to all disciplinary action, not just dismissal.	Government		No – needs change in law.		
R23	The Local Government Transparency Code should be updated to provide that local authorities must ensure that their whistleblowing policy specifies a named contact for the external auditor alongside their contact details, which should be available on the authority's website.	Government	This is already in progress, and a new page to be added to the Council's website about the external auditor (Mazars).	Already underway		No further action necessary
R24	Councillors should be listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998.	Government				

R25	Councillors should be required to attend formal induction training by their political groups. National parties should add such a requirement to their model group rules.	Political groups National political parties	The Council has a formal induction programme and one has been developed for May 2019. It is hoped that groups will require their members to attend these as they relay essential information about law conduct and practice to members. There currently can be difficulty in ensuring attendance at face to face training other than induction.	The MO should seek assurances from the political groups as to requiring members to attend training		To liaise with groups as necessary
R26	Local Government Association corporate peer reviews should also include consideration of a local authority's processes for maintaining ethical standards.	Local Government Association	The Council's Internal Audit unit intends to carry out a review of member and officer ethical standards in 2020/21.			

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PROCEDURE FOR CONSIDERING COMPLAINTS THAT MEMBERS HAVE BREACHED THE CODE OF CONDUCT

When looking at complaints these are key considerations:

<p><u>Can we investigate your complaint?</u></p>	<ul style="list-style-type: none"> • <u>Is the person you are complaining about a councillor?</u> • <u>Did the conduct occur recently (e.g. within the last six months)?</u> • <u>Is the conduct something that is covered by the Code of Conduct?</u>
<p><u>Should we investigate your complaint?</u></p>	<ul style="list-style-type: none"> • <u>Is there evidence which supports the complaint?</u> • <u>Is the conduct something which it is possible to investigate?</u> • <u>Would an investigation be proportionate and in the public interest?</u>

1. The Monitoring Officer (MO) acknowledges receipt of the complaint within 5 working days of receipt.
2. The MO informs the subject member of:
 - (a) the complaint, giving a summary of it, subject to data protection considerations, the name of the complainant;
 - (b) their right to consult one of the Independent Persons (IP) appointed by the Council, through the MO.
3. The MO, in consultation with an IP (other than one consulted by the subject member under para 2 (b)), decides that:
 - (a) the complaint does not come within the remit of the Code of Conduct;
 - (b) the complaint is not sufficiently serious to warrant an investigation;
 - (c) that it is not in the public interest to investigate the complaint;
 - (d) they should seek to resolve the complaint without the need for an investigation (e.g. by an apology or training by the subject member);
 - (e) the Complaint should not be investigated because it is vexatious, malicious or obsessive;

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- (f) the Complaint should not be investigated because it is broadly similar to a complaint against the same member about the same alleged incident;
- (g) the Complaint should not be investigated because there is a clear ulterior/political motive for it or it is just a tit for tat complaint;
- (h) an investigation should take place.

Complaints will be assessed within 20 working days where practicable, but in some more complex cases or where clarification is needed longer may be required and the complainant should be kept informed.

Outcome (a) will be applicable in circumstances including:

- where the complaint relates to activity in a private capacity and not in the subject member's capacity as a councillor or
- where no likely breach of the code of conduct is shown by the complaint

4. Before coming to their decision under para 3 the MO may request further information and/or clarification from the complainant and/or the subject member and the time period shall be extended accordingly.

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5. If the MO decides that the complaint should be investigated, or their attempts to resolve the complaint without an investigation do not succeed, then they will carry out an investigation or appoint an investigator to carry out an investigation on their behalf.

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6. The investigator appointed under para 5 by the MO may be:

- (a) a senior officer of the Council;
- (b) a senior officer of another Council;
- (c) an external investigator with relevant experience.

(and 'senior officer' includes a solicitor or other senior officer)

7. The role of the investigator is to independently and fairly assess the allegations and the evidence and to reach provisional conclusions on whether or not there has been a breach of the Code. In doing this and when presenting their report to Standards and Audit Committee, the investigator is not (and should not be seen as) acting for either the complainant or the councillor. Notwithstanding this the investigator (or the person representing them) may ask questions of either party or witnesses at a hearing in support of their report and findings.

8. A report into an investigation shall include the investigator's findings on whether the Code has been breached.

9. Before finalising their report the Investigator shall send a copy of it to both the complainant and subject member and give them at least 5 working days to comment on it.

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10. If the investigator's final report finds there has not been a breach of the Code the MO can, in consultation with the IP, decide to:

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- (a) take no action;
- (b) refer the report to the Standards and Audit Committee.

11. If the investigator's report finds there has been a breach of the Code then the MO must refer the matter to the full Standards and Audit Committee.

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12. When the matter has been referred to the Standards and Audit Committee by the MO, it will carry out a hearing into the allegations in accordance with procedures adopted by the committee and:

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- (a) allow the investigator to present their report and call witnesses, including the complainant;
- (b) allow the subject member to make representations and call witnesses;
- (c) decide if the subject member has breached the Code of Conduct;
- (d) decide what sanction should be imposed if they decide the Code has been breached.

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13. The sanctions the Standards and Audit Committee can impose if they find a breach of the Code are:

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- (a) censuring the member;
- (b) reporting its findings to Council for information;
- (c) recommending to the member's Group Leader (or in the case of ungrouped members, recommending to Council or to Committees) that they be removed from any or all Committees or Sub-Committees of the Council;
- (d) recommending to Council that the member be replaced as Executive Leader of the authority;
- (e) recommending to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- (f) recommending the Monitoring Officer to arrange training for the member;

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- (g) recommending to Council that the member be removed from all outside appointments to which they have been appointed or nominated by the authority.

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(In respect of Parish Councils all of these will be recommendations).

14. In reaching a decision as to whether there has been a breach of the Code and if so what sanction should be imposed the Standards and Audit Committee will consult and take into account the views of the IP who will attend such hearings.

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15. In reaching a conclusion as to whether there has been a breach of the Code the Investigator (in preparing their report) and the Standards and Audit Committee (when deciding the matter):

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- may take into account whether or not the subject member has or has not cooperated with this complaints procedure
- will apply the test of whether it is more likely than not that the Code has been broken (i.e on the balance of probabilities – there is no requirement for an allegation to be proved beyond reasonable doubt).

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16. A complaint by a councillor about another councillor which is found to be trivial, malicious or obsessive can amount to a breach of the Code in itself, and result in a separate complaint.

17. Following any final decision by the MO or the Standards and Audit Committee at whatever stage the MO shall inform the complainant and the subject member of the decision and the reasons for it within 10 working days.

18. Wherever there has been a decision that the subject member has breached the Code of Conduct that decision and the reasons for it shall be put on the Council's website in a prominent position

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19. Wherever there is a decision that the subject member has not breached the Code of Conduct that decision shall be put on the Council's website, in a prominent position if the subject member wishes it to be.

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20. Any decision of the MO or Standards and Audit Committee shall be final and binding

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21. A report will be submitted every 6 to 12 months, or sooner if appropriate, by the MO to the Standards and Audit Committee giving:

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- the number of complaints received and brief details;
- how they are progressing;
- what decisions have been made;
- what action has, where appropriate, been taken.

The report will not disclose the identity of the complainant or the councillor complained about, unless already in the public domain or otherwise not in breach of data protection laws.

22. The MO has delegated power, in consultation with the IP and the Chair of the Standards and Audit Committee, to approve a departure from these arrangements when they consider it is expedient to do so to secure the effective and fair consideration of any matter.

23. In all cases where the MO is unable to perform their role (e.g. due to a conflict of interest) their deputy will do so.

Adopted June 2012
Amended 8th February 2017
Amended ##### 2019

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Procedure for Code of Conduct Hearings

Adopted ##### 2019

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**Procedure for hearing a complaint against
a district [or town / parish]¹ councillor**

The councillor complained about may be represented at the hearing.
The Investigator, who presents their report, may also be represented².

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The Chair should allow for breaks at appropriate stages, if appropriate.

After procedural issues such as *fire precautions*, declarations of interests, apologies and *formal* resolution *to exclude*, the public:

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- 1 Introductions

Investigator's case

- 2 Investigator (*or their representative*) presents report and calls any witnesses
- 3 Questions to Investigator/witnesses by councillor
- 4 Questions to Investigator/witnesses by Committee
- 5 *With permission of the Chair, Independent Person may ask clarification questions of the Investigator/witnesses*

Councillor's case

- 6 Councillor (or representative) makes representations and calls any witnesses
- 7 Questions to Councillor/witnesses by Investigator
- 8 Questions to Councillor/witnesses by Committee
- 9 *With permission of the Chair, Independent Person may ask clarification questions of the Councillor/witnesses*

Summing up

- 10 Investigator (*or their representative*) sums up
- 11 Councillor (or representative) sums up

¹ Text in [square brackets] relates to hearing of a complaint about a parish councillor

² The investigator is not (and should not be seen as) acting for either the complainant or the councillor. Their role is to independently assess the allegations and to make their findings. At the hearing they (or the person representing them) may ask questions of either party or witnesses at a hearing in support of their report and findings.

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Independent Person's views

12 Committee seeks view of Independent Person (*a short adjournment might be appropriate before the Independent Person gives their views*).

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13 The Committee may begin, but must not conclude, their deliberations before obtaining the views of the Independent Person.

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Decision on whether or not Code breached

14 Committee retires to consider its decision on whether or not the Code has been breached (*in practice Parties and Independent Person leave – parties should not have contact with Independent Person*)

15 Committee considers in private whether or not there has been a breach of the Code

Announcement of Decision on whether or not Code breached

16 Parties and Independent Person return

17 Committee announces decision on whether or not code broken

18 If **no breach**, Councillor informed that and confirms that formal decision will be sent to Councillor, complainant(s) [and Parish Council] within 10 working days and that this will appear on the Council's website if the councillor wishes. *The councillor can give their view on this at the hearing or subsequently, prior to or in response to the formal decision.*

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19 If a **breach**, Councillor informed that formal decision will be sent to Councillor, complainant(s) [and Parish Council] within 10 working days and that the decision and the reasons for it shall be put on the council's website

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20 Committee informs parties that the hearing will now consider whether to take no further action or [recommend] sanctions [to the Parish Council]

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Consideration of no further action or Sanctions

21 If a **breach**, the Committee:

- hears representations from the Investigator (or Investigator's representative) and the Councillor (or councillor's representative) as to sanctions
- seeks views of Independent Person as to sanctions

Representations/views on sanctions can include that no action should be taken

Decision on no further action or Sanctions

22 Committee retires to consider its decision on sanctions (*in practice Parties and Independent Person leave - parties should not have contact with Independent Person*)

23 Committee considers sanctions in private

Announcement of Decision on no further action or recommended Sanctions

24 Parties and Independent Person return

25 Committee announces its decision on no further action or recommended sanctions and confirms that formal decision on sanction will be sent within 10 working days with the decision on breach

- to Councillor
- to Complainant(s)
- [to the Town or Parish Council for the Town or Parish Council to consider³]

³ A hearing can only recommend sanctions to a parish council, which must then be considered by the parish council and a decision made. However, the parish council has no power to devise an alternative or additional sanction.

- 26 Committee confirms that the decision on no further action or recommended sanctions and the reasons shall be put on the Council's website

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A of the Local Government Act 1972.

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