

To: Members of the Corporate
Governance and Audit Committee

Date: 12 November 2020

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Dear Councillor

You are invited to attend a meeting of the **CORPORATE GOVERNANCE AND AUDIT COMMITTEE** to be held at **9.30 am** on **WEDNESDAY, 18 NOVEMBER 2020** in **BY VIDEO CONFERENCE**.

Yours sincerely

PLEASE NOTE: DUE TO THE CURRENT RESTRICTIONS ON TRAVEL AND THE REQUIREMENT FOR SOCIAL DISTANCING THIS MEETING WILL NOT BE HELD AT ITS USUAL LOCATION. THIS WILL BE A REMOTE MEETING BY VIDEO CONFERENCE AND NOT OPEN TO THE PUBLIC.

G. Williams
Head of Legal, HR and Democratic Services

AGENDA

1 APOLOGIES

2 DECLARATION OF INTERESTS (Pages 5 - 6)

Members to declare any personal or prejudicial interests in any business identified to be considered at this meeting.

3 URGENT MATTERS

Notice of items, which in the opinion of the Chair should be considered at the meeting as a matter of urgency pursuant to Section 100B(4) of the Local Government Act 1972.

4 MINUTES (Pages 7 - 16)

To receive the minutes of the Corporate Governance Committee meeting held on 9 September 2020 (copy enclosed).

5 INTERNAL AUDIT UPDATE (Pages 17 - 58)

To consider a report by the Chief Internal Auditor (copy enclosed) updating members on Internal Audit progress.

6 CARE INSPECTORATE WALES (CIW) LOCAL AUTHORITY PERFORMANCE REVIEW APRIL 2019 - MARCH 2020 (Pages 59 - 68)

To receive a report Corporate Director: Communities (copy enclosed) on the Care Inspectorate Wales (CIW) Local Authority Performance Review April 2019 - March 2020.

7 SOCIAL SERVICES BUDGETARY COST PRESSURES (Pages 69 - 90)

To receive a report by the Head of Community Support Services (copy enclosed) summarising the Audit Wales Report of the Social Services Budgetary Cost Pressures in Denbighshire and provides Officers' responses to the Proposals for Improvement.

8 CORPORATE RISK REGISTER REVIEW SEPTEMBER 2020 (Pages 91 - 218)

To receive a report by the Strategic Planning & Performance Team Leader (copy enclosed) updating the Corporate Governance and Audit Committee on the September review of the Corporate Risk Register.

9 ANNUAL REPORT OF CORPORATE GOVERNANCE COMMITTEE (Pages 219 - 228)

To consider a report by the Head of Legal, HR and Democratic Services (copy enclosed) seeking Members' approval of a draft report to be submitted to Council in respect of the Corporate Governance Committee's work for the municipal year 2019/20

10 ANNUAL RIPA REPORT (Pages 229 - 266)

To consider a report the Deputy Monitoring Officer (copy enclosed) on the Council's use of its powers of surveillance under RIPA (Regulation of Investigatory Powers Act 2000).

11 CORPORATE GOVERNANCE COMMITTEE WORK PROGRAMME (Pages 267 - 270)

To consider the committee's forward work programme (copy enclosed).

MEMBERSHIP

Councillors

Mabon ap Gwynfor
Tony Flynn
Martyn Holland

Alan James
Barry Mellor
Joe Welch

Lay Member

Paul Whitham

COPIES TO:

All Councillors for information
Press and Libraries
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LOCAL GOVERNMENT ACT 2000

Code of Conduct for Members

DISCLOSURE AND REGISTRATION OF INTERESTS

I, *(name)*

a *member/co-opted member of

*(*please delete as appropriate)*

Denbighshire County Council

CONFIRM that I have declared a ***personal / personal and prejudicial** interest not previously declared in accordance with the provisions of Part III of the Council's Code of Conduct for Members, in respect of the following:-

*(*please delete as appropriate)*

Date of Disclosure:

Committee *(please specify)*:

Agenda Item No.

Subject Matter:

Nature of Interest:

*(See the note below)**

Signed

Date

*Note: Please provide sufficient detail e.g. 'I am the owner of land adjacent to the application for planning permission made by Mr Jones', or 'My husband / wife is an employee of the company which has made an application for financial assistance'.

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CORPORATE GOVERNANCE AND AUDIT COMMITTEE

Minutes of a meeting of the Corporate Governance and Audit Committee held in on Wednesday, 9 September 2020 at 9.30 am.

PRESENT

Councillors Mabon ap Gwynfor, Tony Flynn, Alan James and Barry Mellor (Chair)

Observer – Councillors Meirick Lloyd Davies, Brian Jones, Gwyneth Kensler

ALSO PRESENT

Councillor Julian Thompson-Hill, The Lead Member for Finance, Performance and Strategic Assets, Councillor Huw Hilditch-Roberts, Lead Member for Education, Children's Services and Public Engagement

Head of Legal, HR and Democratic Services Monitoring Officer (GW), Head of Finance and Property Services (Section 151 Officer) (SG), Chief Internal Auditor (LL), Wales Audit Officers (DW, ME and DW), Climate Change Programme Manager (HVE), Corporate Health and Safety Manager (GL), Property Health and Safety Manager (SW), Senior Auditor (BC), Principal Manager - Modernising Education (GD), Headteacher (LP).

1 APOLOGIES

Apologies were received from Councillors Joe Welch and Martyn Holland.

2 DECLARATION OF INTERESTS

Councillor Barry Mellor declared a prejudicial interest in agenda item 13, Councillor Alan James would chair the item in his absence

3 URGENT MATTERS

None.

4 MINUTES

The minutes of the Corporate Governance and Audit Committee meeting held on 9 September 2020 were submitted

Point of accuracy –

Councillor Julian Hill highlighted that he was not noted as being present in the previous meeting.

RESOLVED that the minutes of the meeting held on 9 September 2020 be received and confirmed as a correct record.

5 TACKLING CLIMATE AND ECOLOGICAL CHANGE IN COUNCIL DECISION MAKING

The Climate Change Programme Manager (CCPM) presented the having regard to tackling climate and ecological change in Council decision making report (previously circulated) alongside Councillor Graham Timms. The report was about the amendments proposed to the Council's Constitution to support the Council in having regard to tackling climate and ecological change when making decisions. The amendments proposed to the Council's Constitution and supporting documents and processes and the timeline for implementing these changes, if approved by Full Council, including the roll out of Carbon Literacy Training.

Councillor Graham Timms, thanked for the opportunity to speak the project has been ongoing for year, and there was a political union with the project, which was good and its good the matter has not been politicized.

It was highlighted that it was a real pleasure to read the wellbeing form, as something in each field indicated how the proposed changed would affect the Council but also be beneficial to residents within Denbighshire, the whole life cost of the project was a good term to be used.

An investment in Carbon Literacy Training was proposed for all Councillors and key officers to support them in enacting the principals of decision making as amended having regard to tackling climate and ecological change. This would be an accredited 1- day training course with providers being able to deliver it remotely on an online video conference platform. It was intended that the procurement process for this training would start in September and training undertaken throughout autumn and winter.

The proposals was supported by all lead members and Cabinet, and many members of the public.

General Debate –

- Member praised the report and the intentions for tackling climate change and thanked the officers for the all the hard work which was involved, good to see real change which would happen with the report. However highlighted that the Welsh Language needed to be remembered within the work, and not just noted. It was also raised how the Council would ensure those that rural communities, and elderly people who can't digital access were not losing out with the projects. Officers responded stating that there was a rural connectivity project was ongoing this would hopefully would include all with the digital side of the project.
- The Local Development Plan was raised, and whether land which had been designated on flood plains, should we not revisit, the LDP to ensure that land designated for development on flood plains should be withdrawn. The officer informed the committee that they had been invited to the Special Planning Group (SPG) to discuss climate change and the LDP.
- Member queried with the officers, whether these changes were implemented would there be an impact on planning committee, The monitoring officer

responded the change would be to the constitution which would change the principle of the framework for the Council, whilst we can change the constitution, the law would prevail whether there was conflict between the both. With planning it would not change how the committee would deal with the matter.

RESOLVED that Corporate Governance and Audit Committee recommend approval to Full Council to amend Section 13.2 of the Council's Constitution-Principals of Decision Making to include an additional bullet point under "All decisions of the Council will be made in accordance with the following principles" with the following wording: "having regard to tackling climate and ecological change".

6 CORPORATE HEALTH AND SAFETY ANNUAL REPORT

The Lead member for Finance, Performance and Strategic Assets presented the Annual Health and Safety Report (previously circulated). The Lead Member stated the overall assessment for the health and safety team had been given medium assurance, with a good history of health and safety works in Denbighshire.

The Corporate Health and Safety Manager (CHSM) guided members through the Annual Health and Safety report, members were informed that the whistleblowing issue had been discussed thoroughly and good practices had been developed since.

Since March 2020 the Covid – 19 pandemic has driven the organisation to operate in a different way with much more focus on providing essential services in a "Covid secure" way and working from home. DCC responded rapidly to government regulations and guidance.

Risk assessments and safe working procedures were developed as soon as practicable and reflect the rapidly changing position. DCC's approach to managing the risk from Covid – 19 is assessed as high assurance

The accident \ incident count for the year shows an increased level of accident reports over previous years. This increase is due to the drive to improve accident reporting rather than the superficial indication of an increased accident rate.

Throughout the financial year 2019\2020 and to date, a number of our RIDDOR incidents were formally investigated by the HSE. In all but one case the HSE were satisfied with the response they received from DCC and took no action. In one case where there was an asbestos release the HSE imposed a "Fee for Intervention" of £123. The identified "Material Breach" that caused this has since been rectified by the housing management team.

General Debate –

- Members praised a further and informative report, it was queried whether there was a list of properties with asbestos present. Officers responded that each building had two asbestos surveys carried out, however problems

would arise as sometimes asbestos would be discovered where it was not meant to be.

- The committee queried whether PPE came under the remit of the Corporate Health and Safety team, it was confirmed that the procurement and management was not dealt with by the Health and Safety team.
- Members were reassured that the Council had a good amount of PPE whether the need would increase once again.

RESOLVED that, the Corporate Governance Committee receive the report, note its contents and endorse the Corporate Health and Safety team Work plan for 2019/20.

7 FIRE SAFETY ANNUAL REPORT

The Lead member for Finance, Performance and Strategic Assets presented the Fire Safety Annual Report (previously circulated) the report aimed to brief the committee on the Property Health and Safety Team's annual work on Fire Safety programme and performance and to provide an insight into the work planned for the remainder of 2020\2021.

At the beginning of the 19/20 financial year it was decided to appoint a Fire Safety Manager in order to address the limitations identified in the Fire Risk Assessments which were being undertaken. Historically these had been divided into 2 separate elements:

- Property – Undertaken within the Assets Team, and including a review of fire safety equipment and servicing.
- Management – Undertaken by the Corporate Health and Safety (CHS) Team and including fire safety processes, training of staff and record keeping.

Following an internal audit, it was determined that this was not sufficient and a more consolidated approach recommended. As a result, the lead officer for Strategic Assets, decided to create a dedicated role in order to address this issue, initially on a secondment, this role was made permanent in December 2019. From the beginning of financial year 19/20 all FRA's produced incorporated both elements.

General Debate –

Members queried with officers whether the pandemic had caused a delay with the FRA's, especially within schools, officers responded stating hopefully the FRA's in schools would increase over September and October.

RESOLVED that the Corporate Governance and Audit Committee receive the Fire Safety Annual report and note its content

8 DENBIGHSHIRE COUNTY COUNCIL CORONAVIRUS RESPONSE: FINANCIAL STRATEGY

The Lead member for Finance, Performance and Strategic Assets presented the Denbighshire County Council Coronavirus Response: Financial Strategy report (previously circulated) updating the committee on the progress of the Financial Strategy recovery theme as set out in the 'Denbighshire County Council Coronavirus Response: Planning for Recovery' report agreed by SLT and Cabinet.

A net increase of £2.1 million in Council expenditure was anticipated for the quarter to the end of June as a result of the COVID19 impact, with additional expenditure of £2.8 million for the period up to the end of June, alongside a decrease in expenditure of £747k over the same period.

There was a more dramatic impact on the Council's income, with income losses of £6.3 million forecast for the same period, the largest impact of £2.22 million on Denbighshire Leisure Limited, £649k School Meals, £498k Parking and £403k for loss of income for industrial units etc.

The expectation was that DCC would receive funding from the Welsh Government to fund the additional expenditure, but there were no firm announcements yet in terms of funding the loss of income.

The budget for the next financial year was behind due to COVID, the draft timetable within the pack for liable to change due to external factors. There were multiple unknowns, they were not aware of what the settlement would be, waiting for the WLGA to give the information who was waiting for the information from UK government. Due to this all possibilities were being looked at, hopefully in December the settlement would give us an insight for three years which could give us DCC some flexibility.

General Debate –

- The committee praised the officers for the report especially in these difficult times, the committee queried whether the grants implemented by DCC did they cause any additional financial strain. It was also queried the deficit of what was paid out was it covered up DCC's budget. Concerns were also raised with the lack of elected members being on the budget boards which were being formed.
- Responding officers clarified was a mixture of grants the expenditure grants, there were grants to pay for additional costs. The grants generally covered the costs which were incurred by the Council. Q1 WG paid most of the money, the amount held back were due to queries about certain matters, and these matters were being discussed. The costs of COVID were reducing at the moment. The savings which were being sought were efficiencies, not all savings could be done with the reduction within the proposed 4% cuts.
- The Lead member for Finance, Performance and Strategic Assets responded in regards to the finance board queries, the boards have no formal decision making powers, and the purpose was for senior members of staff to receive guidance for decisions which would then be approved in accordance with the democratic methods.

RESOLVED that the Corporate Governance and Audit Committee receive the Denbighshire County Council Coronavirus Response: Financial Strategy report and note its content

9 APPROVAL OF THE STATEMENT OF ACCOUNTS 2019/20

The Lead member for Finance, Performance and Strategic Assets presented The Statement of Accounts 2019/20 (previously circulated) for approval the council has a statutory duty to produce a statement of accounts that complies with approved accounting standards. The audited accounts have to be formally approved by elected members on behalf of the council.

The financial statements for 2019/20 were approved, subject to audit, by the Head of Finance on 15th June (3rd June last year). The draft accounts were presented to Corporate Governance Committee on 8th July 2020 and were open to public inspection from 3rd August to 28th August. These dates were later than usual due to the current restrictions related to COVID 19. The Accounts and Audit Regulations require that the Council formally approves the audited accounts, containing the external auditor's opinion, by 15th September. The approval of the audited accounts has been delegated to the Corporate Governance and Audit Committee.

The Statement of Accounts was produced in compliance with the International Financial Reporting Standards (IFRS). The Chartered Institute of Public Finance and Accountancy (CIPFA) produces the IFRS based Code of Practice on Local Authority Accounting and the council has produced the 2019/20 accounts in compliance with the Code.

General Debate –

- The committee queried with officers which areas within the Council which were worst affected by the pandemic. The officers clarified social services in particular have had a big hit and stressed the capacity, the council continued paying social care providers to ensure they were kept afloat during the pandemic.
- The committee were also informed that during the first quarter school transport were still being paid although schools were closed, this was to ensure that when schools were to reopen the companies were still available.
- The committee questioned the reliance on using Excel spreadsheet for the asset register. Responding officers clarified that DCC were trying to procure a new IT system, and was due to be finalised however it was currently paused and being reviewed.

RESOLVED that Corporate Governance and Audit Committee approve the Statement of Accounts 2019/20 (see Appendix 1). At the meeting, the Chair and Chief Finance Officer will be required to sign the Accounts and the Letter of Representation.

10 AUDIT ENQUIRIES 2019/20

The Wales Audit office, officers presented the Audit Enquiries 2019/20 report (previously circulated) the report aimed to introduce the Audit Enquiries Letter and the Council's response to those enquiries.

Wales Audit Office (WAO), as DCC's appointed external auditors, have a duty to obtain evidence of how management and those charged with governance (in DCC this was the Corporate Governance and Audit Committee) were discharging their responsibilities for preventing and detecting fraud.

Officers apologised for the delay with presenting the report. The officers informed the committee if they had any queries in regards to the report they could email the Head of Finance and Property.

RESOLVED that the Chair of the Corporate Governance Committee formally confirms the responses included in Appendix 1 to the report.

11 SIRO REPORT - FOR INFORMATION

The Business Information Team Manager introduced the SIRO report for 2019/20 (previously circulated) The report covers the period April 2019 to March 2020 and details breaches of the data protection act by the Council that have been subject to investigation by the Senior Information Risk Officer (SIRO – in DCC this is the Head of Business Improvement and Modernisation).

It also covers complaints about the Council relating to Freedom of Information legislation that have been referred to the Office of the Information Commissioner (ICO), and provides some information about the Access to Information/FOI requests made to the Council.

General Debate –

- Members were glad to receive the report for information purposes, the committee queried the 11 upheld complains within the report. The monitoring officer responded that there had been 12 breaches, there had been only one major breach which had been disclosed to the ICO. It was also clarified that the term complaint it's an expression of dissatisfaction.

RESOLVED that the Corporate Governance and Audit Committee note the Siro Report.

12 CORPORATE GOVERNANCE COMMITTEE WORK PROGRAMME

The Corporate Governance and Audit committee's Forward Work Programme (FWP) was presented for consideration (previously circulated).

The committee requested that Schools in financial difficulties be included on the Forward Work Programme, the committee agreed for the item to be discussed in the New Year.

The Head of Legal, HR and Democratic Services informed the committee that the FWP was not dated too far to the future as the future meeting dates had not been agreed in full Council.

RESOLVED that Corporate Governance and Audit Committee's forward work programme be noted.

EXCLUSION OF PRESS AND PUBLIC

RESOLVED that under Section 100A of the Local Government Act 1972, the Press be excluded from the meeting for the following item of business on the grounds that it would involve the likely disclosure of exempt information as defined in Paragraph 14 and 16 of Part 4 of Schedule 12A of the Act.

13 INTERNAL AUDIT OF ST ASAPH VP INFANTS SCHOOL

The Chief Internal Auditor presented the Internal Audit of St Asaph VP Infants School (previously circulated) the report provided details of a recent Internal Audit report of St Asaph VP Infants School that received a 'Low' assurance rating.

The review was carried out following concerns raised, this was doing alongside governance of schools. The review covered the following:

- (a) School governance arrangements;
- (b) Controls and procedures; and
- (c) Management of the voluntary school fund account.

The review discovered the following -

- School governors that were interviewed expressed that they had not received appropriate support and advice when they initially took up their role. Governors have not engaged with the Local Education Authority (LEA) and, in some instances, they had not completed the mandatory training for their role.
- The terms of reference for the Full Governing Body (FGB) and the individual sub-committees were either several years out of date or not available. This was a major issue as terms of reference outline how the FGB and each subcommittee would operate and, therefore, needed to be in place and reviewed and updated on an annual basis.
- Minutes for the FGB meetings were brief and lacked key information. Audit could not find evidence that key documents or the delegated budget had been approved.
- Two governors had been in post for over 12 months and had not completed all the statutory training. If a governor has not completed all the statutory training within 12 months, then the chair of governors should suspend the governor until they complete the outstanding training.

Audit's overall opinion was that the school's governance arrangements were weak, administration arrangements were limited and controls around the school fund account need to be improved. There is very little evidence to show that the School

Governing Body had challenged decisions at meetings, and governors state that they are not fully aware of their roles and responsibilities. Therefore, audit gave a low assurance overall.

The committee were informed the review was carried out some time ago there was an Estyn investigation carried out following the internal audit. The committee were assured that following the audit the school had progressed and had drastically improved.

The committee praised the report and highlighted how some changes within smaller schools could have a large impact. They highlighted that certain smaller schools were at a risk due to size and capacity.

The Lead Member for Education, Children's Services and Public Engagement stated it was a good audit which was carried out enabled a good action plan which enabled the issues to be resolved.

The committee wanted to know what was happening with the school and action plan, there have been verbal assurances that the actions had been completed, however suggested follow up report including the action plan be produced in the new year.

RESOLVED that

- (a) Corporate Governance and Audit Committee note the Internal Audit of St Asaph VP Infants School*
- (b) A follow up report be brought back to the Committee in the New Year.*

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| | |
|------------------------------|---------------------------------------------------------------------|
| Report to | Corporate Governance & Audit Committee |
| Date of meeting | 18 November 2020 |
| Lead Member / Officer | Cllr Julian Thompson Hill / Lisa Lovegrove – Chief Internal Auditor |
| Report author | Lisa Lovegrove – Chief Internal Auditor |
| Title | Internal Audit Update |

1. What is the report about?

This report provides an update for Corporate Governance & Audit Committee on Internal Audit's latest progress in terms of its service delivery, assurance provision, reviews completed, performance and effectiveness in driving improvement. It also includes an update on progress with the CIPFA Good Practice for Audit Committees.

2. What is the reason for making this report?

To provide information on the work carried out by Internal Audit since the last Committee meeting. It allows the Committee to monitor Internal Audit's performance and progress as well as providing summaries of Internal Audit reports so that the Committee can receive assurance on other council services and corporate areas. This enables the committee to discharge its responsibilities as per its Term of Reference. Delivery of the audit plan will assist the committee with obtaining assurance that the Annual Governance Statement appropriately reflects the conditions of the Council.

3. What are the Recommendations?

That the Committee considers the report content, assesses Internal Audit's progress and performance.

That the Committee decides whether it needs further assurance on any of the audited areas to follow up progress with implementing the improvement action plans.

4. Report details

Appendix 1 provides an update on internal audit work carried out since the last update report to the committee in July 2020. Since the last Corporate Governance & Audit Committee update report we have finalised 8 reports, one of which was given a low assurance rating and the audit report is included as Appendix 2.

As a result of the coronavirus pandemic emergency, a key focus for the team has been providing advice and support to new activities and changes to arrangements that the Council is having to implement at pace to respond to the pandemic. Operationally, the Council has had to react quickly to rapidly changing circumstances, which has had an impact on the pace and progression of some of our audits. We continue to carry out audits and 2020/21 planned work with good engagement from services.

In addition to the planned audit work, the team has also been assisting the Council with grant payments (e.g. free school meals, social care workers bonus payments and business rate grants) through provision of support and advice. The team has also supported the Council's Test, Trace and Protect (TTP) Team in response to the Covid-19 pandemic, with a Senior Auditor seconded to the team.

In light of the above, Appendix 1 shows the impact had on progress against the Audit Plan for 2020/21 in part due to temporary reduction in audit resource due to the redeployment and subsequent secondment of one Senior Auditor to the TTP team (from June 2020), and one Auditor retiring in October 2020. We are currently advertising for a Senior Auditor for a 12 month temporary contract to backfill for the Senior Auditor and there remains uncertainty whether the council will support the recruitment into the vacant Auditor post. The Audit Plan will remain under review, as will the utilisation of available internal audit resource, in the context of the Council's ongoing response to the Covid-19 pandemic and to ensure we continue to focus our work on areas of greatest risk to the council.

5. How does the decision contribute to the Corporate Priorities?

There is no decision required with this report. There is no direct contribution to Corporate Priorities, but some projects in the audit plan will review Corporate Priority areas and will provide assurance on their delivery.

6. What will it cost and how will it affect other services?

Not applicable – there is no decision or costs attached to the report.

7. What are the main conclusions of the Well-being Impact Assessment?

Not applicable – this report does not require a decision or proposal for change.

8. What consultations have been carried out with Scrutiny and others?

Not required.

9. Chief Finance Officer Statement

There are no financial implications attached to this report.

10. What risks are there and is there anything we can do to reduce them?

The work of internal audit gives assurance to the council on the adequacy and effectiveness of controls in place to manage and mitigate risks.

11. Power to make the decision

Not applicable – there is no decision required with this report.

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Internal Audit Update

November 2020

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Internal Audit Reports Recently Issued

Since the last Internal Audit Update report in July 2020, Internal Audit has completed eight reviews and a full copy of each report has been circulated to members of the committee. The assurance given and number of issues raised for each review is summarised below:

| Area of work | Assurance Level | Critical Issues | Major Issues | Moderate Issues |
|-------------------------------------------------|-----------------|-----------------|--------------|-----------------|
| Financial Management Systems | N/a ● | 0 | 0 | 1 |
| Treasury Management | High ● | 0 | 0 | 3 |
| Accounts Payable | High ● | 0 | 0 | 0 |
| Housing Support Grant | High ● | 0 | 0 | 0 |
| Area of Outstanding Natural Beauty (AONB) Grant | High ● | 0 | 0 | 0 |
| Pupil Development Grant | High ● | 0 | 0 | 1 |
| Health & Safety Enforcement | High ● | 0 | 0 | 3 |
| Parking Income | Medium ● | 0 | 0 | 5 |
| Children's Direct Payments | Low ● | 0 | 4 | 2 |

Financial Management System – September 2020

Assurance Not Applicable ● Number of Risk Issues: 1 Moderate ●

Since our review last year, the council has revisited the procurement of the general ledger and the Head of Business Improvement and Modernisation (BIM) has been made the project sponsor. To ensure the new general ledger meets all the council's needs, the project sponsor involved Finance, ICT and Procurement teams from the start to ensure all options were explored.

The agreed way forward is to invite tenders which are set out in four lots. We suggested the need to allow sufficient time to decide: (a) the preferred lot; and (b) which tender within the preferred lot should be awarded the contract. Also, to ensure that the relevant paperwork and questions is completed and that key staff are available.

Until the tender submissions are received and evaluations have been completed, anticipated savings/costs are unclear. At the time of the review, we would have expected to have seen a Project Initiation Document (PID) that would have been completed by the initial project team. The PID should have set out a number of options together with anticipated costs and savings so that the most favourable option(s) be approved before proceeding with the project/procurement. Instead, a report to Cabinet in February 2020 summarised the procurement approach to be taken with various options being considered and potential costs anticipated up to over £2m.

On completing the tender evaluation, and during the assessment stage of the exercise, a business case will need to be completed.

At the time of our review, the council had entered into a period of uncertainty with the Coronavirus pandemic which has impacted the project's progress as key officers needed to focus on responding to the emergency. Similar to other council projects, consideration should be given to performing a 'pause and review' of the project to take stock of the situation and revise plans if and where necessary. The Head of Finance & Property Services indicates specific areas of review which are necessary due to the delay are:

- Investment and upgrades undertaken on existing systems
- Review of resources available - impact of Covid 19 on the service and its finances
- Due to the delay, establish potential for including other Local Authorities.

At this early stage of the project, and with current situation meaning the project will be delayed, we are unable to effectively provide an assurance rating. The project team has considered the options available, working with Conwy County Borough Council to procure the best financial system.

Treasury Management – September 2020

High Assurance ● Number of Risk Issues: 3 Moderate ●

Since the last review, there have been no notable changes to the way the Council carries out the Treasury Management function. The review has confirmed that there are appropriate controls and procedures in place for the operation of the Treasury Management function, with an adequate level of separation of duties in place. However, a

few issues have been identified, some which are good practice that would further strengthen the Treasury Management process. For instance:

- A risk has arisen around the authorisation of the long term loans as, currently, only the S151 Officer is able to approve them. The Technical Accountant has confirmed this will be resolved once the recruitment of a Chief Accountant is complete.
- Arlingclose Ltd. was appointed as the authority's Treasury Management advisors in January 2019, but there was a delay in the contract being signed. The contract states that the council should meet with its advisors four times a year to discuss the council's financing strategy, but, at the time of the review, the council had only met with Arlingclose once in the last 12 months. The Capital Finance Manager confirms that regular meetings have since resumed.
- The Treasury Management Policy has not been reviewed for a number of years. Within the policy it refers to the Chief Cashier who has not worked for the authority for numerous years. The policy needs to be updated to reflect key changes such as revised Code of Practice and Prudential Code relating to Capital Investments and we suggest introducing a front cover with version control to show the frequency of reviews and key changes made as per the corporate template.

Accounts Payable – July 2020

High Assurance ●

Number of Risk Issues: 0

There have been no new developments since the last review. The team has made good progress with checking IR35 conformance; 96.77% of the Council's suppliers on the councils Accounts Payable (AP) system have been checked using the HMRC (Her Majesty Revenues & Customs) CEST (Check Employment Status for Tax) tool.

A number of reports were obtained from the AP system and we used ActiveData (data analysis software) to interrogate the reports. Testing of potential duplicate payments and authorisation and accuracy of purchase card payments confirmed that appropriate controls

At the time of the review, there were a few accounts which were still showing as being in dispute with the oldest one dating back to May 2016. This is something that has been raised with the appropriate manager who is looking into the invoices.

Credit balances are monitored periodically. If they relate to current suppliers, the credit balance will be used against the next invoice received. However, if the balance is with a company we no longer use, then the AP team will attempt to recover the monies.

The Accounts Payable team, on average, produce five or six cheques a week which are generally for refunds. Since the recent pandemic, the Senior Payments Officer confirmed that no cheques were produced and that this facility may no longer be required.

Housing Support Grant – October 2020

High Assurance ● Number of Risk Issues: 0

We carried out a review of the Housing Support Grant to ensure the terms and conditions of the grant are complied with. The Housing Support Grant (HSG) is an amalgamation of three existing grants - Homelessness Prevention, Supporting People and Rent Smart Wales Enforcement. These were amalgamated as part of flexible funding and the 2019/20 financial year is a transitional year with full implementation from 2020/21.

The aim of the HSG is to support the statutory service for preventing homelessness through initiatives to secure and maintain sustainable housing, and the Rent Smart Wales' objective aims to raise the housing management standards in the private rented sector.

Our review found the grant to be well managed with regular monitoring of expenditure and the required paperwork supporting the claims.

The expenditure for Supporting People is in line with the delivery plan; with the council incurring additional eligible expenditure above the level of grant awarded. For the financial year 2018/19, Denbighshire was successful in obtaining additional Welsh Government funding to cover additional eligible expenditure incurred; but, additional funding was not available in 2019/20.

The supporting people team is raising invoices for payment on behalf of service providers following receipt of their quarterly reports detailing their work. While there is a risk of inaccurate or fraudulent payments, sample testing confirms that appropriate controls are in place and operational.

As 2019/20 was a transitional year for the grant, we plan to look at this area again next year to provide assurance on the effectiveness of the delivery of the new funding model and adherence to grant terms and conditions.

Area of Outstanding Natural Beauty (AONB) Grant – September 2020

High Assurance ● Number of Risk Issues: 1 Moderate ●

Our review found it is well managed with all income accounted for in the general ledger, grant income received is used appropriately and contributions from the partner authorities are received within agreed timescales. Our sampling of expenditure found it to be appropriate, with invoices, where necessary, and in line with any grant terms and conditions. Due to the Covid 19 pandemic we were unable to access the petty cash receipts. However, the total petty cash claimed for the financial year was under £100.

From the AONB Joint Committee agreement we understand that the liability is shared across the three authorities. However, we would have expected to see a risk register specific for risks that the AONB may encounter.

Pupil Development Grant – November 2020

High Assurance ● Number of Risk Issues: 1 Moderate ●

Overall, the fund is well managed, with suitable grant controls and records in place.

Funding is allocated appropriately to the school depending on the number of pupils within each school in receipt of free school meals (FSM), with a fixed nominal amount paid over to those schools that do not have any pupils in receipt of FSM. As the allocation was based on PLASC data for 2016, this caused a few notable inconsistencies:

- Schools that did not have any children in receipt of FSM as at 2016 but now do. Additional funds totalling £17,250 was made available for these schools and finance allocated the funding according to the direction provided by GWE.
- Allocation of funding for Rhewl School which closed in July 2018.

GWE Challenge advisor monitors progress against each schools' development plan. The majority of schools use the grant to fund teaching and non-teaching staff. There were a

few payments not deemed to meet the eligibility criteria but the amounts were not considered material.

Funding was also received for LAC, which is allocated to the Education service rather than directly to the individual schools. This was found to be in line with the terms and conditions of the grant award letter.

Health & Safety Enforcement – October 2020

High Assurance ● Number of Risk Issues: 3 Moderate ●

This review of Health and Safety Enforcement looked at the arrangements in place to minimise the risk to the public and avoid potential litigation against the council, financial penalty or reputation damage. It should be noted that audit fieldwork was completed prior to the Coronavirus pandemic; the team has since been placed at the forefront of the council's response to the crisis and this has added significant pressure on the service. Assurance provided is based on the sample testing of the systems and processes in place at the time of our review.

The council has a legal duty to enforce the Health and Safety at Work Act 1974 and related legislation. The Health & Safety Enforcement team aims to ensure that workplaces within Denbighshire (that are external to the council) are safe for employees and visitors. Whilst the primary responsibility for managing health and safety risks lies with the business who creates the risk, the council as local authority health & safety regulators have an important role in ensuring the effective and proportionate management of risks, supporting business, protecting their communities and contributing to a wider public health agenda.

The team's work plan is set out in line with the HSE's National Local Authority (LA) Enforcement Code (referred to as the LA National Code), which sets out the risk based approach to targeting health and safety interventions that local authorities are to follow. The work plan sets out the proactive projects, non-inspection interventions, and reactive visits to be carried out.

Proactive services include in an advisory capacity to provide guidance to businesses on applicable HSE guidance. Reactive services, where inspections are carried out, are usually initiated by a complaint or following an incident. Analysis of inspections carried out

shows that 63% of inspections in 2018-19 and 64% for 2019-20 (as at February 2020) were reactive. Following the conclusion of our review, we note that Covid-19 has resulted in a significant increase in the reactive works carried out and the need to provide support and guidance to businesses.

We agreed improvement actions to address the following issues which were raised prior to the coronavirus pandemic:

- There are no written procedures in place to direct consistent practices and to support business continuity;
- There are inconsistencies in the recording of events where the team are involved in an advisory capacity, and duplication of effort in record keeping;
- The service is not participating in peer reviews which is a requirement of the LA National Code

Parking Income – November 2020

Medium Assurance ● Number of Risk Issues: 5 Moderate ●

The review was carried out to ensure that car parking income is receipted and accounted for safely and accurately following notable changes to income collection arrangements.

The collection of the car park income was outsourced in November 2019 to streamline the process and it was carried out in line with Financial Regulations and Corporate Procedure Rules (CPRs).

We have raised five moderate risk issues and agreed actions with the service on the following:

- Copies of the signed contract for parking income collection was not uploaded to the Proactis (procurement) system.
- Weakness in reconciliation and investigation of income discrepancies:
 - Pay by card income not reconciled
 - Larger cash discrepancies are not investigated
 - VAT error relating to card payments was corrected during our review. There is potential to reclaim VAT for on street parking.

- Monitoring of the contract performance including collection frequency was not in place.
- Lack of review of the collection fee recharged to others.
- Lack of written procedures for the reconciliation of income to include:
 - Reconciliation of cash, pay by card and pay by phone
 - Monitoring the frequency of emptying the machines
 - Process for investigating discrepancies in income.

Children's Direct Payments – November 2020

Low Assurance ●

Number of Risk Issues: 2 Moderate ●

We carried out a review of Direct Payments as this area has not been reviewed for some time and it formed part of our proactive counter fraud measures. A review of support budgets and direct payments within Community Support Services (CSS) was reported to Corporate Governance & Audit Committee in September 2019 and was given a low assurance rating.

A direct payment is an option that is considered for providing care and support to comply with the Social Services and Well-being (Wales) (SSWB) Act 2014 focusing on achieving outcomes for citizens. This can either be paid to the child's parent or carer, or into a managed account where a third party provider will administer the funds. At the time of our review, there were 29 children supported by a direct payment, 8 of which were provided through a managed account, and a further 9 cases were pending (no payment was being made until a personal assistant was appointed).

The council has a working group to review current arrangements with third party suppliers and to explore options to address some of the difficulties in recruiting personal assistants, and are exploring options to stimulate the market. There is a risk that if direct payments are recovered because of recruitment issues, the child's outcomes may not be met or alternative service provisions could be more costly than direct payments. This situation is not unique to Denbighshire and is experienced elsewhere across Wales.

As low assurance has been given, the full Internal Audit Report is included as Appendix 2 which includes the improvement action plan for addressing the issue raised. A summary of the results of our review is included here:

- Staff within the Children with Disabilities team have been provided with training on direct payments, but the Service would benefit from having documented guidance to ensure staff are clear of the process and it is followed consistently.
- There is a robust process for referring citizens via the Children and Families Support Gateway.
- Direct payments are only available to the Children with Disabilities team. We suggested that this be reviewed to ascertain where else this option would be appropriate, in line with the SSWB Act e.g. eligible children with care and support plans.
- Information relating to direct payments is difficult to find due to how it is recorded and the data held on the PARIS system in relation to direct payments was not always accurate and up-to-date.
- Reliance has been placed on the third party provider to carry out checks on Disclosure Barring Service (DBS), right to work in the UK and employer liability insurance cover without adequate checks by the council to monitor that such roles and responsibilities are being fulfilled.
- No contract is in place with the third party provider who the council uses to support direct payments. The provider is also used to support direct payments to adults. Lack of tendering and formal contract contravenes Contract Procedure Rules.
- There was a lack of evidence of the child's outcomes being reviewed within the designated six month period.
- Financial monitoring needed to be improved as direct payments were made towards a personal assistant without one being in post, or to identify where balances have accrued significantly. Following our review, pre-paid cards have been introduced which will improve monitoring arrangements.
- There needs to be better co-ordination between the Children with Disabilities team and the financial assessment officers (FAOs). For instance, when a social worker is visiting the parent or carer to discuss the direct payment and reviewing the child's outcomes, if any financial issues are identified, these should be passed to the FAOs for further investigation.

- Positive arrangements overall for paying direct payments when a child transitions from the Service to CSS. There is currently no documented guidance for managing the process and continuity arrangements

Progress in Delivering the Internal Audit Assurance

The following projects have not yet commenced but are scheduled for the coming months:

- Revenues and Benefits 2020-21 – focussing on Covid-19 impact
- Financial Services 2020-21 – focussing on Covid-19 impact
- Denbighshire Leisure Limited
- ICT Capacity and Resilience.

As a result of the coronavirus pandemic emergency, a key focus for the team has been providing advice and support to new activities and changes to arrangements that the Council is having to implement at pace to respond to the pandemic. Operationally, the Council has had to react quickly to rapidly changing circumstances, which has had an impact on the pace and progression of some of our audits. We continue to carry out audits remotely and make progress with the highest priority areas within the 2020/21 plan of work (agreed in July 2020) with good engagement from services.

In addition to the planned audit work, the team has been assisting the Council with grant payments (e.g. free school meals, social care workers bonus payments and business rate grants) through provision of support and advice. The team has also supported the Council's Test, Trace and Protect (TTP) Team in response to the Covid-19 pandemic, with a Senior Auditor seconded to the team.

In light of this, the table below shows the impact had on progress against the Audit Plan for 2020/21 with a number of projects being put on hold and some which will no longer be carried out. This is mainly due to the temporary reduction in audit resource due to the redeployment and subsequent secondment of one Senior Auditor to the TTP team (from June 2020), and one Auditor retiring in October 2020. We are currently advertising for a Senior Auditor for a 12 month temporary contract to backfill for the Senior Auditor and there remains uncertainty whether the council will support the recruitment into the vacant Auditor post. The Audit Plan will remain under review, as will the utilisation of available internal audit resource, in the context of the Council's ongoing response to the Covid-19 pandemic and to ensure that we continue to focus our work on areas of greatest risk to the Council. Any high priority areas will be carried forward to next year's Audit Plan (2021/22).

Internal Audit Update – November 2020

| Area of work | Current status | Assurance level | Critical issues | Major issues | Moderate issues | Comment |
|-------------------------------------|--------------------|---------------------|-----------------|--------------|-----------------|------------------------------------------------------------------|
| AONB Grant | Complete | Grant certification | 0 | 0 | 0 | Annual accounts audit |
| Homelessness | Final Draft | - | - | - | - | Nearing completion |
| Deprivation of Liberty Safeguards | On hold | - | - | - | - | Awaiting revised Welsh Government guidance |
| Education Improvement Grant | No longer required | - | - | - | - | Grant terms and condition no longer require audit. |
| Pupil Improvement Grant | Complete | High ● | 0 | 0 | 1 | Annual grant certification |
| Financial Management System 2019-20 | Complete | Not applicable ● | - | - | - | Project at an early stage so unable to give an assurance rating. |
| Treasury Management 2019-20 | Complete | High ● | 0 | 0 | 3 | |
| Accounts Payable 2019-20 | Complete | High ● | 0 | 0 | 0 | |
| Direct Payments for Children | Complete | Low ● | 0 | 4 | 2 | |
| Recruitment & Retention | Draft | - | - | - | - | Delayed due to Covid-19 |
| Health & Safety Enforcement | Complete | High ● | 0 | 0 | 4 | |
| Schools audit: Ysgol Pendref | Draft | - | - | - | - | Delayed due to Covid-19 |
| School Audit: Ysgol Bro Cinmeirch | Closing Meeting | | | | | Delayed due to Covid-19 |
| Supply Chain Risk | Closing meeting | - | - | - | - | |
| Housing Support Grant | Complete | High ● | 0 | 0 | 0 | |
| Rhyl Regeneration Programme | Draft | - | - | - | - | |
| Project Management: SC2 | Closing meeting | | | | | |
| Project Management: Queens Market | Draft | | | | | |

Internal Audit Update – November 2020

| Area of work | Current status | Assurance level | Critical issues | Major issues | Moderate issues | Comment |
|------------------------------------------|-----------------|-----------------|-----------------|--------------|-----------------|---------------------------------------------------|
| Business Rates Grants | In progress | - | - | - | - | Advisory |
| Discretionary Business Grants | In progress | | | | | Advisory |
| Free School Meals Direct Payments | Complete | - | - | - | - | Advisory |
| Social Care Workers Bonus Payments | Complete | - | - | - | - | Advisory |
| Rhuddlan Town Council | Complete | N/a | | | | External fee earning work |
| National Fraud Initiative | Ongoing | N/a | N/a | N/a | N/a | Commencing 2020-21 exercise |
| Revenues & Benefits 2020/21 | Opening Meeting | | | | | Focus on Covid impact |
| Capital Management | Scoping | | | | | |
| Financial Services 2020/21 | Scoping | | | | | |
| Community Living Schemes | Fieldwork | | | | | Additional/New audit |
| Data Protection & Freedom of Information | Draft | | | | | Includes information security when remote working |
| Denbighshire Leisure Limited | Not started | | | | | Q4 |
| ICT Capacity & Resilience | Scope Prep | | | | | Q4 |
| Commercial Waste | Scope prep | | | | | On hold |
| Blue Badges | Not started | | | | | On hold |
| Ethical Culture | Draft | | | | | Nearing completion |
| Risk Management | Not started | | | | | Q4 |
| Adoption Service | On hold | | | | | |
| Highways Maintenance | Not started | | | | | |
| Community Safety | Not started | | | | | |

| Area of work | Current status | Assurance level | Critical issues | Major issues | Moderate issues | Comment |
|------------------------------------------|----------------|-----------------|-----------------|--------------|-----------------|---------|
| Empty Homes | On Hold | | | | | |
| Housing Maintenance | Not started | | | | | |
| Equalities/ Wellbeing Impact Assessments | On Hold | | | | | |
| General Fraud Enquiries | Ongoing | N/a | N/a | N/a | N/a | |
| Follow up audits | Ongoing | N/a | N/a | N/a | N/a | |
| School fund audits | Ongoing | N/a | N/a | N/a | N/a | |
| Corporate Governance Framework | Ongoing | N/a | N/a | N/a | N/a | |
| Corporate Working Groups | Ongoing | N/a | N/a | N/a | N/a | |
| Consultancy & Corporate Areas | Ongoing | N/a | N/a | N/a | N/a | |
| Team Meetings /1:1s | Ongoing | N/a | N/a | N/a | N/a | |
| Management | Ongoing | N/a | N/a | N/a | N/a | |
| Training & Development | Ongoing | N/a | N/a | N/a | N/a | |

As indicated previously, a reduction in resource will mean that the following projects will no longer be completed in 2020/21. These areas will continue to be assessed and high priority areas will be carried forward to the Audit Plan for 2021/22:

- Community Mental Health Team – on hold until 2021/22 by request of BCUHB
- Deprivation of Liberty Safeguards (DOLS) – on hold until WG guidance released
- Adoption Service – on hold. Wrexham CBC (host authority) also plan to audit.
- Youth Service – on hold
- Works in Defaults – no longer a priority
- Workforce Development – carry forward to 2021/22
- School Audits – on hold, carry forward to 2021/22
- Heritage Services – no longer a priority
- Additional Learning Needs – carry forward to 2021/22
- Empty Homes – no longer a priority
- Commercial Waste – on hold
- Exceptions and Exemptions with CPRs – on hold
- Equalities / Wellbeing and Impact Assessments – on hold

Progress with Improvement Actions 2020-21

Responsibility to resolve issues and manage agreed actions lies with management. The International Internal Audit Standards require internal audit to monitor what is happening to the results of audit engagements to ensure that actions have been implemented effectively or that management has accepted the risk of not taking action. The table below summarises progress as at the end of June 2020. The progress and current status of the actions showing as overdue is available on request.

| Service | Actions raised | Actions due | Actions completed | % | Actions past due date | % |
|----------------------------------------------------|----------------|-------------|-------------------|-----------|-----------------------|-----------|
| Business Improvement & Modernisation | 16 | 12 | 11 | 92 | 1 | 8 |
| Community Support Services | 20 | 18 | 9 | 50 | 9 | 50 |
| Communities & Customers | 25 | 19 | 3 | 16 | 16 | 84 |
| Education & Children's Services | 27 | 24 | 22 | 92 | 2 | 8 |
| Facilities, Assets & Housing* | 9 | 9 | 8 | 89 | 1 | 8 |
| Finance & Property Services | 33 | 32 | 18 | 56 | 14 | 44 |
| Highways, Facilities & Environmental Services | 21 | 20 | 8 | 40 | 12 | 60 |
| Legal, HR & Democratic Services | 46 | 40 | 26 | 65 | 14 | 35 |
| Planning, Public Protection & Countryside Services | 32 | 25 | 17 | 68 | 8 | 32 |
| Total | 229 | 199 | 121 | 61 | 78 | 39 |

* Some internal audit actions are still shown under the Facilities, Assets & Housing Service on Verto, but continue to be updated by the relevant officers.

Performance is below target overall but shows improvement when compared against the last Internal Audit Update reported to committee in July 2020. The coronavirus pandemic has caused some slippage against original agreed timescales; however, some of the longstanding actions have been resolved. Internal Audit has worked with Legal, HR & Democratic Services in particular to re-evaluate certain actions taking into account the current situation, for example, a different approach was agreed to addressing risk surrounding driver safety in light of significant reduction in travelling since the coronavirus pandemic and the increased use virtual meetings.

Progress with Counter Fraud Work

Counter fraud work carried out since the last internal audit update includes:

1. Providing advice on counter fraud to officers on request. This has included the emergency Covid-19 related grants for businesses, social care workers and free school meals.
2. National Fraud Initiative (NFI) update:
 - a. NFI exercise 2018-19 is nearly complete and we are closing down any open cases. Monies identified as wrongfully paid are in the process of recovery. A summary of the results will be reported to the next committee meeting.
 - b. The NFI 2020-21 exercise is now being set up with internal audit coordinating the data uploads from various IT systems across the Council and from external parties where systems are hosted elsewhere. Privacy notices have been checked and required Privacy Declaration complete.
 - c. The Auditor General has included data-matching of COVID-19 business support grants paid by local authorities as part of the 2020-2022 NFI to help Councils identify fraudulent applications.
 - d. Audit Wales have published a report summarising the results of the NFI 2018-19 exercise which has uncovered £8m of fraud and overpayments across public services in Wales, compared with £5.4m in the previous exercise. The increase was mainly attributed to several local authorities being more proactive in reviewing matches between council tax single persons discount and the electoral register.
3. School fund certificates from Blessed Edward Jones's school funds are still outstanding for 2018-19 and 2019-20 up to when the school closed. As Blessed Edward Jones School has closed, we are liaising with staff at Christ the Word School to obtain the documents which will enable us to complete the audit. Education Support maintain regular contact with all schools and prompt them to maintain up-to-date certificates.
4. The Strategy for the Prevention and Detection of Fraud, Corruption and Bribery has been drafted which is aligned to the recently published Fighting Fraud and Corruption Locally Strategy for Local Government. The Fraud Response Plan which accompanies the strategy is under development.

Referrals 2020/21

One allegation has been referred to Internal Audit so far this year and it has been referred to the police.

One whistleblowing concern has been raised which features as part of the Committee's Annual Whistleblowing Report (separate agenda item).

Internal Audit Performance Standards

The table below shows Internal Audit's performance to date for 2020/21.

| Performance Measure | Target | Current Performance |
|----------------------------------------------------------------------------------|---------------------------|---------------------|
| Send a scoping document before the start of every audit | 100% | 100% |
| Issue draft report within 10 days of the closing meeting | Average days less than 10 | 7 days |
| Issue final report within 5 days after agreeing the draft report and action plan | Average days less than 5 | 11.5 days |
| Percentage of audit agreed actions that have been implemented by services | 75% | 61% |

Performance relating to issuing the final report within 5 days of agreeing the draft report has been adversely impacted by capacity shortage within the team. The performance relating to the number of internal audit actions implemented by management has improved compared to the last internal audit update report, but is still below target. Internal Audit has worked with Legal, HR & Democratic Services and Finance & Property Services to review outstanding actions and record progress on the verto system.

The completion rate by service is summarised in the table on page 18 and a list of overdue actions is available on request. The coronavirus pandemic has caused slippage with some actions and Internal Audit will continue to review long standing actions with the managers concerned to establish reasons affecting timely completion.

CIPFA Practical Guidance for Audit Committees – Update

The Welsh Chief Auditors Group hosted an Audit Committee Chairs Network and the Chair and Chief Internal Auditor attended its first meeting in October 2019. The meeting arranged for June 2020 was postponed due to the coronavirus pandemic and has been rescheduled to November 2020.

The training arranged with CIPFA on “How to be a more effective audit committee” has been put on hold temporarily due to the coronavirus pandemic.

The Chief Internal Auditor proposes to perform another self-assessment against the CIPFA Practical Guidance for Audit Committees in the New Year.

Appendix 1 – Assurance Level Definition

| Assurance Level | Definition | Management Intervention |
|--------------------|----------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|
| High Assurance ● | Risks and controls well managed and objectives being achieved | Minimal action required, easily addressed by line management |
| Medium Assurance ● | Minor weaknesses in management of risks and/or controls but no risk to achievement of objectives. | Management action required and containable at service level. Senior management and SLT may need to be kept informed. |
| Low Assurance ● | Significant weaknesses in management of risks and/or controls that put achievement of objectives at risk. | Management action required with intervention by SLT. |
| No Assurance ● | Fundamental weaknesses in management of risks and/or controls that will lead to failure to achieve objectives. | Significant action required in a number of areas. Required immediate attention from SLT. |

| Risk Issue Category | Definition |
|---------------------|------------------------------------------------------------------------------------------------------------------------------|
| Critical ● | Significant issues to be brought to the attention of SLT, Cabinet Lead Members and Corporate Governance and Audit Committee. |
| Major ● | Corporate, strategic and/or cross-service issues potentially requiring wider discussion at SLT. |
| Moderate ● | Operational issues that are containable at service level. |

Internal Audit of Direct Payments for Children

Internal Audit engagements are conducted in conformance with the Public Internal Audit Standards

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Purpose and Scope of Review

We carried out a review of Direct Payments as this area has not been reviewed for some time and as part of our proactive counter fraud measures. This review provides assurance for senior managers within the Education & Children's Services (ECS), the Annual Internal Audit Report and Annual Governance Statement.

Our scope covered the following areas:

- Policies and Procedures;
- Referrals and Assessment;
- Employment of Personal Assistants;
- Transition Arrangements; and
- Monitoring and Closure of Direct Payments.

We have previously carried out a review of support budgets and direct payments within Community Support Services (CSS), which was reported to Corporate Governance & Audit Committee in September 2019.

Background & Context

A direct payment is an option that is considered for providing care and support to comply with the Social Services and Well-being (Wales) (SSWB) Act 2014 focusing on achieving outcomes for citizens. This can either be paid to the child's parent or carer, or into a managed account where a third party provider will administer the funds.

Traditionally, individuals or their representatives have not been able to shape the kind of support they need. One of the key principles of the SSWB Act is about empowering them to have a say and control to improve their wellbeing, so with a personalised approach, such as a direct payment, it enables them to identify their own needs and make choices about how they want to be supported. Local authorities have a fiduciary duty to ensure that there are sufficient controls to manage public expenditure, but have to balance this in line with the principles of the Act to ensure it is adaptable to suit the individual. For example, some councils do not require citizens to evidence how their direct payment is being spent. Currently within the council, regular returns should be submitted to provide evidence of this expenditure. Since we completed our audit fieldwork, a prepayment card option has been implemented.

While any child that has been assessed as needing care and support could be provided with a direct payment, where appropriate, it is currently only the Children with Disabilities team that offers them. Both the third party provider and the financial assessment officers from CSS are involved in this process. At the time of our review, there were 29 children supported by a direct payment, 8 of which were provided through a managed account, and a further 9 cases were pending (no payment was being made until a personal assistant was appointed).

Audit Opinion

Staff within the Children with Disabilities team have been provided with training on direct payments, but the Service would benefit from having documented guidance to ensure staff are clear of the process and it is followed consistently. It is planned for this to be co-ordinated with the CSS to produce common guidance for direct payments. Similarly, the Service does not have documented guidance for parents or carers, instead commissioning a third party provider to supply this information and advice to citizens.

There is a robust process for referring citizens via the Children and Families Support Gateway and then passed to the relevant team so a social worker can obtain further information to establish the needs of the child and whether direct payments should be pursued.

Currently, only the Children with Disabilities team provide direct payments within the Service. This needs to be reviewed to ascertain where this option would be appropriate, in line with the SSWB Act. The structures may have to be reviewed to accommodate any additional demand as the Service shares both the review team and financial assessment team with CSS. Processes for managing direct payments will also need to be reviewed prior to any extension of the service provision to ensure they are robust, and staff are clear of their roles and responsibilities.

Information relating to direct payments is difficult to find due to how it is recorded. For instance, direct payments are not always mentioned in care plan documentation, as the Children with Complex Needs (CWCN) Panel will not have approved the direct payment at this stage. The recording of the direct payments process, from assessment to approval, has not been consistently recorded on the PARIS system, with a lot of information being contained in case notes. This is due to the number of changes being made within the system to reflect the implementation of the SSWB Act. Having robust guidance should help to alleviate this issue, together with completion of regional care and support plan templates which are in the process of being developed.

The data held on the PARIS system in relation to direct payments needs to be reviewed to ensure that it is accurate and up-to-date. Direct payment cases also need to be closed

Internal Audit of Direct Payments for Children

down more promptly on PARIS. This would assist in providing a reliable mechanism for robust system reporting.

Direct payments are mainly used to employ a personal assistant to assist in supporting the child, e.g. for taking them to activities. The third party provider can advise parents or carers on employment rights including right to work in the UK and disclosure barring service (DBS) checks. They can also arrange for DBS checks to be carried out and ensure that appropriate employer liability insurance is in place. Too much reliance has been placed on the third party provider to carry out this role without adequate checks by the council that their roles and responsibilities are being fulfilled. Our sample testing identified that:

- We could not find evidence of DBS checks for all personal assistants in our sample (4 out of 11 cases could not be found);
- Neither the provider nor the council confirm that the parent or carer has carried out a right to work in the UK check on the personal assistant; and
- Not all parents or carers provide copies of their employer liability insurance despite their contract detailing this responsibility, yet the direct payment is still paid.

Principal Managers, in both ECS and CSS, have convened a working group to review our current arrangements with third party suppliers and to explore options to address some of the issues in recruitment and sustainability of personal assistants in the county. The service has analysed the difficulties in recruiting personal assistants, and are exploring options to stimulate the market. If direct payments are recovered because of recruitment issues, the child's outcomes may not be met or alternative service provisions could be more costly than direct payments. These circumstances are not unique to Denbighshire and similar issues in recruitment and retention of personal assistants are experienced across Wales.

Currently, no contract is in place with the third party provider to supply this support. The provider is also used by CSS who use them more often. While there was a contract in place previously, the council 'spot purchases' with them while current arrangements are reviewed. Expenditure for the financial year 2019/2020 was £45,130. Consequently, the council has contravened Contract Procedure Rules (CPRs) in exceeding tendering thresholds i.e. £25k and above requires quotations and a contract.

Internal Audit of Direct Payments for Children

Direct payments are calculated consistently in terms of the hourly rate that should be paid to the personal assistant, which are authorised by the CWCN Panel before payment. There is a signed agreement in place with the parent or carer for managing the direct payment.

There was a lack of evidence of the child's outcomes being reviewed within the designated six month period. Social workers are inconsistent in how they record their outcome reviews, a new template had been designed to rectify this but had not been fully implemented at the time of our review. Instead, social workers maintain their records to prompt them to arrange this visit and cases are reviewed as part of the supervision process, but it would be more practical, to record the agreed review date on the PARIS system so there is an automatic prompt when the next review is due.

Financial monitoring needs to be improved as direct payments have been made towards a personal assistant without one being in post, or to identify where balances are significantly accruing. On occasions, there were delays in recovering funds from the parent, carer or the third party provider where a direct payment had ended. An issue in relation to financial monitoring was raised in our Support Budgets & Direct Payments (CSS) review and after the conclusion of our review, prepayment cards were introduced, which will improve monitoring arrangements. Therefore, we are satisfied that suitable action has been taken to address this issue.

There needs to be better co-ordination between the Children with Disabilities team and the financial assessment officers (FAOs). For instance, when a social worker is visiting the parent or carer to discuss the direct payment and reviewing the child's outcomes, if any financial issues are identified, these should be passed to the FAOs for further investigation. Similarly, if the FAOs pick up any issues as part of their financial monitoring, such as returns not being submitted, these should be reported to the social worker who can discuss it as part of their next visit.

We carried out a brief review of the arrangements for direct payments from when the child transitions from the Service to CSS. Overall, this was positive as there are processes in place to ensure that children are identified at an early stage, and there is a dedicated officer to assist with the process. There is currently no documented guidance for managing the process and continuity arrangements need to be reviewed to ensure that they are effective.

Internal Audit of Direct Payments for Children

In conclusion, although there were some positive measures in place, because of the significance of the risks being raised, we provide a low assurance rating.

Low Assurance ●

Significant weaknesses in management of risks and/or control that put achievement of objectives at risk

Action Plan

Issue 1 – No documented guidance on direct payments or transition arrangements

Staff may not be clear of their duties and therefore carry out processes inconsistently - Moderate Risk ●

| Agreed action | Responsibility | Deadline |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|------------|
| 1.1 CSS and Education & Children’s Services to co-productively develop guidance for detailing the arrangements in place for when a child transitions to adulthood. | Team Manager (Complex Disabilities)/ Senior Social Worker/ Transition Social Worker, CSS Complex Disabilities Team | Complete |
| 1.2 Review shared Direct Payment Guidance and Procedures with CSS (last updated April 2019) to ensure that standard recording practices are clear and reflect the new templates and incorporate guidance on transition guidance. | Principal Manager (Intervention, Prevention, Health & Wellbeing)/ Principal Manager (Operational Services) | 31/03/2021 |

Issue 2 – Direct payments only provided in the Children with Disabilities team

This should be reviewed to ensure the Service is complying with the Social Services and Wellbeing Act (SSWB) - Moderate Risk ●

| Agreed action | Responsibility | Deadline |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|------------|
| 2.1 Complex Disability Team (Transition) to develop a system which ensures that the required list of children transitioning to CSS is accessible to the management team. | Team Manager (Complex Disabilities)/ Senior Social Worker | Complete |
| 2.2 Meeting held to confirm that Direct Payments cannot be utilised in other Children's Social Care teams currently. | Director of Social Services/Head of Children's Services | Complete |
| 2.3 Meeting to address the business continuity arrangements for the Children with Disabilities Team Manager to ensure that appropriate cover is available for leave and sickness absence from other team managers within the service. | Principal Manager (Intervention, Prevention, Health & Wellbeing)/Interim Head of Children's Social Care | 31/12/2020 |

Issue 3 – Key management information held is not robust

Direct payment information is either not recorded, recorded incompletely or incorrectly. This has meant that information cannot easily or accurately be reported on to enable effective monitoring - Major Risk ●

| Agreed action | Responsibility | Deadline |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|------------|
| 3.1 Both Adults and Children's services are considering a move from PARIS to an alternative social Care recording system such as WCCIS which would address these issues (will be followed up as part of the Support Budgets review). | N/A | N/A |
| 3.2 There have been issues with recording on PARIS. As PARIS is not used for making payments there are sometimes issues with double inputting data on both PARIS and the system used for payment (CIS or Proactis). The newest version of PARIS (6.1 build 19.39) has now been completed and ICT are currently investigating implementing changes to system to allow budget codes and tariffs to be recorded and edited. | Principal Manager (Intervention, Prevention, Health & Wellbeing)/ Principal Manager (Operational Services) | 31/12/2020 |
| 3.3 In the meantime, procedures and standards for recording direct payments in PARIS will be reviewed and the FAO Team will work with the Children with Disabilities Team to improve communication and data recording as much as possible considering the identified issues with PARIS. | Team Manager (Client Services)/ Team Manager (Children with Disabilities) | 31/03/2021 |
| 3.4 Update recording guidance to standardise recording of Direct Payment information within new care and support plan and review templates. | Team Manager (Children with Disabilities) | 31/03/2021 |

Issue 4 – Non-adherence to Contract Procedure Rules (CPRs)

There is no contract in place with the third party provider for supplying advice and support and the managed account service for direct payments. This contravenes CPRs and the council could be challenged. - Major Risk ●

| Agreed action | Responsibility | Deadline |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|------------|
| 4.1 A joint working group has been set up by the Principal Managers in CSS and ECS to research and review the service specification for a Direct Payment Support Service going forward and an action plan is in place to pursue options to address the issues and commission an appropriate service to meet our requirements. | Principal Manager (Intervention, Prevention, Health & Wellbeing)/ Principal Manager (Operational Services) | 31/03/2021 |
| 4.2 A prepaid card solution has been implemented by both Adults and Children's Services for Direct Payments which would reduce the need for a managed account service. | Team Manager (Client Services) | Complete |

Issue 5 – Personal Assistants’ Process is not robust

Too much reliance is placed on the third party provider without adequate checks - Major Risk ●

| Agreed action | Responsibility | Deadline |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|------------|
| 5.1 To review the support provider service in relation to employing PAs and DBS and to consider alternatives. To consider the Authority taking on a more ‘hands-on’ approach rather than the light touch monitoring requested by the Director of Social Services. | Principal Manager (Intervention, Prevention, Health & Wellbeing)/ Principal Manager (Operational Services) | 31/03/2021 |
| 5.2 To contact the All Wales Direct Payment Forum to gain an understanding of other Welsh Authority’s monitoring process with regard to PAs and DBS checks. | Team Manager (Client Services) | Complete |

Issue 6 – Reviews of outcomes are not robust

There is a lack of evidence to confirm that outcome reviews are reviewed in line with the SSWB Act - Major Risk ●

| Agreed action | Responsibility | Deadline |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------|------------|
| 6.1 Create recording standards for social worker team to ensure that information regarding direct payment, decisions, arrangement and reviews are recorded consistently. | Team Manager (Children with Disabilities) | 30/09/2020 |
| 6.2 Carry out quality assurance audit to ensure that social workers are using the existing template to review cases and are complying with recording standards. | Team Manager (Children with Disabilities) | 31/012021 |

Appendix 2 – Assurance Ratings Definitions

| | |
|--------------------|---------------------------------------------------------------------------------------------------------------|
| High Assurance ● | Risk and controls well managed and objectives are being achieved |
| Medium Assurance ● | Minor weaknesses in management of risks and/or objectives but no risk to achievement of objectives |
| Low Assurance ● | Significant weaknesses in management of risks and/or control that put achievement of objectives at risk |
| No Assurance ● | Fundamental weaknesses in management of risks and/or controls that will lead to failure to achieve objectives |

Report Recipients

- Principal Manager (Intervention, Prevention, Health & Wellbeing, ECS)
- Interim Head of Children's Social Care
- Team Manager (Children with Disabilities team, ECS)
- CSS Team Managers (Complex Disabilities, Client Services and Business Support)
- Principal Managers (Operational Services, Support Services CSS)
- Service Manager (Client Services)
- Head of Community Support Services
- Senior Finance & Assurance Officer (Education & Children's Service)
- Legal & Procurement Operations Manager
- Corporate Director (Communities)
- Lead Officer (Destination, Marketing and Communication)
- Chief Executive
- Section 151 Officer
- Strategic Planning & Performance Officer
- Scrutiny Coordinator
- Chair-Performance Scrutiny Committee
- Lead Member for Education, Children's Services & Public Engagement
- Lead Member for Finance, Performance & Strategic Assets
- Corporate Governance & Audit Committee

Internal Audit Team

Lisa Harte, Senior Auditor

lisa.harte@denbighshire.gov.uk

Key Dates

| | |
|----------------------------------------------------|------------------|
| Review commenced | September 2019 |
| Review completed | November 2019 |
| Reported to Corporate Governance & Audit Committee | 18 November 2020 |
| Proposed date for first follow up review | April 2021 |

| | |
|------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|
| Report to | Corporate Governance & Audit Committee |
| Date of meeting | 18 November 2020 |
| Lead Member / Officer | Lead Member for Wellbeing and Independence & Lead Member for Education, Children's Services and Public Engagement / Corporate Director Communities |
| Report author | Corporate Director Communities |
| Title | Care Inspectorate Wales (CIW) Local Authority Performance Review April 2019 - March 2020 |

1. What is the report about?

The report sets out the key issues arising from the Care Inspectorate Wales (CIW) review of Denbighshire County Council's performance in carrying out its statutory social services functions. A copy of the full review letter is attached at Appendix I.

2. What is the reason for making this report?

To ensure that the Committee is aware of the performance evaluation for social services including areas of progress, areas for improvement and risk.

3. What are the Recommendations?

It is recommended that Members consider the CIW evaluation and consider whether any further scrutiny is required

4. Report details

4.1 The CIW annual letter provides feedback on inspection and performance evaluation activity completed during the year; reports on progress the local

authority has made in implementing recommendations from inspections and/or child and adult practice reviews; and, outlines CIW's forward work programme.

4.2 The letter provides a summary of strengths and areas for improvement. Areas identified as requiring improvement will be embedded within Service Business Plans for 2020 – 2021.

5. How does the decision contribute to the Corporate Priorities?

The inspection provides an external perspective of the Council's performance in relation to social services

6. What will it cost and how will it affect other services?

The response to delivering improvement actions will be integrated into the Service Business Plans for 2020-2021. The delivery of these plans will be managed within existing financial resources.

7. What are the main conclusions of the Well-being Impact Assessment?

A Well-being Impact Assessment is not required because this report does not ask for a decision that will result in any change for staff or the wider community. WBIA's will be completed on individual priorities if they require projects to commence and/or decisions to be taken.

8. What consultations have been carried out with Scrutiny and others?

Scheduled engagement meetings take place with the Senior Management Team for Social Services and CIW which help inform the evaluation as well as assess progress in delivering improvement.

9. Chief Finance Officer Statement

As noted above it is important that any costs relating to the improvement plans and actions are maintained within the annual cash limited budgets for the service agreed on an annual basis.

10. What risks are there and is there anything we can do to reduce them?

There are no risks associated with implementing the recommendations of this report

11. Power to make the decision

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Nicola Stubbins
Corporate Director Communities
Denbighshire County Council
County Hall
Wynnstay Road
Ruthin
LL15 1YN

Date: 03 August 2020

Dear Nicola Stubbins,

Care Inspectorate Wales (CIW) Local Authority Performance Review April 2019 - March 2020

The code of practice for review of local authority social services in April 2019 outlines our intention to write and publish an annual letter for local authorities which will:

- provide feedback on inspection and performance evaluation activity completed by us during the year
- report on progress the local authority has made in implementing recommendations from inspections and/or child and adult practice reviews
- outline our forward work programme

In line with our code of practice for the review of local authority social services this letter summarises our review of Denbighshire County Council performance in carrying out its statutory social services functions from April 2019 – March 2020.

We acknowledge, that due to the unprecedented circumstances relating to COVID-19, we were unable to complete the annual performance review meeting.

However, we believe that there remains significant benefits in identifying and drawing the attention of the local authority and its partners, to the areas of both strengths and improvements required. The letter is intended to assist the local authority and its partners to continually improve.

Arolygiaeth Gofal Cymru (AGC)
Swyddfa Llywodraeth Cymru
Sarn Mynach
Cyffordd Llandudno
LL31 9RZ
www.arolygiaethgofal.cymru

☎ 0300 790 0126
☎ 0872 437 7303
✉ CIW@gov.wales

Care Inspectorate Wales (CIW)
Welsh Government Office
Sarn Mynach
Llandudno Junction
LL31 9RZ
www.careinspectorate.wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

It follows the four principles of the Social Services and Well-being (Wales) Act 2014 and our increasingly collaborative and strengths based approach to supporting improvement.

The content of this letter is informed by the performance evaluation activity undertaken by the inspectorate during the course of the year. This activity included:

- inspection of older adults services – May 2019
- meetings with senior managers
- focused activity in adults services – January 2020
- engagement activity with older adults services
- focused activity in children's services December 2019
- feedback/intelligence received
- review of performance information

During the course of the year we have been in discussions with you during all of the activity listed above, and as such, our annual performance letter content is an accurate reflection of our ongoing findings which we have consistently shared with you.

Summary of strengths and areas for improvement in line with principles of the 2014 Act

Well-being

Denbighshire County Council benefits from an experienced and knowledgeable senior management team. Senior managers across the local authority have a good understanding of how a focus on prevention and well-being impacts upon outcomes for people, sustainability of services and the success of the local authority as a whole.

During the year we found evidence of positive transformation underpinned by legislation and internal audit. In both adult social care and children's services we met practitioners who spoke enthusiastically about their work and plans for the future. Many welcomed the autonomy they had gained from new ways of working under the 2014 act and told us they felt well supported. We understood practitioners benefited from training opportunities available to them although access to some training is limited by demands of front line work.

Adult services is improving its approach to strengths based conversations producing good outcomes for many people. In January 2020 we were able to report on significant improvements in the delivery of adult safeguarding. Practitioners were able to demonstrate how they were listening to the outcomes people want to achieve, and how they were supporting people to work creatively towards what mattered to them. Timeliness, recording, professional analysis and decision making has all improved during the year.

There are many very good written records in children's social services. The records clearly demonstrate the positive work practitioners have undertaken, in partnership with others to support the most vulnerable children in difficult circumstances, over extended periods. The senior management team have refreshed their audit process with an emphasis on ensuring all social work meets these high standards and all children receive timely and effective support.

People

Denbighshire County Council has an adequate understanding of how people benefit from the provision of information, advice and assistance and by being involved in developing services that meet their needs.

The local authority is not always successful in managing the fine balance between focusing upon adults' strengths as a means of maintaining their independence and the duty of the local authority to provide services to meet need. The local authority must take steps to ensure outcomes of assessment are recorded on the assessment and eligibility tool. The record must contain a record of advice and information given, and the local authority must uphold outcomes of assessments regardless of the individual's financial resources in line with the 2014 Act.

Fresh enthusiasm and creativity has enhanced the supported budgets project and recently the number of people who are offered more choice in how they manage their care and support has increased.

The local authority recognises the importance of ensuring people are able to communicate in their preferred language. Recruitment of Welsh speaking practitioners is a challenge. The local authority is addressing the deficit by working hard encouraging and supporting staff who want to learn to speak Welsh.

Retention and recruitment of children's social workers is becoming more of a challenge in the local authority. The local authority is actively looking at how they recruit and retain newly qualified workers and recognise the challenge this presents to more experienced workers who undertake mentoring roles.

We continue to monitor the implementation of Deprivation of Liberty Safeguards (DoLS) which has identified the local authority, in common with many others in Wales, is unable to assure itself that people's human rights are not being breached by being deprived of their liberty unlawfully. Our joint national report on DoLS will be issued in due course.

The local authority is taking steps to improve the quality of mental capacity assessments undertaken by practitioners. This work is essential to ensure the local authority is ready for changes in Liberty Protection Safeguards.

Prevention

Denbighshire County Council is aware of the continuing challenge it faces in providing domiciliary care and how this impacts negatively on people who need care and support. Senior managers assure us they regard this as a priority and are exploring different options to address market capacity. We will continue to monitor this activity.

During 2018 our programme of work focused on care experienced children and young people. The [report](#) is published on our website. Key findings highlight areas for improvement in respect of profile, sufficiency, practice, partnerships, stability, governance and corporate parenting. Many of the areas we have identified for improvement continue to be considered by Welsh Government's Ministerial Advisory Group on improving outcomes for care experienced children and young people and we also hope local authorities will consider their own contribution to addressing these findings.

In December 2019 we wrote to all local authorities asking for information about The Public Accounts Committee report following their enquiry into care experienced children, specifically recommendation 5 concerning the effectiveness and frequency of end of placement reviews. We are aware the local authority does hold disruption meetings and placement breakdown meetings and does learn from experience. The local authority recognises timeliness is an issue for them. The local authority has learnt this year of the importance of communication between social workers in differing local authorities who may both be placing children in the same setting.

Partnerships

Partnership working is mostly effective in the Denbighshire County Council. Housing, leisure and environmental health services work together to create opportunities to build community resilience and the bringing together of children's social services and education in previous years continues to provide benefits and opportunities.

The local authority continues to be actively engaged in local and regional partnership working and their contribution is positively noted by their partners.

Children's services continue to work with local and regional partners to develop new services and enhance support to children and families. There is a positive focus on providing the right care at the right time, to alleviate stress in the home and reduce the likelihood of children requiring care outside the family home.

The development of Community Resource Teams in adult services is evidence of good joint working between the local authority and the local health board. Being co-located and working in joint teams enables practitioners to share information and professional experience, reduce duplication of resources and co-produce better outcomes for people.

CIW Performance Review Plan for 2020-2021

Our scheduled thematic inspection programme for 2019-2020 focused on prevention and promoting independence for older people; and prevention, partnerships and experiences of disabled children. Unfortunately, due to the current COVID-19 emergency, we have paused the publication of our older persons report and paused all activity relating to the disabled children's review.

Our intention is to publish the older people's national report in due course and we take this opportunity to thank you for your local authority's contribution. We are currently reviewing and considering our work plan for the remainder of 2020-2021.

During autumn 2019 we worked together with HMI Constabulary (HMICFRS), HMI Probation, Healthcare Inspectorate Wales (HIW) and Estyn to pilot a model of joint inspection of child protection arrangements in Wales (JICPA). This is one example of the drive towards collaboration and integration in public services. We will learn from the experience and take forward the positives.

We continue to work closely with Social Care Wales to support improvement in social care services.

You will note that this letter has been copied to colleagues in Audit Wales, Estyn and HIW.

We will publish the final version of this letter on our website.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Lou Bushell-Bauers', with a small dot at the end.

Lou Bushell-Bauers
Head of Local Authority Inspection

Cc.
Audit Wales
HIW
Estyn

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| | |
|------------------------------|---------------------------------------------------------------|
| Report to | Corporate Governance Committee |
| Date of meeting | 18 November 2020 |
| Lead Member / Officer | Bobby Feeley / Nicola Stubbins / Phil Gilroy |
| Report author | Phil Gilroy |
| Title | Audit Wales Report – Social Services Budgetary Cost Pressures |

1. What is the report about?

- 1.1. This report summarises the Audit Wales Report of the Social Services Budgetary Cost Pressures in Denbighshire and provides Officers' responses to the Proposals for Improvement.

2. What is the reason for making this report?

- 2.1. To ensure Elected Members are kept informed of and able to scrutinise observations and actions following an external audit of a Denbighshire County Council service.

3. What are the Recommendations?

- 3.1. That Members consider the report, the associated Proposals for Improvement and Officers' responses, providing feedback as appropriate.

4. Report details

- 4.1. In February 2020, Wales Audit Office (now Audit Wales) undertook a review of the commissioning and administering arrangements of care homes for older people. The full report is included at Appendix 1.
- 4.2. The final report was issued in August 2020 and reached the conclusion that the Council has been unable to maximise the potential benefits of partnership

working when commissioning and administering residential and nursing home care placements.

4.3. The report stated that this conclusion had been reached because:

- the pooled budget arrangement for care homes accommodation does not provide value for money;
- the Council has well established arrangements for contracting for residential and nursing home care; recent national changes to the financial assessment process have resulted in additional financial cost; and
- the Council acts to ensure that service users are in appropriate placements, but access to continuing health care funding can result in delays and disputes.

4.4. The report goes on to make Proposals for Improvement which, for ease of reading, are included here with Officers' initial and further comments.

| Proposal | Initial Comments | Further Comments |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>P1 The Council, in partnership with the Health Board should establish a strategic approach to the funding and commissioning of residential and nursing home care that:</p> <ul style="list-style-type: none"> • bridges organisational differences; • demonstrates value for money; and • places service user needs at the forefront. | <p>Work is ongoing regionally through the Commissioning Board and the Care Home Steering Group. Transformation Programme developments will also include changes to how BCU and DCC work together in commissioning and monitoring care home placements.</p> | <p>The Care Home Steering Group has recently been strengthened following a series of high level meetings between BCU and Local Authority representatives during the initial COVID-19 outbreak. The Care Home Operation Group is now chaired by a Director within the Health Board and reports both internally within BCU and externally to the Regional Commissioning Board chaired by a LA Director</p> |
| <p>P2 The Council should engage with partners to review the current pooled budget arrangement for</p> | <p>The current pooled budget arrangements are 'in development' and as such are regularly reviewed with all</p> | <p>The Wales Audit Report is yet to be shared with the Regional Partnership Board, which is the body tasked with overseeing</p> |

| | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>residential care for older people, to ensure that transfers of funds between public bodies have a tangible benefit such as better more integrated commissioning of residential and nursing home care</p> | <p>partners. We'll see that the examples of ensuring benefits such as integrated commissioning of care are included in this review.</p> | <p>the Pooled Budget arrangements that were made a legal requirement in the Social Services & Wellbeing Act. The current arrangements have been signed off by Welsh Government as being lawful.</p> |
| <p>P3The Council should work with the Health Board to improve communication arrangements that ensure any changes in health needs (and subsequent eligibility for continuing healthcare funding) are quickly communicated and funding arrangements revised.</p> | <p>Transformation Programme developments will also include changes to how BCU and DCC work together in commissioning and monitoring care home placements, including the development of joint review arrangements through Community Resource Teams.</p> | <p>The Coronavirus Pandemic has slowed the development of Community Resource Teams but it is still within the intention of the ongoing developments to include joint review arrangements. Regional joint work did begin on the development of a Continuing Health Care Standard Operating Procedure but BCU disengaged with LAs and the work has stalled.</p> |
| <p>P4Consider changes put in place during the COVID-19 pandemic to identify opportunities for better, more integrated commissioning of residential and nursing home care</p> | <p>A review of the arrangements developed in response to COVID-19 will be undertaken within the Joint Locality Management Team</p> | <p>The Joint Locality Management Team has recently resumed following the initial reduction on Covid-19 cases. Unfortunately no improvements in commissioning were made during the initial phase of the pandemic other than a reduction in the quality of discharge of frail older people into care homes from hospital, often with no reference to the LA.</p> |

4.5 Audit Wales have since undertaken similar reviews of commissioning in Conwy County Borough Council and also within BCU. Those reports have yet to be made available to Denbighshire.

4.6 In 2020-21, Audit Wales plan to complete a regional review of residential and nursing care commissioning, with a focus on forecast demand and capacity planning, across North Wales

5. How does the decision contribute to the Corporate Priorities?

5.1. The commissioning of care homes for older people contributes to the following priorities:

- **Housing:** Everyone is supported to live in homes that meet their needs
- **Resilient Communities:** The Council works with people and communities to build independence and resilience

6. What will it cost and how will it affect other services?

6.1. There are no costs arising directly from this report.

7. What are the main conclusions of the Well-being Impact Assessment?

7.1. A Well-being Impact Assessment is not required for this report.

8. What consultations have been carried out with Scrutiny and others?

8.1. None

9. Chief Finance Officer Statement

9.1. Text here

10. What risks are there and is there anything we can do to reduce them?

10.1. There are no additional risks arising from this report.

11. Power to make the decision

11.1. No decision is required.

Social Services Budgetary and Cost Pressures – Denbighshire County Council

Audit year: 2019-20

Date issued: August 2020

Document reference: 1834A2020-21

This document has been prepared as part of work performed in accordance with statutory functions.

In the event of receiving a request for information to which this document may be relevant, attention is drawn to the Code of Practice issued under section 45 of the Freedom of Information Act 2000. The section 45 code sets out the practice in the handling of requests that is expected of public authorities, including consultation with relevant third parties. In relation to this document, the Auditor General for Wales and the Wales Audit Office are relevant third parties. Any enquiries regarding disclosure or re-use of this document should be sent to the Wales Audit Office at infoofficer@audit.wales.

We welcome correspondence and telephone calls in Welsh and English. Corresponding in Welsh will not lead to delay. Rydym yn croesawu gohebiaeth a galwadau ffôn yn Gymraeg a Saesneg. Ni fydd gohebu yn Gymraeg yn arwain at oedi.

Mae'r ddogfen hon ar gael hefyd yn y Gymraeg. This document is also available in Welsh.

Contents

The Council has been unable to maximise the potential benefits of partnership working when commissioning and administering residential and nursing home care placements.

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Summary report

Summary

- 1 Councils and health boards across Wales spend considerable sums on residential and nursing home care for adults, and demand for these services from a growing, ageing population continues, increasing budgetary pressures on public bodies.
- 2 The latest published data from StatsWales¹ shows that North Wales councils spent approximately £66 million in 2018-19 on Nursing Placements and Residential Care Placements, and NHS benchmarking indicates that Betsi Cadwaladr University Health Board (the Health Board) spent £83 million in 2018-19 on external placements.
- 3 Denbighshire County Council (the Council) allocated an additional £750,000 in the 2018-19 revenue budget for adult social care in recognition of these financial pressures. In 2019-20, the Council allocated a further £500,000 in its revenue budget to recognise demand pressure in Community Support Services, and in the revenue budget for 2020-21 it included a further £2.6 million to recognise both the in-year overspend in Adult Social Services and an estimate of the continued growth for 2020-21. In 2020-21, the Council plans to spend over £55 million on Community Support Services.²
- 4 For service users and their relatives, funding for residential and nursing home care can be complex and confusing. While responsibilities for the funding of care costs by health boards, councils and service users are set out in statute and supported by Welsh Government guidance, in practice, disputes between public bodies over the interpretation of the guidance can cause additional stress to service users and their relatives.
- 5 The Social Services and Well-being (Wales) Act 2014 (SSWBA) came into force on 6 April 2016. Under the SSWBA, councils and health boards have a statutory obligation to establish and maintain pooled fund arrangements in relation to the exercise of their care home accommodation functions by 6 April 2018. During our fieldwork, we were made aware that the Welsh Government was undertaking a review assessing Regional Partnership Boards' progress in implementing pooled funds. We understand that the Welsh Government will be making recommendations to strengthen and improve the existing arrangements.
- 6 The Council currently hosts the North Wales pooled budget arrangement for care home accommodation for older people on behalf of the Health Board, Anglesey, Gwynedd, Conwy, Flintshire, and Wrexham councils.
- 7 There are five ways to fund residential and nursing home care as follows:
 - Service user funded care
 - Joint council and service user funded care

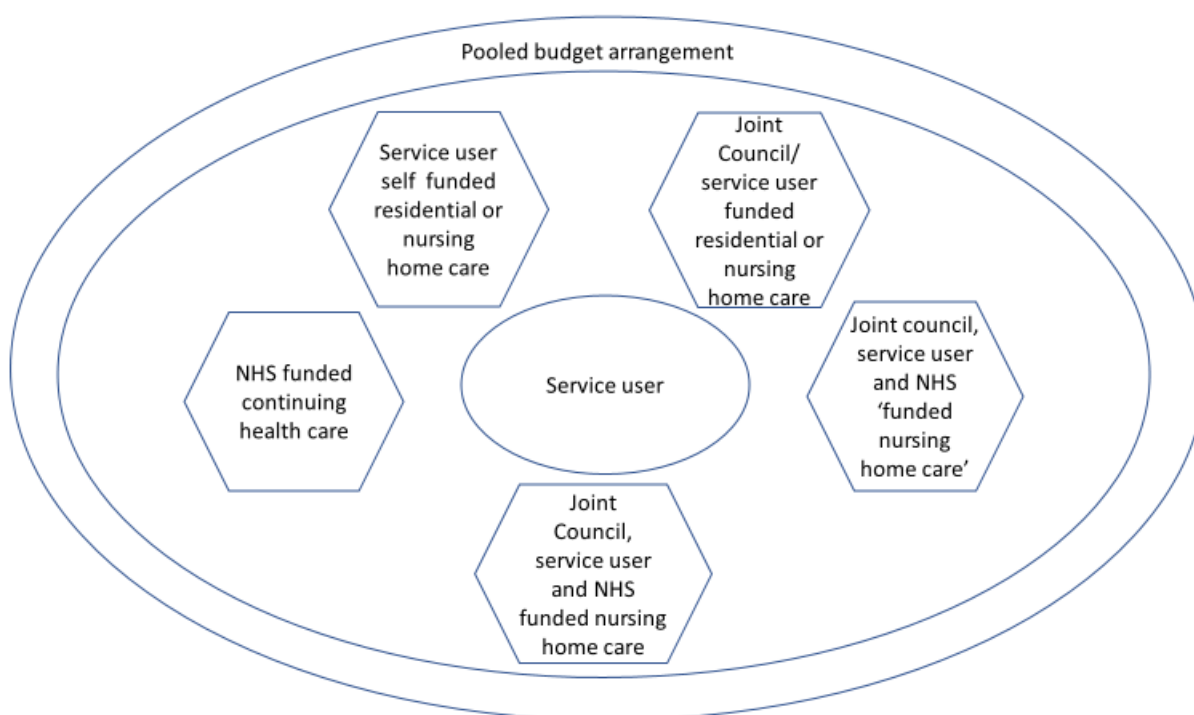
¹ [Stats Wales, Catalogue](#)

² Source : Denbighshire publication, [Your Council Tax explained](#)

- Joint council, service user and NHS funded nursing care (where funded nursing care is payable)
- Joint NHS, service user and Council funded care
- NHS funded Continuing Health Care

Exhibit 1: Residential care funding arrangements

Exhibit 1 shows the service user as the recipient of residential and nursing home care services and the five ways in which residential and nursing home care is funded, encompassed by a pooled budget arrangement.



- Our review pre-dated the outbreak of COVID-19. Councils and the Health Board will have inevitably streamlined decision-making and supporting processes to address ongoing urgent issues. We anticipate that this will provide valuable learning for councils and the Health Board around more integrated commissioning of residential and nursing home care.
- Our review concluded that **the Council has been unable to maximise the potential benefits of partnership working when commissioning and administering residential and nursing home care placements.**
- We came to this conclusion because:
 - the pooled budget arrangement for care homes accommodation does not provide value for money;

- the Council has well established arrangements for contracting for residential and nursing home care; recent national changes to the financial assessment process have resulted in additional financial cost; and
 - the Council acts to ensure that service users are in appropriate placements, but access to continuing health care funding can result in delays and disputes.
- 11 The issues raised in this report are unlikely to be unique to Denbighshire County Council and pose a risk across many councils and health boards in Wales. We have carried out a similar review at Conwy County Borough Council where the Council is a contributor to the pooled budget, unlike Denbighshire County Council which is the host; and we have carried out a review at the Health Board focused on the management arrangements for continuing healthcare. These reports may provide further context on the issues raised in this report.
- 12 In 2020-21, we plan to complete a regional review of residential and nursing care commissioning, with a focus on forecast demand and capacity planning, across North Wales.

Proposals for improvement

Exhibit 2: proposals for improvement

Exhibit 2 summary: The table below contains our proposals for ways in which the Council could improve the economy, efficiency, effectiveness and the sustainability of its funding for residential and nursing home care.

| Proposals for improvement | |
|---------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| P1 | <p>The Council, in partnership with the Health Board should establish a strategic approach to the funding and commissioning of residential and nursing home care that:</p> <ul style="list-style-type: none"> • bridges organisational differences; • demonstrates value for money; and • places service user needs at the forefront. |
| P2 | <p>The Council should engage with partners to review the current pooled budget arrangement for residential care for older people, to ensure that transfers of funds between public bodies have a tangible benefit such as better, more integrated commissioning of residential and nursing home care.</p> |

Proposals for improvement

- P3 The Council should work with the Health Board to improve communication arrangements that ensure any changes in health needs (and subsequent eligibility for continuing healthcare funding) are quickly communicated and funding arrangements revised.
- P4 Consider changes put in place during the COVID-19 pandemic to identify opportunities for better, more integrated commissioning of residential and nursing home care.

The Council has been unable to maximise the potential benefits of partnership working when commissioning and administering residential and nursing home care placements

The pooled budget arrangement for care homes accommodation does not provide value for money

- 13 Establishing a pooled budget for care home accommodation has provided the Health Board and councils with an opportunity to improve outcomes for service users, maximise value for money through the commissioning process and better integrate services for older people. Working in partnership should facilitate more clarity around responsibilities for residential and nursing home care commissioning and funding resulting in minimal disputes between partners.
- 14 In July 2019, the Council's Cabinet approved the establishment of a non-risk sharing pooled fund for care homes accommodation for older people, with Denbighshire Council acting as host authority, and for the arrangements to be effective for the financial year 2019-20. Partners in the pooled budget arrangement are Anglesey, Conwy, Denbighshire, Flintshire, Gwynedd and Wrexham councils and Betsi Cadwaladr University Health Board.
- 15 As host authority, administering the fund on behalf of the other partners, the Council received £20,000 for 2018-19 and is due the same sum for 2019-20 from regionally administered transformation funding to recognise the cost of hosting the pool on behalf of all partners.
- 16 The Cabinet report states that the purpose of the pooled funds arrangements is to encourage local authorities and local health boards to work together to maximise their influence to shape the future development of services and to ensure that

services are sustainable in the long term and capable of responding flexibly to local demand.

- 17 The Chartered Institute of Public Financial Accountants in its publication **Pooled budgets and the integration agenda in Wales** states that ‘There is no single definition of a pooled budget, either in accounting terms or in the legislation. Regulation 7 of SI 2000/2993 says that a pooled fund is made up of contributions by the partners and out of which payments may be made towards expenditure incurred in the exercise of any National Health Service functions or health-related functions.’
- 18 At the time of our fieldwork, the pooled budget had processed three quarterly payments totalling £70.8 million, as follows – quarter one payment on 18 February 2020 totalling £20.7 million, quarter two payment on 25 February 2020 totalling £24.3 million and quarter three payment on 14 January 2020 totalling £25.8 million. In a full year, based on the payments to date, the pooled budget can expect to process around £94 million.
- 19 The Health Board and five partner councils pay into the ‘pool’ a financial contribution equal to their total net spending on residential and nursing home care for older people each quarter to Denbighshire County Council. To date, these payments have totalled £63.9 million.
- 20 The Council transfers its financial contribution within its own general fund. The following table shows the Council’s contribution to the pooled budget for each quarter.

Exhibit 3

| | Quarter 1 | Quarter 2 | Quarter 3 |
|----------------------------------------------|--------------|--------------|--------------|
| Expenditure net of client contributions | £1.9 million | £2.7 million | £2.9 million |
| Less Health Board funded nursing home care | £20,286 | £51,715 | £27,205 |
| Less Health Board joint funded contributions | £0 | £0 | £0.5 million |
| Net contribution to the pooled budget | £1.9 million | £2.6 million | £2.4 million |

- 21 On the same day that Denbighshire County Council receives the financial contributions from the Health Board and five partner councils, it repays the same sums back to them.
- 22 The Welsh Government is aware of this arrangement and is satisfied that it meets the minimal technical compliance under the Social Services and Well-being (Wales) Act 2014.

23 In practice it is unclear how this quarterly transfer of funds provides value for money and how it:

- will influence and shape the future development of services;
- will influence sustainability in the long term; or
- helps partners respond flexibly to local demand.

We consider this to be a poor use of public money and poor value for money.

The Council has well established arrangements for contracting for residential and nursing home care; recent national changes to the financial assessment process have resulted in an additional financial cost

24 For service users without specific primary health needs, councils have a responsibility for assessing and meeting their social care needs. The Council has established arrangements for contracting with nursing and residential care providers within Denbighshire and further afield. It sometimes also shares care costs with the Health Board.

25 Where the Council is responsible for contracting for residential or nursing care, it financially assesses service users to determine how much they should pay towards the cost of their care. The Council collects service users' contributions via the care home provider.

Service user self-funded residential or nursing home care

26 Service users who have capital of £50,000³ or more or who choose not to disclose details of their income and capital will pay the full cost of their care. Where the Council contracts with the care home provider, which provides some assurance around the quality of care provided, service users pay the contracted price of care to the care home provider. In the knowledge that service users have enough means to pay the full care costs, the care home may ask them to pay third-party top-ups for example for a larger room or room with a better view. As a result, service user capital could reduce more quickly, and they may request financial support from the Council sooner.

27 Service users can contract for their care direct with the care home provider. This may mean they pay more for their care than they would if the Council had commissioned the care on their behalf. If residents pay more for their care than they would under the Council's contract, their capital will reduce more quickly and they may request financial support from the Council sooner.

³ From 8 April 2019, people living in Wales have to pay the full cost of their own residential care if they have assets of more than £50,000.

Joint Council and service user funded residential or nursing home care

- 28 During the first half of 2019-20, the Council funded 532 residents in residential and nursing home care. The Welsh Government incrementally increased the upper capital limit for financial assessments from £24,000 in March 2016 to £50,000 in April 2019, above which residents pay for their own care in full. As a result, the Council has part funded care home fees for those people with capital between £24,000 and £50,000: it would not have done this before April 2019. The Council estimates the cost of this to be approximately £267,000 during the first half of 2019-20 adding further budget pressures to the social care budget.
- 29 As councils now have to financially support a larger number of residents than previously the Welsh Government is providing an additional £18.5 million per annum across Wales. This funding is distributed on a formula basis and so each council is receiving a share of this £18.5 million.

The Council acts to ensure that service users are in appropriate placements, but access to continuing health care funding can result in delays and disputes

NHS funded continuing health care

- 30 The process to agree CHC funding is that a multi-disciplinary team (MDT), made up of council staff and other professionals involved in the service user's care, engaging with the service user and close family members, should work together to complete a Decision Support Tool (DST) setting out primary health needs. The DST is then considered by the Health Board and if it confirms the MDT recommendation, the Health Board will quality assure and commission the care package. Where the Health Board agrees CHC funding, it bears the full care costs; service users do not contribute to the care costs.
- 31 The Welsh Government makes clear, in its **National Framework for the Implementation of Continuing NHS Healthcare in Wales**⁴ 2014, that 'the individual must not experience delay in having their needs met because agencies are not working effectively together. Joint funding and pooled budget options must be considered wherever these can promote more agile, and as a consequence, more efficient responses to individual needs and preferences. Commissioners have a responsibility to resolve concerns/disputes at the earliest opportunity.'
- 32 We were told by Council officers that recommendations made by the MDT are often challenged or rejected by the Health Board, sometimes with little or no explanation of the reasons. The MDT can provide additional evidence to support its

⁴ [Continuing NHS Healthcare the National Framework for Implementation in Wales 2014](#)

recommendations in such instances. The Health Board may also request that the MDT reconsider the recommended eligibility based on the available evidence presented. It is important that MDT members understand the reasons why the Health Board has not approved CHC funding so they can learn for future applications and can explain the position clearly to service users and their families. Given that this does not currently happen, individuals can on occasion experience delays in having their needs met; although the Council acts to reduce the impact on service users where possible, usually by continuing to pay care costs until responsibility has been agreed with the Health Board. During our fieldwork in February 2020 the Council was awaiting the outcome of five disputes for CHC funding amounting to £60,000.

- 33 We were told of instances where the Health Board had placed patients into nursing homes under continuing health care arrangements but upon review had assessed that patient as no longer having primary care needs that the Health Board was responsible for meeting. In these circumstances the care home provider is left in an untenable position:
- the patient is settled with no other accommodation to go to;
 - there is no contractual arrangement with the Council; and
 - the contract with the Health Board may or may not have expired, but with no primary health care needs the Health Board has no ongoing funding responsibilities.

In such cases, where a transfer agreement should be in place, the Health Board and the Council are at times not communicating effectively to ensure timely handover of responsibilities.

- 34 The Council and Health Board recognise the need for improvement and have established a CHC Improvement Group. Its aim is to develop a commissioning plan for CHC, ensure effective commissioning arrangements are in place; and ensure consistent practice across the Health Board in assessment, decision making and delivery of CHC. The Health Board and Council have agreed a memorandum of agreement for CHCs and partners have held a 'What Makes a Good MDT' workshop led by the Council.

NHS funded nursing home care

- 35 NHS funded nursing care can be agreed by the Health Board for people who:
- live in a nursing home and are not eligible for CHC;
 - have still been assessed as requiring the services of a registered nurse; and
 - are not receiving registered nursing care in any other way eg from district nurses.

In such cases, the Health Board is responsible for a £165.56 contribution to cover the funded nursing care element of the care home fees. The balance of the cost is met by the Council and service user; service users do not contribute to the funded

nursing home care element, but are financially assessed to determine how much they should pay towards the balance of the care costs.

- 36 NHS funded nursing home care is the responsibility of the Health Board and the contract should be between the Health Board and the care home provider. **Exhibit 3** shows that contributions to the pooled budget do not include the funded nursing home element indicating that the Council has made payments on behalf of the Health Board for this service. The Health Board reimburses the Council the sums paid. There is no contractual arrangement for the funded nursing care element of the care and sums are paid based on goodwill between the Council and the Health Board.

Joint NHS and Council funded nursing home care

- 37 People placed in a nursing home who are not eligible for CHC or 'funded nursing care' can still be funded jointly by the Council and the Health Board. In these circumstances there will be a three-way contract recognising the responsibilities of the Council, Health Board and provider. The Council and the Health Board normally share the costs, 50% each⁵ (although there are examples where the split may not be 50/50). The Council pays the full care costs then requests reimbursement retrospectively from the Health Board. Service users will pay their contributions direct to the care provider.
- 38 There is no formal agreement between the Council and the Health Board covering the reimbursement of the Health Board's contribution to the Council. The table in **Exhibit 3** shows no joint funding contributions to the Council during quarters one and two, then £512,000 in quarter three. This suggests, assuming it is not an accounting error, this is either a number of very significant jointly funded placements made in quarter three, or that the Council is not receiving Health Board contributions promptly.

⁵ The average weekly cost of a residential care or nursing home placement for older people in Denbighshire, made by the Council and Health Board, is £1,019.



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We welcome correspondence and telephone calls in Welsh and English.
Rydym yn croesawu gohebiaeth a galwadau ffôn yn Gymraeg a Saesneg.



Management response

Report title: Social Services Budgetary and Cost Pressures

Completion date: August 2020

Document reference: 1834A2020-21

Proposals for improvement

| Ref | Proposal for improvement | Intended outcome/benefit | High priority (yes/no) | Accepted (yes/no) | Management response | Completion date | Responsible officer |
|-----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|-------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|------------------------------------|
| P1 | <p>The Council, in partnership with the Health Board should establish a strategic approach to the funding and commissioning of residential and nursing home care that</p> <ul style="list-style-type: none">• bridges organisational differences;• demonstrates value for money; and• places service user needs at the forefront. | <p>The intended benefit is that residents and their families will not experience organisational divides at the sometimes traumatic time that they enter residential care.</p> | Y | Yes | <p>Work is ongoing regionally through the Commissioning Board and the Care Home Steering Group.</p> <p>Transformation Programme developments will also include changes to how BCU and DCC work together in commissioning and monitoring care home placements.</p> | 31/3/2022 | Head of Community Support Services |

| Ref | Proposal for improvement | Intended outcome/ benefit | High priority (yes/no) | Accepted (yes/no) | Management response | Completion date | Responsible officer |
|-----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|------------------------------------|
| P2 | The Council should engage with partners to review the current pooled budget arrangement for residential care for older people, to ensure that transfers of funds between public bodies have a tangible benefit such as better more integrated commissioning of residential and nursing home care | The intended benefit is that North Wales councils and the Health Board start to deliver the spirit of the Social Services and Wellbeing Act in addition to financial compliance | Y | Y | The current pooled budget arrangements are 'in development' and as such are regularly reviewed with all partners. We'll see that the examples of ensuring benefits such as integrated commissioning of care are included in this review. | 31/3/2022 | Corporate Director Communities |
| P3 | The Council should work with the Health Board to improve communication arrangements that ensure any changes in health needs (and subsequent eligibility for continuing healthcare funding) are quickly communicated and funding arrangements revised. | The intended benefit is less delays and disputes around funding and more clarity for residents, their families and providers around funding responsibilities. | Y | Yes | Transformation Programme developments will also include changes to how BCU and DCC work together in commissioning and monitoring care home placements, including the development of joint review arrangements through Community Resource Teams. | 31/3/2022 | Head of Community Support Services |

| Ref | Proposal for improvement | Intended outcome/ benefit | High priority (yes/no) | Accepted (yes/no) | Management response | Completion date | Responsible officer |
|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|---------------------------|----------------------|-----------------------------------------------------------------------------------------------------------------------------|--------------------|-----------------------------------------|
| P4 | Consider changes put in place during the COVID-19 pandemic to identify opportunities for better, more integrated commissioning of residential and nursing home care | The intended benefits are that practices put in place to cope with the pandemic may be relevant post COVID. | Y | Yes | A review of the arrangements developed in response to COVID-19 will be undertaken within the Joint Locality Management Team | 31/3/2021 | Principal Manager, Operational Services |

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| | |
|------------------------------|---------------------------------------------------------------------------------------------------------------------------------------|
| Report to | Corporate Governance and Audit Committee |
| Date of meeting | November 18, 2020 |
| Lead Member / Officer | Alan Smith, Head of Business Improvement & Modernisation Julian Thompson-Hill, Lead Member for Finance, Performance and Assets |
| Report author | Iolo McGregor, Strategic Planning & Performance Team Leader |
| Title | Corporate Risk Register Review, September 2020 |

1. What is the report about?

1.1. An update on the September review of the Corporate Risk Register.

2. What is the reason for making this report?

2.1. This report asks that the Corporate Governance and Audit Committee considers the output of the latest risk review and are satisfied with the process of managing risk within the council.

3. What are the Recommendations?

3.1. That the Corporate Governance and Audit Committee supports changes made to the Risk Management Guide (appendix 4), including the addition of Safeguarding to our Risk Appetite Statement.

3.2. Following consideration of the Corporate Risk Register and Risk Management Guide, the Corporate Governance and Audit Committee endorse the council's risk management process and the publication of the latest guide on the council's website.

4. Report details

- 4.1. The Corporate Risk Register is developed and owned by SLT alongside Cabinet. It is formally reviewed twice yearly by Cabinet at Cabinet Briefing.
- 4.2. Following each formal review, the revised register is presented to Performance Scrutiny Committee, and is shared with Corporate Governance.
- 4.3. The last review was undertaken in February 2020.
- 4.4. The Corporate Governance and Audit Committee have a responsibility to be satisfied as to the robustness of processes in place to manage risk within the authority.

Risk Appetite and Risk Management Guide

4.5. The council's new risk appetite approach was adopted one year ago, and it was agreed that it would be reviewed during this September update. Overall, the addition of risk appetite to our risk management approach has not been burdensome, and has added value to our discussions, particularly when considering risk scoring and mitigating actions. The following changes, however, are recommended to further improve the organisation's application and understanding of risk appetite:

- Based on feedback from officers, and coinciding with the application of new accessible templates, we have made the Risk management guide more explicit in how risk scoring relates to the escalation criteria, and then in turn the level of risk severity that we are willing to accept within each risk appetite criteria. For example, a cautious appetite means we will only tolerate minor or moderate risks. Our new scoring matrix and appetite summary can be seen in appendix 3, as well as in the Risk Management Guide attached at appendix 4 (pages 7-8, 17-18 and 21 in the guide).
- During our discussions with risk owners over the February and this September review, it has become clear that risks concerning Safeguarding do not sit comfortably within a cautious appetite for Compliance and Regulation. Following agreement with the Senior Leadership Team, a new category has been included to cover

Safeguarding, where our appetite is minimalist. This addition can be seen in appendix 3 to this report, but also within the Risk Management Guide attached at appendix 4 (pages 7 and 37 in the guide).

4.6. In addition to the above outlined changes to the Risk Management Guide, the document attached at appendix 4 has been rewritten to comply with accessible standards, also taking the opportunity to update it with any changes that have occurred since it was last reviewed. These changes have mostly been minor, for example, updating website links, or out-dated references to the Corporate Executive Team.

Corporate Risk Register

4.7. During this latest review, the impact of Covid-19 has been forefront in our minds, and a number of risks have been updated to reflect the impact thus far and future implications. Some risks have seen their scores increase in severity as a result. All agreed changes are specified in appendix 2.

4.8. In summary:

- There is one new risk: **Risk 46 – Failure to progress the replacement Local Development Plan (LDP) to adoption.** This has been escalated from the Planning, Public Protection and Countryside Service Risk Register and is currently a Critical Risk (Almost Certain / High impact). Full details may be viewed in both appendix 1 and 2.
- No risks have been removed.
- Our risk concerning the economy and the potential demand / pressure that a downturn would place on our services has inherently increased in severity from C1 (Critical Risk: Possible / Very High Impact) to B1 (Critical risk: Likely / Very High Impact), and residually from C2 (Major Risk: Possible / High Impact) to B2 (Critical risk: Likely / High Impact). Additional actions have been identified to mitigate the risk.
- Our risk around responding to a serious unexpected event has been updated to reflect Covid-19 controls in place.

- The residual severity of our risk around significant liabilities coming from alternative models of service delivery has increased due to Covid-19 from E2 (Moderate Risk: Rare / High Impact) to C2 (Major risk: Possible / High Impact).
- Risk 18 acknowledges delays to programmes and projects due to Covid-19 and notes the positive outcome of the recent tranche review on the Corporate Plan programme.
- An update on current progress and further actions have been noted in relation to the risk around Ash Dieback.
- No risks have decreased in their severity.
- Risks 1, 6, 13, 21, 27, 33, 34, 36, 37, 44 and 46 (see appendix 2) are currently inconsistent with the council's Risk Appetite Statement (appendix 3). These have been reviewed in discussions with risk owners, their current scorings being agreed as appropriate. This discrepancy justifies their inclusion to be monitored as corporate risks.

5. How does the decision contribute to the Corporate Priorities?

5.1. The purpose of the Corporate Risk Register is to identify the potential future events that may have a detrimental impact on the council's ability to deliver its objectives, including its corporate priorities. The identified controls and actions are therefore crucial to the delivery of the corporate priorities.

6. What will it cost and how will it affect other services?

6.1. The cost of developing, monitoring and reviewing the Corporate Risk Register is absorbed within existing budgets.

7. What are the main conclusions of the Well-being Impact Assessment?

7.1. This Corporate Risk Register documents identified risks and mitigating actions. The process of developing and reviewing the document itself does not impact adversely on any of the well-being goals. However, any new process, strategy

or policy arising as a result of a mitigating action will probably require a well-being impact assessment.

8. What consultations have been carried out with Scrutiny and others?

- 8.1. In the first instance, individual discussions have been held with Risk Owners.
- 8.2. The register and guide were then discussed and approved by SLT. Cabinet were also asked to agree and / or make further amendments.
- 8.3. The updated register is then considered by Performance Scrutiny, and shared with the Corporate Governance and Audit Committee.

9. Chief Finance Officer Statement

- 9.1. There are no financial implications arising from developing, monitoring and reviewing the Corporate Risk Register.

10. What risks are there and is there anything we can do to reduce them?

- 10.1. The most immediate risk is that the council does not have a published risk management strategy. Because of the launch of the council's new accessible website, the previous version of the guide (which did not conform to accessible guidelines) was taken offline. A new guide cannot be published until the proposed amendments are endorsed by the committee.

11. Power to make the decision

- 11.1. Local Government (Wales) Measure 2011, Part 6, Chapter 2, section 81. It is the responsibility of a local authority's audit committee to 'review and assess the risk management, internal control and corporate governance arrangements of the authority'; and to 'make reports and recommendations to the authority on the adequacy and effectiveness of those arrangements'.
- 11.2. The Council's Constitution stipulates that clear procedures and processes must be in place to manage risk effectively.

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Corporate Risk Register (September 2020)

Risk 01: The risk of a serious safeguarding error where the council has responsibility, resulting in serious harm or death

Lead Member(s): Cllr Bobby Feeley, Cllr Huw Hilditch-Roberts and Cllr Mark Young

Risk Owner: Nicola Stubbins

Description

This risk - concerning children and adults at risk - is increasing as the environment is changing, with growing expectations around our duties in relation to third party provision. The cumulative impact of reducing resources across the public sector may impact agencies' ability to appropriately recognise safeguarding risks which may also create extra pressures for the Local Authority.

Impact / Consequences

- Individual(s) experience significant harm or death.
- Significant reputational loss.
- Possible intervention by Welsh Government.
- Legal/compensation costs.

Inherent Risk

B2 – Critical Risk: Likely / High Impact

Controls to Manage Risk (in place)

- Safeguarding policy & procedures are in place
- Corporate Safeguarding Training Programme.
- Framework of self-assessment for schools in relation to safeguarding has been established.
- Section 28 audit tool in place for voluntary sector to ensure safeguarding practices are in place.

Corporate Risk Register (September 2020)

- Compliance with safeguarding practises is part of the annual HR audit of schools.
- Regional arrangements for safeguarding a) children and b) adults at risk are in place. The regional safeguarding boards set priorities and actions regionally, eg training and policies & procedures.
- Risk assessments in place for recruiting staff who require a DBS check and/or references and this is monitored and scrutinised by the Corporate Safeguarding Panel.
- Safeguarding policy review has taken place with Schools and new guidance has been developed
- Corporate Safeguarding Panel has been reviewed including the terms of reference, roles and responsibilities.
- Heads of Service have been asked to ensure they consider safeguarding when reviewing their risk registers and that safeguarding be included in service challenge where appropriate.
- Key posts within the Council that could have an impact on safeguarding have been identified and Heads of Service are reviewing the posts to ensure that adequate checks are undertaken by the Council or and external body. All new employee contracts make reference to safeguarding.
- Briefing sessions on safeguarding and Child Sexual Exploitation have been delivered to County Council. Safeguarding features in three Cabinet Members' portfolios.
- Improvements have been made to safeguarding arrangements with contractors including (i) DBS contract checks, (ii) ensuring that Council staff responsible on site for the contractor and managing the tendering / contract process are clear of their responsibilities in respect of safeguarding, (iii) ensuring contacts terms and conditions (including JCT) in relation to DBS checks are appropriate, (iv) ensuring that self-assessment arrangements as part of contract management are appropriate.
- The Corporate Safeguarding Policy has been reviewed and updated in line with new legislation.
- Safeguarding e-learning module in place and compliance is monitored and scrutinised by the Corporate Safeguarding Panel.

Corporate Risk Register (September 2020)

- Recording and sharing safeguarding incidents and near misses is a standing item of the Corporate Safeguarding Panel. It also shares case reviews where there is a corporate perspective for lessons learned. Service representatives are responsible for reporting any key messages from panel meetings to members of staff within their services.
- Adoption of new Wales Safeguarding Procedures.

Residual Risk

D2 – Major Risk: Unlikely / High Impact

Is our risk exposure (based on the score) consistent with the council's Risk Appetite?

Major risk. Risk Appetite suggests that this should be at most a moderate risk. The Risk Owner has confirmed that they are comfortable that the scoring accurately reflects the current risk to the council.

Further Actions

Monitor performance in relation to the percentage of eligible staff (corporate and schools) that have an up to date DBS and reference check or risk assessment

Safer recruitment stats are monitored for new employees and figures provided to the Corporate Safeguarding panel on a quarterly basis.

Action Due Date: 31/03/2021

Person Responsible: Nicola Stubbins

Corporate Risk Register (September 2020)

Risk 06: The risk that the economic and financial environment worsens beyond current expectations, leading to additional demand on services and reduced income.

Lead Member(s): Councillor Julian Thompson-Hill

Risk Owner: Judith Greenhalgh

Description

Although the latest draft budget settlement (4.3% increase in Revenue Support Grant) is welcome it still falls short of the 10% that would have been required in order to fund all the pressures that the Council is facing. The levels of future settlements are unknown yet and we await the UK Budget in March 2020.

The potential consequences of Brexit could include an economic downturn in the short to medium term and reduced funding over the medium to long term, which could lead to increased demand for council services.

The Section 151 Officer is responsible for producing a balanced budget.

There are significant pressures associated with social care, waste budgets, benefits and inflationary increases in pay and pensions. These pressures are all monitored closely and regularly by senior managers, including the Section 151 Officer.

The Council is facing a significant in-year financial pressure due to covid-19, having incurred financial costs and lost income. Income lost is unlikely to be reimbursed and future financial settlements will also be affected.

Impact / Consequences

The council suffers from a significant reduction in income, leading to an inability to deliver current levels of service provision.

Corporate Risk Register (September 2020)

Inherent Risk

B1 – Critical Risk: Likely / Very High Impact

Controls to Manage Risk (in place)

- The council has no control over the global economy or the WG settlement. Therefore, the inherent risk score likely to remain high.
- Annual, detailed budget setting process that considers economic environment
- The Medium Term Financial Plan (MTFP) contains different scenarios to ensure it can deal with changes in the external environment, and is considered on a quarterly basis: it has revised its expectations further downwards.
- A robust budget-setting process raises awareness of implications of significantly reduced income due to the economic environment. It also identifies a range of proposals should cuts be incurred.
- Regular (usually monthly) financial planning meetings between services and management accountants are in place.
- Service's budgets and budget proposals are scrutinised by the Lead Member for Finance and the Head of Service during budget-setting talks.
- Establishment of the 'Reshaping the Council Budget (RTCB)' programme board.
- RTCB has considered risks associated with population estimate inaccuracies and the potential impact on future funding. There is a Welsh Government funding floor which would help mitigate any impact, if this issue should transpire (in which case impact would be felt in 2022-23). RTCB will continue to monitor this risk.
- SLT will actively manage risks associated with Brexit on a monthly basis, until such time the risks can be managed corporately or at a service-level.

Residual Risk

B2 – Critical Risk: Likely / High Impact

Corporate Risk Register (September 2020)

Is our risk exposure (based on the score) consistent with the council's Risk Appetite?

Critical risk. Risk Appetite suggests that this should be at most a moderate risk. The Risk Owner has confirmed that they are comfortable that the scoring accurately reflects the current risk to the council.

Further Actions

The Council will take all steps to reclaim funding from WG

Action Due Date: 31/03/2021

Person Responsible: Steve Gadd

Throughout the recovery process, look at new ways of working

Action Due Date: 31/03/2021

Person Responsible: Judith Greenhalgh

Corporate Risk Register (September 2020)

Risk 11: The risk of an ineffective response to a serious event, such as severe weather, contamination, public safety (including cyber-attack), or a public health event (such as Covid-19).

Lead Member(s): Cllr Richard Mainon

Risk Owner: Graham Boase

Description

Serious unexpected events can occur at any time. Services plan for the impact of expected seasonal variations in weather, but severe weather events, including wild fires as has recently been experienced, can impact on public safety and service delivery.

Similarly, we put plans in place to monitor food, water and air quality, but any contaminations can impact on service delivery, as would any viral pandemics.

Cyber attacks can affect our ability to provide services electronically, putting our business continuity plans to the test, and the same applies to major IT service failures.

Public health events, such as Covid-19, puts terrific strain on organisations such as ours, impacting on service delivery, project timescales, staff capacity, and of course finances. It also challenges the resource capacity of partners and providers that we work with.

Impact / Consequences

- Significant disruption to core services.
- Serious injury or fatality due to road network closure, poisoning or infection.
- Reputational risk to the council if unable to deal with issues.
- Inability to deliver front line services (as a result of staff shortages for example).
- Temporary loss of data.
- Significant cost pressures to our budget.

Corporate Risk Register (September 2020)

Inherent Risk

A2 – Critical Risk: Almost Certain / High Impact

Controls to Manage Risk (in place)

- The control environment in this area is the Regional Emergency Planning Service (Wrexham, Flintshire, Denbighshire, Conwy, Gwynedd and Anglesey), and local emergency management response groups have been established. There is significant partnership working with a regional emergency planning team coordinating plans and responses across North Wales.
- We also continually review our procedures for winter highways maintenance and flood response. Secondary rota established and operational.
- Service disruption is minimised through our arrangements for business continuity and emergency planning, with separate Directors responsible for Response and Recovery.
- There's an emergency on-call rota in place.
- Emergency Planning Response report taken to Partnerships Scrutiny in June 2015.
- Vulnerable people mapping tool is in operation.
- New chairs for the Communications and Operational Response Groups have strengthened arrangements.
- Gold & Silver training in place for new representatives.
- Deputies for Chairs of response teams appointed.
- Trial business continuity exercise took place in DCC in October 2017. Overall the exercise was successful.
- Planning and Public Protection has plans in place to manage responses to pandemics such as bird flu or foot and mouth for instance, with a focus on how we will work with partners in such times.
- The Corporate Director: Economy and Public Realm chairs quarterly meetings of all the chairs of various response groups in emergency planning and is also attended by regional emergency planning representatives. The purpose of this group includes to provide assurance that systems are in place and to test procedures.

Corporate Risk Register (September 2020)

- We have set up a WhatsApp Business Continuity communication network, which has been tested in an internal DCC Business Continuity exercise (April 2019).
- We are due to take part in a joint regional Business Continuity Exercise with Gwynedd in February 2020.
- Covid19 Control: SEMT has been meeting on a regular basis and has responded to the initial covid-19 emergency and has agreed a number of covid-19 recovery themes for which members of SLT are leading. These are monitored regularly at SLT and have political input by Lead Member and Cabinet. Should covid-19 escalate (second wave), SLT will monitor and no doubt SEMT will recommence.

Residual Risk

C3 – Moderate Risk: Possible / Medium Impact

Is our risk exposure (based on the score) consistent with the council's Risk Appetite?

Yes

Further Actions

Develop and gain SLT approval for a new policy to ensure business continuity whereby staff take essential equipment home at the end of each day

Action Due Date: 31/03/2021

Person Responsible: Alan Smith

Corporate Risk Register (September 2020)

Risk 12: The risk of a significantly negative report(s) from external regulators.

Lead Member(s): Councillor Hugh Evans

Risk Owner: Judith Greenhalgh

Description

Negative reports from regulators could lead to a range of impacts that could be negative for Denbighshire County Council. The council is committed, however, to responding to reports and working with partners, including external regulators, to addressing any concerns that may arise.

Impact / Consequences

- A wider lack of confidence in Council services.
- Reputational damage.
- Potential intervention by the WG.
- Significant resources may be required to be diverted to deliver immediate and substantial change.

Inherent Risk

C2 – Major Risk: Possible / High Impact

Controls to Manage Risk (in place)

- The corporate performance management framework (PMF) is the main control in this area.
- Head of Business Improvement & Modernisation, Strategic Planning Team Manager and Head of Audit meet monthly with Wales Audit Office to understand and respond to their concerns.
- Regulators sit on Service Performance Challenges.

Corporate Risk Register (September 2020)

- Research & Intelligence team creates Needs & Demands, and Comparative reports to support service self-assessment and Service Performance Challenges.
- Annual Governance Statement and Performance Self-Assessment now combined.
- Protocol developed for addressing recommendations from WAO national studies: services' response will be the subject of performance scrutiny and service challenge.
- Regulation we're subject to includes: CIW (Care Inspectorate Wales); WAO Office; Estyn; HSE (Health & Safety Executive); ICO (Information Commissioner's Office).

Residual Risk

D3 – Moderate Risk: Unlikely / Medium Impact

Is our risk exposure (based on the score) consistent with the council's Risk Appetite?

Yes

Corporate Risk Register (September 2020)

Risk 13: The risk of significant liabilities resulting from alternative models of service delivery

Lead Member(s): Councillor Julian Thompson-Hill

Risk Owner: Judith Greenhalgh

Description

Liabilities could arise due to financial, HR, safeguarding, or governance problems and could impact on the sustainability of service provision.

This risk will now also be impacted by covid-19 and we have already seen a significant loss of income within our leisure ADM as a result.

Impact / Consequences

- Financial liabilities.
- Property Liabilities.
- Reduction in levels / quality of service provided to the community, or increased revenue costs to continue delivery.
- Collapse of company
- Reputation damage to the council
- Safeguarding to include protection of all assets (physical & intellectual Information)

Inherent Risk

B2 – Critical Risk: Likely / High Impact

Controls to Manage Risk (in place)

- A rigorous process is in place to ensure appropriate governance arrangements are in place as ADMs are established.
- Effective contract management arrangements are in place and appropriate monitoring is carried out throughout the life of the contract.

Corporate Risk Register (September 2020)

- Council is entitled to representation on Boards, and Heads of Service providing strategic advice to facilities.
- Heads of Service advise DCC on any emerging issues and risks.
- Financial support and/or subsidies being provided.
- Processes are in place to manage relationships between DCC and Arm's Length organisations.
- Intervention measures are exercised by DCC if relationships with Arm's Length organisations are difficult to manage.
- Resources have been committed to improve financial monitoring of facilities and services
- Register of all ADMs
- Ensure best practice / lessons learned is applied to our robust contract and relationship management of ADM models.
- Compliance with current legislation and approved accredited standards as appropriate.

Residual Risk

C2 – Major Risk: Possible / High Impact

Is our risk exposure (based on the score) consistent with the council's Risk Appetite?

Critical risk. Risk Appetite suggests that this should be at most a moderate risk. The Risk Owner has confirmed that they are comfortable that the scoring accurately reflects the current risk to the council.

Corporate Risk Register (September 2020)

Risk 14: The risk of a health & safety incident resulting in serious injury or the loss of life. (Where H&S is referred to, this incorporates fire safety)

Lead Member(s): Councillor Julian Thompson-Hill

Risk Owner: Steve Gadd

Description

This could be as a result of unsafe acts, unsafe work places or ineffective H&S management.

Impact / Consequences

- Serious injury or death of an employee and/or any other person.
- Significant reputational damage
- Substantial legal/litigation costs.
- Criminal prosecution of staff or the organisation.

Inherent Risk

C2 – Major Risk: Possible / High Impact

Controls to Manage Risk (in place)

- Strategic leadership is provided by the Head of Finance & Property, with delegated responsibility for Health and Safety.
- Competent H&S advisors are employed by the organisation to provide support, guidance and training on H&S.
- A Corporate Health and Safety Policy is in place which defines the H&S organisation and arrangements in DCC
- There is an established H&S Management System in place.

Corporate Risk Register (September 2020)

- An established Corporate H&S Committee is in place which is a forum for the employer and employee representatives to discuss and consult on H&S.
- A number of service level H&S committees meet to provide a forum for service managers and employee representatives to discuss and consult on H&S.
- H&S training program focussed on DCC activities and the way we manage H&S in DCC.
- “Managing safely in Denbighshire” training is mandatory for all managers.
- The corporate H&S team carry out a program of targeted monitoring
- An online accident, incident reporting process is in place. There is an expectation that all accidents and incidents are reported
- Significant H&S related accidents, incidents and near misses are investigated internally

Residual Risk

E2 – Moderate Risk: Rare / High impact

Is our risk exposure (based on the score) consistent with the council’s Risk Appetite?

Yes

Corporate Risk Register (September 2020)

Risk 16: The risk that the impact of welfare reform (Universal Credit) is more significant than anticipated by the council.

Lead Member(s): Councillor Bobby Feeley and Councillor Julian Thompson-Hill

Risk Owner: Steve Gadd

Description

Welfare reform (Universal Credit) has potentially significant implications for a large proportion of residents, and also on the council in terms of increased demand for services and reduced income.

Impact / Consequences

- Potential increase in demand for services: e.g. homelessness and homelessness prevention services; housing (especially for stock which is currently scarce); benefits support / advice, etc.
- Reduced income from rents and council tax payments with reduced cash flow and an increase in bad debt for the authority.
- Potential rise of council tax reduction scheme claimants.
- We expect to see a significant increase in the number of customers requiring digital support from our Library / One Stop Shop Service.
- Also an impact to Social Services due to Disability Living Allowance changes.
- This could also impact on our ability to deliver our Corporate Priorities.

Inherent Risk

B2 – Critical Risk: Likely / High Impact

Corporate Risk Register (September 2020)

Controls to Manage Risk (in place)

- A Cross-Authority / Multi Service Universal Credit Board has been established and is working to address, as far as possible, the risks and issues associated with the impact of Universal Credit.
- A proactive management of risk is involving identifying those likely to be affected to reduce the risk/mitigate any negative impacts.
- The Board has developed a Risk Register and Activity Plan to cover all strategic and operational risks as a result of Universal Credit, these include detailed Actions and Controls with owners assigned to each risk.
- This register is reviewed on a frequent basis and updates provided at each Board meeting.
- The roll out plan is risk averse and limits the risk that the impact will be more significant than expected, but the approach (determined by Westminster) could change. The intended approach though is that by the time all other benefits are phased out, existing claimants will have naturally become eligible for Universal Credit as a result of a change in their circumstances

Residual Risk

D3 – Moderate Risk: Unlikely / Medium Impact

Is our risk exposure (based on the score) consistent with the council's Risk Appetite?

Yes

Corporate Risk Register (September 2020)

Risk 18: The risk that programme and project benefits are not fully realised.

Lead Member(s): Cllr Julian Thompson-Hill

Risk Owner: Judith Greenhalgh

Description

The council currently does not consistently deliver all benefits from projects. Some of the issues include: inconsistent management; resistance to change; staff behaviour and processes not changing as planned. Programmes to be mindful of include: Corporate Plan Board, Corporate Support Services Review (CSSR), Reshaping the Council Budget.

This risk encompasses risks associated with the council making changes that result in a greater negative impact than we anticipated (formerly risk 00028). When deciding where to make changes, we endeavour to ensure the quality of key services. There is a risk that we haven't identified the correct services as being 'key', and/or that the changes we make are more disruptive than we anticipated.

It is understood that a number of programmes and projects will be facing delays as a result of covid-19.

Impact / Consequences

The forecast changes that were alluded to in business cases do not materialise and, hence, neither do their benefits.

In relation to changes having a greater positive or negative impact than anticipated could result in:

- Services that are important for our residents are no longer available
- Performance in important areas of our business (for our residents) deteriorates
- Reinstatement/correction in performance is difficult and slow to achieve
- Reputation can suffer if performance deteriorates

Corporate Risk Register (September 2020)

- Reputation can suffer if messages are not managed

Inherent Risk

B2 – Critical Risk: Likely / High Impact

Controls to Manage Risk (in place)

- Corporate Programme Office established.
- Leadership Strategy in place.
- Strategic Planning team will support the Corporate Plan Board, and also support performance management in the organisation, therefore there's a strong alignment between 'change' and BAU.
- Impact assessments are undertaken and form part of the cover report for decisions.
- Risk are considered and form part of the cover report for decisions.
- Use of Verto to record benefit tracking and significant outcomes from projects will be picked up as part of Service Planning process.
- Change toolkits, together with factsheets, are on the intranet to support managers.
- Finance remove savings from budgets to ensure financial savings are delivered.
- Change Management Guidance has been developed.
- Quarterly Performance Reports on the Corporate Plan are sent to SLT, Cabinet and Scrutiny.
- SLT reviews key projects every three months.
- Programme Board members have attended Programme Management training.
- Lead Member for Finance, Performance & Strategic Assets now chairs the Corporate Plan Board, also sitting on the Budget Board. Their involvement in both boards ensures a coherent approach to our programmes and financial planning.
- The Corporate Plan was reviewed during its second tranche review in July during which the impact of covid-19 and current project progress was analysed. Senior managers and Cabinet confirmed their continued commitment to existing projects.

Corporate Risk Register (September 2020)

Residual Risk

D2 – Major Risk: Unlikely / High Impact

Is our risk exposure (based on the score) consistent with the council's Risk Appetite?

Yes

Corporate Risk Register (September 2020)

Risk 21: The risk that effective partnerships and interfaces between BCU Health Board and Denbighshire County Council (DCC) do not develop, leading to significant misalignment between the strategic and operational direction of BCU and DCC

Lead Member(s): Councillor Bobby Feeley

Risk Owner: Nicola Stubbins

Description

With BCUHB in special measures there is increased political and regulatory scrutiny. This is resource intensive and further detracts from effective partnership working.

Impact / Consequences

- Inefficient services
- Gaps in service provision
- Delays/failure to deliver joint projects
- Reputational damage
- Ability to meet statutory duties - Well-being of Future Generations Bill, Social Services and Well-being Act

Inherent Risk

A1 – Critical Risk: Almost certain / Very high impact

Controls to Manage Risk (in place)

- DCC presence in key meetings and Boards looking at implementing integrated new approaches.
- Central Area Integrated Services Board is in place.

Corporate Risk Register (September 2020)

- NWWASIC has reviewed its governance arrangements in partnership with BCUHB.
- BCUHB Area Director in place.
- Two Community Resource Teams have been established.
- The Regional Partnership Board is in place to progress cooperation and integration.
- BCUHB is a member of the Conwy/Denbighshire PSB, which has shared priorities and a shared governance vision.

Residual Risk

C2 – Major Risk: Possible / High Impact

Is our risk exposure (based on the score) consistent with the council's Risk Appetite?

Major risk. Risk Appetite suggests that this should be at most a moderate risk. The Risk Owner has confirmed that they are comfortable that the scoring accurately reflects the current risk to the council.

Further Actions

Completion of Community Resources project, to include delivery of two further sites in Denbigh and Prestatyn.

CRT Project documented through Verto - see PR004793

Action Due Date: 31/03/2021

Person Responsible: Phil Gilroy

Corporate Risk Register (September 2020)

Risk 27: The risk that even if the settlement is as anticipated, decisions that are necessary to identify and deliver the savings programme and enable a balanced budget are not taken or implemented quickly enough

Lead Member(s): Cllr Julian Thompson-Hill

Risk Owner: Judith Greenhalgh

Description

As our financial settlement reduces, we need to identify savings and gain approval for, and deliver, plans as to where to reduce or withdraw financial resources. Even if the budget we anticipate is the settlement we receive, there is still a risk for funding our services and savings identified may not be delivered as expected or in-year demand/pressures arise.

Any plans require the approval of Council, and must be implemented in a timely manner that complies with legislation. While the budget process has been successful to date there are still substantial future savings to be made by the local authority and the political environment remains sensitive.

Impact / Consequences

- Denbighshire overspends on its budget.
- Denbighshire cannot deliver savings.
- Denbighshire has insufficient time to ensure good financial monitoring and robust planning.

Inherent Risk

B1 – Critical Risk: Likely / Very High Impact

Corporate Risk Register (September 2020)

Controls to Manage Risk (in place)

- The budget setting process involves Members, so they understand that difficult decisions are necessary, and they are involved with developing the proposals. This should make them more likely to support the recommendations made.
- As decisions are becoming harder then lead in times are becoming longer.
- The better than expected settlement for 2020/21 means that only savings with minimum impact on service delivery and staff have been accepted.
- The Reshaping the Council Budget board has been established, which is likely to make some controversial suggestions that will require political support. Therefore there may be increased risk of not achieving approval for the service changes required to deliver a balanced budget.
- Early identification of the budget gap and potential actions to address it are managed through the Reshaping the Council Budget Board and SLT.
- A workshop involving Cabinet and SLT took place in September 2019 to discuss the principles behind the budget and services budgets, and to identify areas where there is political will to make savings.
- All of these controls are in place to ensure good financial monitoring and robust financial planning.

Residual Risk

C2 – Major Risk: Possible / High Impact

Is our risk exposure (based on the score) consistent with the council's Risk Appetite?

Major risk. Risk Appetite suggests that this should be at most a moderate risk. The Risk Owner has confirmed that they are comfortable that the scoring accurately reflects the current risk to the council.

Corporate Risk Register (September 2020)

Further Actions

Review Strategic Investment Group (SIG) process.

Action Due Date: 31/03/2020

Person Responsible: Steve Gadd

Corporate Risk Register (September 2020)

Risk 30: The risk that Senior Leadership capacity and skills to sustain service and corporate performance is not available

Lead Member(s): Councillor Julian Thompson-Hill

Risk Owner: Judith Greenhalgh

Description

The current structure of the Senior Leadership Team has been built on the strength and experience of current postholders. As the number of posts at SLT has reduced there is a concentration of key roles that are critical to the successful delivery of services, and the organisation's ability to respond to policy and legislation. There is a risk that individuals with particular skill sets would be difficult to replace, and there is also a risk that the organisation is not flexible enough to keep up with the pace of change required in light of new corporate priorities and future budget pressures.

Impact / Consequences

- Reputational damage.
- Declining performance.
- Poor performance against new priorities.

Inherent Risk

C3 – Moderate Risk: Possible / Medium Impact

Controls to Manage Risk (in place)

- Greater opportunities for Middle Managers to 'act up' to key posts in order to gain experience at a more senior level
- Leadership Strategy is in place

Corporate Risk Register (September 2020)

- Heads of Service are tested on their succession plans through Service Challenge
- Quarterly Leadership Conferences held to develop middle managers.
- Training Needs Analysis for SLT & Middle Managers is now complete, with an emphasis on leadership now being led through the DCC Leadership Conferences.
- Heads of Service are encouraged to rethink their service plans against context of new corporate plan, budget decisions, and any new legislation, etc.
- The establishment of an alternative delivery model for leisure includes within the project the need to reduce the risk of knowledge and skills loss. The senior leadership team restructure took place in September 2019.

Residual Risk

D3 – Moderate Risk: Unlikely / Medium Impact

Is our risk exposure (based on the score) consistent with the council's Risk Appetite?

Yes

Corporate Risk Register (September 2020)

Risk 31: The risk of fraud and corruption resulting in financial and reputational loss and possibly impacting on service delivery.

Lead Member(s): Cllr Julian Thompson-Hill

Risk Owner: Judith Greenhalgh

Description

Denbighshire County Council (the Council) employs 2,362 staff as at the last staff survey (2018/19), with a gross revenue budget of £305.8 million for 2018/19. It commissions and provides a wide range of services to individuals and households and works with a wide range of private, public and voluntary sector organisations. As with any other large organisation, the size and nature of the Council's services mean that there is an ongoing risk of loss due to fraud and corruption from both internal and external sources. There is also an ongoing risk of bribery as the Council provides and procures goods, works and services.

The Council recognises that as well as causing financial loss, fraud is also detrimental to the provision of services, and damaging to the reputation of, and confidence in, the Council and public bodies in general.

Impact / Consequences

- Financial loss.
- Loss of reputation and confidence in the Council and public bodies in general.
- Negative impact on service provision / delivery.
- Legal / compensation costs.
- Criminal prosecution.
- Negative audit / inspection reports.

Corporate Risk Register (September 2020)

Inherent Risk

C2 – Major Risk: Possible / High Impact

Controls to Manage Risk (in place)

In its policies and procedures the Council gives out the clear message that it will not tolerate any impropriety by employees, elected Members or third party organisations. It has put in place appropriate and proportionate systems to minimise this risk and these are kept under constant review, including:

- The Code of Corporate Governance
- The Code of Conduct for Elected Members
- The Employees' Code of Conduct
- Financial Regulations including Contract Procedure Rules
- The Whistleblowing Policy
- The Anti-Money Laundering Policy
- Recognition and monitoring of the risk of fraud in service risk registers
- Systems of internal control
- Recruitment processes
- Annual review by DCC's Internal Audit team
- Regular internal and external review of our systems and procedures
- Review of Council's anti-Fraud arrangements against the CIPFA Standard 2016 (checklist)
- The risk of fraud and corruption is also managed at a service level
- Engagement with the National Fraud Initiative (NFI)
- Strategy for the prevention and detection of fraud corruption and bribery which includes fraud response plan
- E-learning modules on Whistleblowing and Code of conduct

Residual Risk

E2 – Moderate Risk: Rare / High impact

Corporate Risk Register (September 2020)

Is our risk exposure (based on the score) consistent with the council's Risk Appetite?

Yes

Corporate Risk Register (September 2020)

Risk 33: The risk that the cost of care is outstripping the Council's resource

Lead Member(s): Bobby Feeley & Huw Hilditch Roberts

Risk Owner: Nicola Stubbins

Description

The continued inflationary pressure resulting from the cost of domiciliary and residential care means the cost of care could outstrip our budget.

Impact / Consequences

Overspends in Social Care place significant budget pressures on the Council and could result in the scaling back or withdrawal of non-statutory services.

Inherent Risk

B1 – Critical Risk: Likely / Very High Impact

Controls to Manage Risk (in place)

Demand needs to be managed in order to maintain current levels of expenditure. The following controls are currently being embedded:

- A focus on prevention and early intervention so people don't need to go into care.
- Third Sector grant programme.
- Talking Points.
- Community Navigators.
- Supporting Independence Strategy.
- Being innovative and maximising use of grant monies.
- New approach to supporting people to achieving outcomes.
- Improved partnership working with BCUHB and integrated assessment as well as managing continuing health care.

Corporate Risk Register (September 2020)

- Identification of the pressures as part of the medium term financial process.
- Opportunities arising from the Healthier Wales Transformation Programme.

The social care budget is consistently overspent by £1m+ per year, which up until now has been mitigated somewhat by the use of reserves of £0.5m pa towards the overspend. However, the reserves are depleted. The Budget for 2020/21 has attempted to meet the growth in this area for 2020/21 with an additional budget of £2.6m added. It is recognised that growth in demand will continue in future years.

Residual Risk

C2 – Major Risk: Possible / High Impact

Is our risk exposure (based on the score) consistent with the council's Risk Appetite?

Major risk. Risk Appetite suggests that this should be at most a moderate risk. The Risk Owner has confirmed that they are comfortable that the scoring accurately reflects the current risk to the council.

Further Actions

Development of additional extra care housing (corporate plan priority)

This is being project managed by the Corporate Plan Board.

Action Due Date: 31/01/2022

Person Responsible: Phil Gilroy

Corporate Risk Register (September 2020)

Risk 34: The risk that demand for specialist care cannot be met locally

Lead Member(s): Cllr Bobby Feeley, Cllr Huw Hilditch-Roberts

Risk Owner: Nicola Stubbins

Description

Availability of some specialist adult and child places can be scarce, leading to the requirement to provide expensive services that aren't available locally. Reduction in availability of domiciliary care provision meaning they are unable to provide services needed (particularly in the south of the county)

Impact / Consequences

- High cost
- Individuals with eligible needs unable to receive suitable domiciliary care due to lack of resources and service provision
- If far from home there is a detrimental impact on a client's well-being (and that of their family)
- Unable to meet need in preferred language

Inherent Risk

B2 – Critical Risk: Likely / High Impact

Controls to Manage Risk (in place)

- Single Point of Access now fully established and proving successful in providing advice and information to individuals in order for them to access community services themselves.

Corporate Risk Register (September 2020)

- Community Led Conversations 'What Matters' project changing the way staff support individuals enabling them to take control of their own well-being and utilising other external resources where possible.
- Developing a range of staff skill mixes through workforce development in order to enable staff to work in new ways that complement the new government agenda.
- Series of meetings with providers across CSS underway to negotiate increasing fees.
- Review and re-assessment project to ensure individuals are still eligible under new criteria
- Further development of support budgets
- Recruitment fayres taken place in county to highlight the need for specific health and social care staff.
- CIW national review of domiciliary care - implementing recommendations.
- Regional project considering issues.
- Recommissioning domiciliary care project in progress - this includes the implementation of the new regional domiciliary care framework in Denbighshire to include patch based commissioning for difficult rural areas.
- New care team in CSS South Locality (reablers providing longer term support whilst identifying appropriate agency)
- The North Wales Transformation Programme is in place and we are leading one of the four projects.

Residual Risk

C2 – Major Risk: Possible / High Impact

Is our risk exposure (based on the score) consistent with the council's Risk Appetite?

Major risk. Risk Appetite suggests that this should be at most a moderate risk. The Risk Owner has confirmed that they are comfortable that the scoring accurately reflects the current risk to the council.

Corporate Risk Register (September 2020)

Risk 35: The risk that the return on investment that Denbighshire receives from the Regional Growth Deal is disproportionate

Lead Member(s): Cllr Hugh Evans

Risk Owner: Graham Boase

Description

The regional growth deal offers opportunity to develop Denbighshire's economy, and there is a risk that there is insufficient engagement to capitalise on these opportunities.

Conversely, with the benefits not being clear at present, there is a risk that DCC puts in a lot of effort but doesn't receive a proportionate return on investment.

Impact / Consequences

- Disproportionate return on investment.
- Failure to maximise opportunities for the benefit of communities and businesses in Denbighshire.
- Failure to agree a regional approach to funding projects.

Inherent Risk

C2 – Major Risk: Possible / High Impact

Controls to Manage Risk (in place)

- We ensure we have senior-level representation at Board meetings. The North Wales Economic Ambition Board is attended by Denbighshire's Leader. Director-level representation is in place for the officer groups that support the Board and relevant key officers are represented on workstream meetings.
- Regular reports to Council committees.
- The Strategic Employment Manager is a key member of the 'People' workstream.

Corporate Risk Register (September 2020)

Residual Risk

C2 – Major Risk: Possible / High Impact

Is our risk exposure (based on the score) consistent with the council's Risk Appetite?

Yes

Corporate Risk Register (September 2020)

Risk 36: The risk that any negative impacts of leaving the European Union cannot be mitigated by the council

Lead Member(s): Councillor Hugh Evans

Risk Owner: Judith Greenhalgh

Description

The continued lack of clarity over Brexit makes it difficult for the Council to plan for a known set of political and financial circumstances.

Brexit has potentially significant implications for council services in terms of their funding and the likely impact on demand for services is unclear. For example, there could be short term supply issues with essential resources resulting in short term interruption or risk to certain services such as school and care meals.

It is unlikely the council will be in a position to mitigate the impacts of Brexit, specifically impacts relating to agriculture for instance.

Impact / Consequences

- Lack of clarity on the status of EU citizens living in Denbighshire.
- There is growing certainty over the replacement of EU funding (eg skills, poverty and regeneration projects; rural and business funding).
- Impact on supply chains and procurement of goods and services.
- Impact on farming and agriculture (status of common agricultural policy for example is still unknown).
- Potentially negative impact on broader public sector provision.
- Foreign Direct Investments in Denbighshire could be affected.
- Legislative change could result in delays and uncertainty for legal proceedings.
- Impact on university education in the region and research.
- Impact on recruitment across public services.
- Potential cohesion, well-being issues or social unrest.

Corporate Risk Register (September 2020)

- Denbighshire businesses that import/export to European Union areas.

Inherent Risk

B1 – Critical Risk: Likely / Very High Impact

Controls to Manage Risk (in place)

- As requested by the Welsh Local Government Association, Denbighshire have two named Brexit lead contacts: Corporate Director: Economy and Public Realm and the Leader.
- Workforce planning is in place.
- Regular contact with Welsh Government and the Welsh Local Government Association.
- A consultation paper on European-funded projects is expected from Welsh Government.
- Our Economic and Business Development Team is available to discuss queries, concerns and give advice.
- SLT will review the employers toolkit on the rights of EU citizens under the EU Settlement Scheme. The toolkit will provide some guidance on vulnerable people, for example, victims of domestic abuse or trafficking victims.
- A Brexit Briefing Paper was produced and a Brexit Briefing Workshop took place on 4 December 2018. All Members were invited and the event was jointly presented by Welsh Local Government Association and Denbighshire County Council Officers. The Workshop considered the potential impacts of Brexit on the way the Council functions and on our residents.
- Services are identifying supply chains that could be at risk.
- SLT actively manages risks associated with Brexit on a monthly basis, until such time the risks can be managed corporately or at a service-level.
- DCC's Chief Executive is the North Wales representative on the WLGA Brexit Working Group.
- The Statement of Accounts considers Brexit and the impacts of Brexit.

Corporate Risk Register (September 2020)

Residual Risk

B1 – Critical Risk: Likely / Very High Impact

Is our risk exposure (based on the score) consistent with the council's Risk Appetite?

Critical risk. Risk Appetite suggests that this should be at most a moderate risk. The Risk Owner has confirmed that they are comfortable that the scoring accurately reflects the current risk to the council.

Corporate Risk Register (September 2020)

Risk 37: The risk that partners don't have the resources, matching priorities or commitment to support delivery of shared plans and priorities

Lead Member(s): Councillor Hugh Evans

Risk Owner: Judith Greenhalgh

Description

With finite resources and competing priorities, there is a risk of a lack of commitment or capacity available to support realisation of shared plans and priorities.

Covid-19 has put external pressure on the council and its partners to deliver services; this is likely to be the case into the medium term.

Impact / Consequences

- Objectives not delivered.
- Issues/problems that provided justification for the priorities continue or deteriorate.
- Failure to maximise opportunities to collaborate to resolve issues no single organisation is responsible for or capable of resolving on its own.
- Ineffective management of expectations among partners/public leading to reputational damage.
- Investment of council resources with minimal return.

Inherent Risk

B1 – Critical Risk: Very Likely / High Impact

Corporate Risk Register (September 2020)

Controls to Manage Risk (in place)

- Denbighshire is represented at collaborative boards by senior managers and / or political leadership, for example, at the Regional Partnership Board, Economic Ambition Board, and Regional Leadership Board.
- Collaborative plans and priorities (for instance, the PSB's Well-being Plan) has been developed to reflect broader public sector priorities across the two counties.

Residual Risk

C2 – Major risk: Possible / High Impact

Is our risk exposure (based on the score) consistent with the council's Risk Appetite?

Major risk. Risk Appetite suggests that this should be at most a moderate risk. The Risk Owner has confirmed that they are comfortable that the scoring accurately reflects the current risk to the council.

Corporate Risk Register (September 2020)

Risk 43: The risk that the council does not have the funds or resources to meet its statutory obligations under the Additional Learning Needs and Education Tribunal (Wales) Act 2018

Lead Member(s): Cllr Huw Hilditch-Roberts and Cllr Bobby Feeley

Risk Owner: Geraint Davies

Description

The Act places a range of duties on local authorities in relation to additional learning needs (ALN), which can be grouped as follows:

Specific duties - in relation to individual learners (usually those in their area) such as duties to maintain individual development plans (IDPs) for some learners (including learners who are dual registered and those with more complex needs) and the duty to reconsider decisions made by school governing bodies.

General duties - to support the functioning and effectiveness of the ALN system – including the duty to provide information and advice and the duty to keep additional learning provision under review.

In addition, local authorities have general education functions - related to maintaining schools and the provision of education, including intervention powers where schools fail to perform their duties.

Local authorities will be directly responsible for meeting the needs of children and young people with the most complex and/or severe needs, those who do not attend a maintained school or FEI in Wales (including those below school age).

Corporate Risk Register (September 2020)

This risk has been escalated from the Education and Children's Service Risk Register to reflect the wide-ranging implications for other areas of the council (adult's services, legal, procurement and so on).

Impact / Consequences

To not meet the requirements of the Act could have an impact on learners with ALN and would have regulatory and reputational consequences for the authority, including potential legal and financial implications. There is also the potential for increased demand on services.

Inherent Risk

B2 – Critical risk: Likely / High Impact

Controls to Manage Risk (in place)

- Corporate Director: Communities (Statutory Director of Social Services) to ensure that the council's Senior Leadership Team is making necessary preparations for implementation of the Act.
- SLT will monitor progress through the Corporate Risk Register. The Head of Education and Children's Services gave a presentation to SLT in the autumn of 2019.
- The risk is also managed closely at a service level by Education and Children's Services.

Residual Risk

D3 – Moderate risk: Unlikely / Medium Impact

Is our risk exposure (based on the score) consistent with the council's Risk Appetite?

Yes

Corporate Risk Register (September 2020)

Further Actions

Pressure to be considered as part of budget setting process for 2021-22 as the implications become clear

Action Due Date:

Person Responsible: Steve Gadd

Corporate Risk Register (September 2020)

Risk 44: The risk of Ash Dieback Disease (ADB) in Denbighshire leading to significant health and safety issues that represent a potential risk to life

Lead Member(s): Cllr Tony Thomas

Risk Owner: Tony Ward

Description

ADB is already present in Denbighshire. The range and frequency is unknown at this present time. The frequency is currently low but will inevitably increase over the next few years. Also, the number of ash trees in the County is similarly unknown. ADB will not be "business as usual" and the scale must be assessed and there will be a need for changes in management practice.

Impact / Consequences

The impact is likely to be far reaching, across various Council services and communities themselves.

- Considerable impact on landscape - dead and dying ash trees across the County.
- Increased liability.
- Impacts on statutory functions and service delivery.
- Public safety.
- Staff safety.
- Significant budgetary implications.
- Disruption to infrastructure and communities.
- Political and reputational impact.

Inherent Risk

A1 – Critical Risk: Almost certain / Very high impact

Corporate Risk Register (September 2020)

Controls to Manage Risk (in place)

A proactive approach is necessary to understand how many ash trees are in the County and prepare an ADB action plan. Capacity and resources will need to be secured to achieve this.

- A briefing paper on our approach went to Cabinet in December 2019.
- Project brief is being drawn up (through Verto) outlining our approach to developing our action plan over the next 12 months, and agreeing procedures to identify and deal with trees (including replanting initiatives).
- The Head of Service has now started to progress the collaborative project with Conwy on ADB. This was planned to begin in April, but was postponed due to Covid-19. 2 tree inspectors have been appointed (on 12-month secondment from Countryside Services) to start to inspect/map our tree assets. The aim is now for the project to begin on (or around) 1st Sept, and detailed discussions with Conwy are currently taking place. The aim is still to have a corporate ADB Plan in place within 12 months of starting the project, but the impact of ADB could need to be managed for the next 5-10 years.
- 200k identified within council budget to support initial development of Action Plan over the next 12 months.

This is a live risk in the Highways and Environmental Services' Risk Register but due to the score of A2, this risk meets our criteria to be managed as a 'major' risk to be managed by SLT and Cabinet.

Residual Risk

A2 – Critical Risk: Almost Certain / High impact

Is our risk exposure (based on the score) consistent with the council's Risk Appetite?

Critical risk. Risk Appetite suggests that this should be at most a moderate risk. Our management of this difficult risk is in its early stages. Our current score reflects this and

Corporate Risk Register (September 2020)

the serious potential for death or injury. As our mitigating actions progress over the next 12 months, we would expect to see the risk come more under our control, and the scoring reduce towards our accepted appetite.

Further Actions

Develop and adopt a corporate action plan for Ash Dieback

Action plan will be informed by detailed mapping of the council's ash tree population and condition information, identifying those trees that need to be made a priority based on the level of risk.

Action Due Date: 30/09/21

Person Responsible: Tony Ward

Secure further funding for the delivery of the action plan

Ash Dieback is anticipated to have the greatest impact over the next ten years. Our action plan to tackle the issue will require resourcing.

Action Due Date: 31/03/2021

Person Responsible: Tony Ward

Agree detail of collaborative project with Conwy to enable our 2 tree inspectors to begin work on 1st Sept 2020

Action Due Date: 01/09/2020

Person Responsible: Tony Ward

Corporate Risk Register (September 2020)

Risk 45: The risk that the council is unable to deliver the agenda of Council and external organisations within existing resources

Lead Member(s): Cllr Hugh H Evans

Risk Owner: Judith Greenhalgh

Description

As resources have reduced, there is less capacity to additionally respond to new, emerging and unplanned issues of importance to residents, councillors or partners.

Impact / Consequences

- Damage to reputation
- Financial liabilities
- Regulatory liabilities
- Deteriorating Staff morale
- Inability to meet statutory obligations

Inherent Risk

A3 – Major Risk: Almost Certain / Medium Impact

Controls to Manage Risk (in place)

- The content of the Corporate Plan was developed and agreed with officers and Members at the start of the new council year. This document should capture the ambition of Elected Members for their term of office.
- The Council partakes in government consultations on new legislation (either directly or through the WLGA).
- Heads of Service assume responsibility for the implementation of new legislation, supported by the Strategic Planning Team where appropriate.

Corporate Risk Register (September 2020)

Residual Risk

C4 – Moderate Risk: Possible / Low Impact

Is our risk exposure (based on the score) consistent with the council's Risk Appetite?

Yes

Corporate Risk Register (September 2020)

Risk 46: Failure to progress the replacement Local Development Plan (LDP) to adoption

Lead Member (s): Cllr Mark Young

Risk Owner: Emlyn Jones

Description

As a result of impacts of the Covid-19 crisis we will not be able to progress the Replacement LDP in line with the current Delivery Agreement timetable. Consequently, there will not be a new LDP adopted when the current LDP expires at the end of 2021. Risks are the failure to agree a revised Delivery Agreement, the risk of WG not agreeing a new Delivery Agreement, and WG not allowing an extension to the end date of the current LDP, meaning that there would be a period of time with no local planning policies in place for Denbighshire. We would be reliant on national policy only, which would have an impact, for example, on delivery of affordable housing in Denbighshire, and pressure for development on unallocated sites.

Impact / Consequences

- Potential impact to our population in terms of the development of houses on inappropriate sites
- Reputational risk to the council
- Financial risk
- Legal challenge
- Lack of political agreement

Inherent Risk

A2 - Critical Risk: Almost Certain / High impact

Corporate Risk Register (September 2020)

Controls to Manage Risk (in place)

Undertook a broad risk assessment as part of the Delivery Agreement approved by the Council and Welsh Government. A Strategic Planning Group has been established and the work on the development of the Replacement LDP is underway; however, meetings were suspended from February 2020. Meetings of the Group will reconvene in September 2020. Discussions with WG officers are ongoing and WG are exploring options to allow for more flexibility with LDP end dates. The Team are currently undertaking a Covid-19 impact assessment, looking at implications for the draft Preferred Strategy in terms of content and approach, timescales for the delivery of the new LDP and whether background evidence will need to be reviewed. This will be submitted to WG along with a revised Delivery Agreement once we have further clarification from WG.

Residual Risk

A2 - Critical Risk: Almost Certain / High impact

Is our risk exposure (based on the score) consistent with the council's Risk Appetite?

Critical risk. Risk Appetite suggests that this should be at most a major risk. The Risk Owner has confirmed that they are comfortable that the scoring accurately reflects the current risk to the council.

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Corporate Risk Register (September 2020)

Risks – New

| Risk Number | Title | Inherent Risk | Residual Risk | Risk Owners | In alignment with the Council's Risk Appetite Statement? | Suggested amendment |
|-------------|-------------------------------------------------------------------------------|---------------------------------------------------------------|---------------------------------------------------------------|---------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 00046 | Failure to progress the replacement Local Development Plan (LDP) to adoption. | A2 – Critical Risk: Almost Certain / High impact | A2 – Critical Risk: Almost Certain / High impact | Emlyn Jones and Cllr Mark Young | Critical risk. Risk Appetite suggests that this should be at most a major risk. The Risk Owner has confirmed that they are comfortable that the scoring accurately reflects the current risk to the council. | This risk has been escalated from a Planning, Public Protection and Countryside service risk to a Corporate Risk. Description: As a result of impacts of the Covid-19 crisis we will not be able to progress the Replacement LDP in line with the current Delivery Agreement timetable. Consequently, there will not be a new LDP adopted when the current |

Corporate Risk Register (September 2020)

| Risk Number | Title | Inherent Risk | Residual Risk | Risk Owners | In alignment with the Council's Risk Appetite Statement? | Suggested amendment |
|-------------|-------|---------------|---------------|-------------|----------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | | | | | <p>LDP expires at the end of 2021. Risks are the failure to agree a revised Delivery Agreement, the risk of WG not agreeing a new Delivery Agreement, and WG not allowing an extension to the end date of the current LDP, meaning that there would be a period of time with no local planning policies in place for Denbighshire. We would be reliant on national policy only, which would have an impact, for example, on delivery of affordable housing in Denbighshire, and pressure for development on unallocated sites.</p> <p>Impact / Consequences:</p> |

Corporate Risk Register (September 2020)

| Risk Number | Title | Inherent Risk | Residual Risk | Risk Owners | In alignment with the Council's Risk Appetite Statement? | Suggested amendment |
|-------------|-------|---------------|---------------|-------------|----------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | | | | | <ul style="list-style-type: none"> • Potential impact to our population in terms of the development of houses on inappropriate sites • Reputational risk to the council • Financial risk • Legal challenge • Lack of political agreement <p>Inherent Risk: A2 - Critical Risk: Almost Certain / High impact</p> <p>Controls to Manage Risk (in place): Undertook a broad risk assessment as part of the Delivery Agreement approved by the Council and Welsh Government. A Strategic Planning Group has been</p> |

Corporate Risk Register (September 2020)

| Risk Number | Title | Inherent Risk | Residual Risk | Risk Owners | In alignment with the Council's Risk Appetite Statement? | Suggested amendment |
|-------------|-------|---------------|---------------|-------------|----------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | | | | | <p>established and the work on the development of the Replacement LDP is underway; however, meetings were suspended from February 2020. Meetings of the Group will reconvene in September 2020. Discussions with WG officers are ongoing and WG are exploring options to allow for more flexibility with LDP end dates. The Team are currently undertaking a Covid-19 impact assessment, looking at implications for the draft Preferred Strategy in terms of content and approach, timescales for the delivery of the new LDP and whether background evidence will need to be reviewed. This</p> |

Corporate Risk Register (September 2020)

| Risk Number | Title | Inherent Risk | Residual Risk | Risk Owners | In alignment with the Council's Risk Appetite Statement? | Suggested amendment |
|-------------|-------|---------------|---------------|-------------|----------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | | | | | <p>will be submitted to WG along with a revised Delivery Agreement once we have further clarification from WG.</p> <p>Residual Risk: A2 - Critical Risk: Almost Certain / High impact</p> |

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Risks – suggested changes

| Risk Number | Title | Inherent Risk | Residual Risk | Risk Owners | In alignment with the Council's Risk Appetite Statement? | Suggested amendment |
|-------------|----------------------------------------------------|-------------------------|----------------------|--------------------------------|----------------------------------------------------------|---------------------------------------------------------------------------------------|
| 00001 | The risk of a serious safeguarding error where the | B2 – Critical | D2 – Major | Nicola Stubbins, Cllr Bobby | Major risk. Risk Appetite suggests | Further action date amended: Monitor performance in relation to the percentage |

Corporate Risk Register (September 2020)

| Risk Number | Title | Inherent Risk | Residual Risk | Risk Owners | In alignment with the Council's Risk Appetite Statement? | Suggested amendment |
|-------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------|-------------------------------------------------------------|-----------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | council has responsibility, resulting in serious harm or death | risk: Likely / High Impact | risk: Unlikely / High Impact | Feeley, Cllr Huw Hilditch- Roberts and Cllr Mark Young | that this should be at most a moderate risk. The Risk Owner has confirmed that they are comfortable that the scoring accurately reflects the current risk to the council. | of eligible staff (corporate and schools) that have an up to date DBS and reference check or risk assessment. Action is continuous, but for the purposes of the register, amended from 31/03/20 to 31/03/2021. |
| 00006 | The risk that the economic and financial environment worsens beyond current expectations, leading to additional demand on services and reduced income. | B1 – Critical risk: Likely / Very High Impact | B2 – Critical risk: Likely / High Impact | Judith Greenhalgh and Cllr Julian Thompson-Hill | Critical risk. Risk Appetite suggests that this should be at most a moderate risk. The Risk Owner has confirmed that they | Description updated to include: The Council is facing a significant in-year financial pressure due to covid-19, having incurred financial costs and lost income. Income lost is unlikely to be reimbursed |

Corporate Risk Register (September 2020)

| Risk Number | Title | Inherent Risk | Residual Risk | Risk Owners | In alignment with the Council's Risk Appetite Statement? | Suggested amendment |
|-------------|-------|---------------|---------------|-------------|----------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | | | | <p>are comfortable that the scoring accurately reflects the current risk to the council.</p> | <p>and future financial settlements will also be affected.</p> <p>Inherent risk changes: From C1 to B1</p> <p>Residual risk changes: From C2 to B2</p> <p>Further actions added: The Council will take all steps to reclaim funding from WG. Owner – Steve Gadd; Deadline March 2021;</p> <p>Throughout the recovery process, look at new ways of working. Owner – Judith Greenhalgh; Deadline March 2021</p> |

Corporate Risk Register (September 2020)

| Risk Number | Title | Inherent Risk | Residual Risk | Risk Owners | In alignment with the Council's Risk Appetite Statement? | Suggested amendment |
|-------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------|-----------------------------------------------------------|--------------------------------------|----------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 00011 | The risk of an ineffective response to a serious event, such as severe weather, contamination, public safety (including cyber-attack) or a public health event (such as Covid-19). | A2 – Critical Risk: Almost Certain / High impact | C3 – Moderate risk: Possible / Medium Impact | Graham Boase and Cllr Richard Mainon | Consistent with Risk Appetite. | <p>Title amended: From “The risk of an ineffective response to a serious unexpected event, such as severe weather, contamination, public safety (including cyber-attack) or a public health event.”</p> <p>Description updated: To include “Public health events, such as Covid-19, puts terrific strain on organisations such as ours, impacting on service delivery, project timescales, staff capacity, and of course finances. It also challenges the resource capacity of partners and providers that we work with.”</p> |

Corporate Risk Register (September 2020)

| Risk Number | Title | Inherent Risk | Residual Risk | Risk Owners | In alignment with the Council's Risk Appetite Statement? | Suggested amendment |
|-------------|-------|---------------|---------------|-------------|----------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | | | | | <p>Impact / Consequences added: For “Inability to deliver front line services”, have now included “(as a result of staff shortages for example)”.</p> <p>Also “Significant cost pressures to our budget.”</p> <p>Control updated: “Bullet 15 – Covid-19 Control – SEMT has been meeting on a regular basis and has responded to the initial covid-19 emergency and has agreed a number of covid-19 recovery themes for which members of SLT are leading. These are monitored regularly at SLT and have political input by Lead Member and Cabinet. Should covid-19</p> |

Corporate Risk Register (September 2020)

| Risk Number | Title | Inherent Risk | Residual Risk | Risk Owners | In alignment with the Council's Risk Appetite Statement? | Suggested amendment |
|-------------|-------------------------------------------------------------------------------------------|-------------------------------------------|------------------------------------------|-------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | | | | | <p>escalate (second wave), SLT will monitor and no doubt SEMT will recommence.</p> <p>Further action date amended: Develop and gain SLT approval for a new policy to ensure business continuity whereby staff take essential equipment home at the end of each day. Amended from 30/06/20 to 31/03/2021.</p> |
| 00013 | The risk of significant liabilities resulting from alternative models of service delivery | B2 – Critical risk: Likely / | C2 – Major risk: Possible / | Judith Greenhalgh and Cllr Julian Thompson-Hill | Critical risk. Risk Appetite suggests that this should be at most a moderate risk. The Risk Owner has confirmed that they | Description updated: This risk will now also be impacted by covid-19 and we have already seen a significant loss of income within our leisure ADM as a result. |

Corporate Risk Register (September 2020)

| Risk Number | Title | Inherent Risk | Residual Risk | Risk Owners | In alignment with the Council's Risk Appetite Statement? | Suggested amendment |
|-------------|----------------------------------------------------------------------|-------------------------------------------------------|------------------------------------------------------|-------------------------------------------------|---------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | High Impact | High Impact | | are comfortable that the scoring accurately reflects the current risk to the council. | Residual risk changes: From E2 to C2 |
| 00018 | The risk that programme and project benefits are not fully realised. | B2 – Critical risk: Likely / High Impact | D2 – Major risk: Unlikely / High Impact | Judith Greenhalgh and Cllr Julian Thompson-Hill | Consistent with Risk Appetite. | Description updated: It is understood that a number of programmes and projects will be facing delays as a result of covid-19. Controls updated: “Bullet 14: The Corporate Plan was reviewed during its second tranche review in July during which the impact of covid-19 and current project progress was analysed. Senior managers and Cabinet confirmed their |

Corporate Risk Register (September 2020)

| Risk Number | Title | Inherent Risk | Residual Risk | Risk Owners | In alignment with the Council's Risk Appetite Statement? | Suggested amendment |
|-------------|---------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|---------------------------------------------------------------|---------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | | | | | continued commitment to existing projects.” |
| 00037 | The risk that partners don't have the resources, matching priorities or commitment to support delivery of shared plans and priorities | B1 – Critical risk: Very Likely / High Impact | C2 – Major risk: Possible / High Impact | Judith Greenhalgh and Cllr Hugh Evans | Major risk. Risk Appetite suggests that this should be at most a moderate risk. The Risk Owner has confirmed that they are comfortable that the scoring accurately reflects the current risk to the council. | Description updated to include: Covid-19 has put external pressure on the council and its partners to deliver services; this is likely to be the case into the medium term. |

Corporate Risk Register (September 2020)

| Risk Number | Title | Inherent Risk | Residual Risk | Risk Owners | In alignment with the Council's Risk Appetite Statement? | Suggested amendment |
|-------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|-----------------------------------------------------------|-----------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 00043 | The risk that the council does not have the funds or resources to meet its statutory obligations under the Additional Learning Needs and Education Tribunal (Wales) Act 2018 | B2 – Critical risk: Likely / High Impact | D3 – Moderate Risk: Unlikely / Medium Impact | Geraint Davies, Cllr Bobby Feeley and Cllr Huw Hilditch-Roberts | Consistent with Risk Appetite. | Change to Risk Owner: Change to Geraint Davies due to changes at SLT level |
| 00044 | The risk of Ash Dieback Disease (ADB) in Denbighshire leading to significant health and safety issues that represent a risk to life | A1 – Critical Risk: Almost certain / | A2 – Critical Risk: Almost Certain / | Tony Ward, Cllr Brian Jones and Cllr Tony Thomas | Critical risk. Risk Appetite suggests that this should be at most a moderate risk. Our management of this difficult risk is in its early stages. Our | Control updated: “Bullet 3 – The Head of Service has now started to progress the collaborative project with Conwy on ADB. This was planned to begin in April, but was postponed due to Covid-19. 2 tree inspectors have been appointed (on 12-month secondment from Countryside |

Corporate Risk Register (September 2020)

| Risk Number | Title | Inherent Risk | Residual Risk | Risk Owners | In alignment with the Council's Risk Appetite Statement? | Suggested amendment |
|-------------|-------|------------------|---------------|-------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | Very high impact | High impact | | current score reflects this and the serious potential for death or injury. As our mitigating actions progress over the next 12 months, we would expect to see the risk come more under our control, and the scoring reduce towards our accepted appetite. | Services) to start to inspect/map our tree assets. The aim is now for the project to begin on (or around) 1st Sept, and detailed discussions with Conwy are currently taking place. The aim is still to have a corporate ADB Plan in place within 12 months of starting the project, but the impact of ADB could need to be managed for the next 5-10 years.” Actions updated: Actions concerning the recruitment of a tree officer and the establishment of a collaborative project with Conwy County Borough Council have been marked complete. |

Corporate Risk Register (September 2020)

| Risk Number | Title | Inherent Risk | Residual Risk | Risk Owners | In alignment with the Council's Risk Appetite Statement? | Suggested amendment |
|-------------|-------|---------------|---------------|-------------|----------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | | | | | | <p>The timescale for the development of an action plan for Ash Dieback has changed from 31/03/2021 to 30/09/2021</p> <p>The timescale for securing further funding for the delivery of the action plan has changed from 31/12/2020 to 31/03/2021.</p> <p>New action added: Agree detail of collaborative project with Conwy to enable our 2 tree inspectors to begin work on 1st Sept 2020". Deadline 01/09/2020</p> |

Corporate Risk Register (September 2020)

Risks - no change

| Risk Number | Title | Inherent Risk | Residual Risk | Risk Owners | In alignment with the Council's Risk Appetite Statement? |
|-------------|------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|-----------------------------------------------------------|--------------------------------------------|----------------------------------------------------------|
| 00012 | The risk of a significantly negative report(s) from external regulators. | C2 – Major risk: Possible / High Impact | D3 – Moderate Risk: Unlikely / Medium Impact | Judith Greenhalgh and Cllr Hugh Evans | Consistent with Risk Appetite. |
| 00014 | The risk of a health & safety incident resulting in serious injury or the loss of life. (Where H&S is referred to, this incorporates fire safety) | C2 – Major risk: Possible / High Impact | E2 – Moderate risk: Rare / High impact | Graham Boase and Cllr Julian Thompson-Hill | Consistent with Risk Appetite. |

Corporate Risk Register (September 2020)

| Risk Number | Title | Inherent Risk | Residual Risk | Risk Owners | In alignment with the Council's Risk Appetite Statement? |
|-------------|--------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|--------------------------------------------------------------------|----------------------------------------------------------------------|----------------------------------------------------------|
| 00016 | The risk that the impact of welfare reform (Universal Credit) is more significant than anticipated by the council. | B2 – Critical risk: Likely / High Impact | D3 – Moderate Risk: Unlikely / Medium Impact | Steve Gadd, Cllr Bobby Feeley and Cllr Julian Thompson-Hill | Consistent with Risk Appetite. |

Corporate Risk Register (September 2020)

| Risk Number | Title | Inherent Risk | Residual Risk | Risk Owners | In alignment with the Council's Risk Appetite Statement? |
|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------|------------------------------------------------------|---------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 00021 | The risk that effective partnerships and interfaces between BCU Health Board and Denbighshire County Council (DCC) do not develop, leading to significant misalignment between the strategic and operational direction of BCU and DCC | A1 – Critical Risk: Almost certain / Very high impact | C2 – Major risk: Possible / High Impact | Nicola Stubbins and Cllr Bobby Feeley | Major risk. Risk Appetite suggests that this should be at most a moderate risk. The Risk Owner has confirmed that they are comfortable that the scoring accurately reflects the current risk to the council. |

Corporate Risk Register (September 2020)

| Risk Number | Title | Inherent Risk | Residual Risk | Risk Owners | In alignment with the Council's Risk Appetite Statement? |
|-------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------|-----------------------------------------------------------|---------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 00027 | The risk that even if the settlement is as anticipated, decisions that are necessary to identify and deliver the savings programme and enable a balanced budget are not taken or implemented quickly enough | B1 – Critical risk: Likely / Very High Impact | C2 – Major risk: Possible / High Impact | Judith Greenhalgh and Cllr Hugh Evans | Major risk. Risk Appetite suggests that this should be at most a moderate risk. The Risk Owner has confirmed that they are comfortable that the scoring accurately reflects the current risk to the council. |
| 00030 | The risk that Senior Leadership capacity and skills to sustain service and corporate performance is not available | C3 – Moderate risk: Possible / Medium Impact | D3 – Moderate Risk: Unlikely / Medium Impact | Judith Greenhalgh and Cllr Hugh Evans | Consistent with Risk Appetite. |

Corporate Risk Register (September 2020)

| Risk Number | Title | Inherent Risk | Residual Risk | Risk Owners | In alignment with the Council's Risk Appetite Statement? |
|-------------|---------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------|------------------------------------------------------|-------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 00031 | The risk of fraud and corruption resulting in financial and reputational loss and possibly impacting on service delivery. | C2 – Major risk: Possible / High Impact | E2 – Moderate risk: Rare / High impact | Judith Greenhalgh and Cllr Julian Thompson-Hill | Consistent with Risk Appetite. |
| 00033 | The risk that the cost of care is outstripping the Council's resource | B1 – Critical risk: Likely / Very High Impact | C2 – Major risk: Possible / High Impact | Nicola Stubbins and Cllr Bobby Feeley | Major risk. Risk Appetite suggests that this should be at most a moderate risk. The Risk Owner has confirmed that they are comfortable that the scoring accurately reflects the current risk to the council. |

Corporate Risk Register (September 2020)

| Risk Number | Title | Inherent Risk | Residual Risk | Risk Owners | In alignment with the Council's Risk Appetite Statement? |
|-------------|---------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|------------------------------------------------------|---------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 00034 | The risk that demand for specialist care cannot be met locally | B2 – Critical risk: Likely / High Impact | C2 – Major risk: Possible / High Impact | Nicola Stubbins, Cllr Bobby Feeley and Cllr Huw Hilditch-Roberts | Major risk. Risk Appetite suggests that this should be at most a moderate risk. The Risk Owner has confirmed that they are comfortable that the scoring accurately reflects the current risk to the council. |
| 00035 | The risk that the return on investment that Denbighshire receives from the Regional Growth Deal is disproportionate | C2 – Major risk: Possible / High Impact | C2 – Major risk: Possible / High Impact | Graham Boase and Cllr Hugh Evans | Consistent with Risk Appetite. |

Corporate Risk Register (September 2020)

| Risk Number | Title | Inherent Risk | Residual Risk | Risk Owners | In alignment with the Council's Risk Appetite Statement? |
|-------------|---------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------|------------------------------------------------------------|---------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 00036 | The risk that any negative impacts of leaving the European Union cannot be mitigated by the council | B1 – Critical risk: Likely / Very High Impact | B1 – Critical risk: Likely / Very High Impact | Judith Greenhalgh and Cllr Hugh Evans | Critical risk. Risk Appetite suggests that this should be at most a moderate risk. The Risk Owner has confirmed that they are comfortable that the scoring accurately reflects the current risk to the council. |
| 00045 | The risk that the council is unable to deliver the agenda of Council and external organisations within existing resources | A3 – Major Risk: Almost Certain / Medium Impact | C4 – Moderate Risk: Possible / Low Impact | Judith Greenhalgh and Cllr Hugh Evans | Consistent with Risk Appetite. |

Appendix 3: Risk Scoring Matrix

Grading the likelihood of an event

| Grade | % chance | Description |
|--------------------------|------------|------------------------------------------------------------|
| A: Almost Certain | Over 70% | Event is almost certain to occur in most circumstances |
| B: Likely | 30% to 70% | Event likely to occur in most circumstances |
| C: Possible | 10% to 30% | Event will possibly occur at some time |
| D: Unlikely | 1% to 10% | Event unlikely and may occur at some time |
| E: Rare | Under 1% | Event rare and may occur only in exceptional circumstances |

Rating the impact of an event

| Rating | Time / cost / objectives | Service performance | Reputation | Financial cost |
|---------------------|--------------------------------------------------------------------------------------------|----------------------------------------------------------------|-------------------------------------------------------------------|----------------|
| 1: Very High | More than 50% increase to project time or cost. Project fails to meet objectives or scope. | Unable to deliver core activities. Strategic aims compromised. | Trust severely damaged and full recovery questionable and costly. | Over £5million |

| Rating | Time / cost / objectives | Service performance | Reputation | Financial cost |
|--------------------|---------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|--------------------------------------------------------------------------|------------------------|
| 2: High | 20% to 50% increase to project time or cost. Impact on project scope or objectives unacceptable to sponsor. | Significant disruption to core activities. Key targets missed. | Trust recoverable at considerable cost and management attention. | £1million to £5million |
| 3: Medium | 5% to 20% increase to project time or cost. Major impact on project scope or objectives requiring sponsor approval. | Disruption to core activities / customers | Trust recovery demands cost authorisation beyond existing budgets. | £350,000 to £1million |
| 4: Low | Less than 5% increase to project time or cost. Minor impact on project scope or objectives. | Some disruption to core activities / customers | Trust recoverable at modest cost with resource allocation within budgets | £50,000 to £350,000 |
| 5: Very Low | Insignificant increase to project time or cost. Barely noticeable impact on project scope or objectives. | Minor errors or disruption. | Trust recoverable with little effort or cost. | Less than £50,000 |

The combination of impact and likelihood results in a risk exposure rating of:

| Risk Score | Risk Severity | Escalation Criteria |
|--------------------------------|---------------|--------------------------------------------------------------------------------------------|
| C5, D4, D5, E4, E5 | Minor | Risk easily managed locally – no need to involve management |
| A5, B4, B5, C3, C4, D3, E2, E3 | Moderate | Risk containable at service level – senior management and SLT may need to be kept informed |
| A3, A4, B3, C2, D1, D2, E1 | Major | Intervention by SLT with Cabinet involvement |
| A1, A2, B1, B2, C1 | Critical | Significant SLT and Cabinet intervention |

Summary of Denbighshire's Risk appetite statement (as agreed September 2020)

Denbighshire County Council's risk appetite in relation to different aspects of council business is summarised below:

- **Reputation and Credibility** – Open risk appetite, willing to consider all options and choose one that is most likely to result in successful delivery with an acceptable level of reward (and value for money). This means we will tolerate minor, moderate or major risks.
- **Operational and Policy Delivery** – Open risk appetite, willing to consider all options and choose one that is most likely to result in successful delivery with an acceptable level of reward (and value for money). Again, this means we will tolerate minor, moderate or major risks.
- **Financial Projects** - Open risk appetite, willing to consider all options and choose one that is most likely to result in successful delivery with an acceptable level of reward (and value for money). As above, we will tolerate minor, moderate or major risks.
- **Financial Treasury Management** – Cautious risk appetite, preference for safe options that have a medium degree of inherent risk and may have some potential for rewards. Within this risk appetite, we will only tolerate minor or moderate risks.
- **Compliance and Regulation - Safeguarding** – Minimalist risk appetite, preference for ultra-safe options where the well-being of individuals is concerned, with a low degree of inherent risk and have a potential for only limited (safe) reward. This means we will only accept minor risks in this area.
- **Compliance and Regulation - Other** – Cautious risk appetite, preference for safe options that have a medium degree of inherent risk and may have some potential for rewards. Again, we will only tolerate minor or moderate risks in this area.
- **People (Workforce) Learning and Development** – Cautious risk appetite, preference for safe options that have a medium degree of inherent risk and may have some potential for rewards. As above, minor or moderate risks only will be tolerated.
- **People (Workforce) Terms and Conditions** – Minimalist risk appetite, preference for ultra-safe options that have a low degree of inherent risk and have a potential for only limited reward. This means we will only accept minor risks in this area.

Managing risk for better service delivery

This booklet is to help you understand how the council manages risk. It is a tool for anyone who works in the council, as well as a guide for those who receive our services.

For more information about anything in this booklet please contact the Strategic Planning and Performance Team.

Email: strategicplanningteam@denbighshire.gov.uk

Phone: 01824 706291 (Monday to Friday, 8:30am to 5pm). Rydym yn croesawu galwadau ffôn yn Gymraeg / We welcome telephone calls in Welsh.

Write to us: Strategic Planning and Performance Team, Denbighshire County Council, PO Box 62, Ruthin, LL15 9AZ.

This document is also available in Welsh.

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A guide to risk management

Introduction

This document describes what is known as Risk Management within Denbighshire County Council.

The aim of the council's risk management policy is to:

- Develop a consistent approach to risk management across the council
- Encourage a proactive risk aware culture across all parts of the council
- Maintain and improve customer confidence in our ability to deliver on our commitments
- Reduce the possibility of unplanned activity or financial costs, and their effect on the council's reputation
- Develop activity to prevent / reduce the impact and / or likelihood of their risk
- Manage risk in accordance with best practice and statutory obligations

Risk management should be all encompassing but not burdensome or bureaucratic, nor add unreasonably to the cost of running the council.

There is a chapter in this guide for every role, and it is hoped that by doing this, it will help you to understand what you need to know about risk management. But don't feel restricted by that – it is sometimes interesting to know what other people are doing too, whether you are:

- **A member of the public**
- **An elected member**
 - A Cabinet Member
 - A Scrutiny Member
 - A Corporate Governance Member

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- **A member of staff**
 - The Chief Executive / a Corporate Director
 - A Head of Service
 - A Middle-Manager
 - A Performance Officer within a service
 - Strategic Planning and Performance Officer

Across all these roles there are some common things that it is useful to know:

- What is a risk?
- What is risk management?
- What is Risk Appetite?
- When do I need to consider risks?
- What risks should I consider?
- How do I describe risks?
- How do I score risks?
- What action do I take once I know the score?
- Where do I record risks?
- How do I report and escalate risk?
- What does the Wellbeing of Future Generations Act mean for Managing Risk?

It's also recommended that you take a look at the [Expectations section](#) in this document. The [Glossary](#) too is full of helpful information!

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What is risk?

Our definition for risk is 'an event that, should it occur, would impact our ability to successfully achieve our priorities'.

Often issues that have arisen are confused with risks.

'An issue is a consequence of a risk. It is already with us and management mitigation actions may be underway'.

We recognise that there are risks involved in all our activities and that we have a duty to manage these risks in a balanced, structured and cost effective way. Therefore, the process for identifying, assessing, controlling and monitoring risk is considered an integral part of our management process. As a result, we are able to enhance service delivery capabilities and better achieve our priorities and value for money.

What is risk management?

Risk Management is a planned approach to **Identify, Assess, Control and Monitor** risks and opportunities facing the council. By managing our risk process effectively, we will be in a better position to safeguard against potential threats and exploit potential opportunities to improve services and provide better value for money.

What is risk appetite?

Risk appetite is the level of risk we are prepared to tolerate or accept as a council in pursuit of our long term, strategic objectives. Determining and articulating our risk appetite allows us to consider all options to respond to risk and make informed decisions that are most likely to result in successful delivery whilst also providing an acceptable level of value for money. Risk appetite is useful for sense checking our appetite to take risks (are we risk averse or risk hungry?) with our corporate priorities, projects, corporate or service risks and so on. Our Risk Appetite Statement and Framework can be found in [Appendix 1](#) of this document.

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Summary of Denbighshire's Risk appetite statement (as agreed September 2020)

Denbighshire County Council's risk appetite in relation to different aspects of council business is summarised below (the full statement can be found at [Appendix 1](#)):

- **Reputation and Credibility** – Open risk appetite, willing to consider all options and choose one that is most likely to result in successful delivery with an acceptable level of reward (and value for money). This means we will tolerate minor, moderate or major risks.
- **Operational and Policy Delivery** – Open risk appetite, willing to consider all options and choose one that is most likely to result in successful delivery with an acceptable level of reward (and value for money). Again, this means we will tolerate minor, moderate or major risks.
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- **People (Workforce) Terms and Conditions** – Minimalist risk appetite, preference for ultra-safe options that have a low degree of inherent risk and have a potential for only limited reward. This means we will only accept minor risks in this area.

When do I need to consider risks?

Continuous identification and assessment of risk and appropriate mitigating actions is key to the successful delivery of our priorities. The changing external environment and the decisions made in the course of running the council will continuously alter the status of risks identified and risks emerging.

When identifying and assessing risk, the following should be considered:

- Scope of the activities to be assessed (e.g. corporate, service, collaboration or project) and the associated priorities or goals (e.g. corporate plan, project objectives and terms of reference).
- Impact of the changing environment, both external and internal:
 - i) Externally this may include political, regulatory, economic, legislative and community changes.
 - ii) Internally it may include changing a process, service expectations, capabilities or partners.
- The level of risk the council is prepared to take in relation to the activities in question (including consideration of [Denbighshire's Risk Appetite Statement](#)).

Annual planning and business as usual

Risk management should be applied in day-to-day decision making and is a line management responsibility. However, there still needs to be specific times when progress against priorities and the outcome of operational decisions are reviewed. It is at these points that formal discussions should happen and risk registers updated to reflect this. Discussions, review and reporting of risk should take place at regular management and team meetings.

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Annual Service Planning also presents an opportunity to be forward looking and pro-active in our risk management.

Information risk and assurance

Every member of staff in the council has a role to play in the effective management of information. Information risks are vulnerabilities and threats to the information resources used by an organisation to achieve its priorities. Risks may include inappropriate disclosure or non-disclosure of information; loss, theft or fraud; information being wrongly destroyed; staff acting in error and failure to use information for the public good. The identification, assessment, monitoring and reporting of risks relating to our information assets will be carried out in the same way as other risks to service delivery.

Projects

Projects have clearly defined priorities, including scope, timeline and budget and it is therefore an obvious step to identify, assess and manage risk as part of project management.

Considering risk in the early stages of a project is time well invested. Risk incurred during the project have to be acted on and fixed, and will add to costs. It is better to identify and where necessary reduce risks at the start-up phase of the project than to allow a contingency on a basis that things will go wrong, but we don't know what.

This risk assessment process for projects is essentially the same as risk management processes described in this document, only that the financial risk assessment criteria are changed to reflect projects.

Alternative Service Delivery Models (ASDMs)

Risk management should be considered during the development of all options for the creation of an Alternative Service Delivery Model (which includes partnerships, collaborations, arm's length companies and outsourcing arrangements).

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It is important to identify and consider all potential risks as early as possible, and risk management should form a fundamental part of the development of, and subsequently the management of all alternative service delivery models.

The risk assessment process for the establishment and management of alternative service delivery models is essentially the same as the risk management processes described in this document. The Strategic Planning Team is in the process of developing a new toolkit about alternative service delivery models, please contact strategicplanningteam@denbighshire.gov.uk for more information.

Project risk assessment criteria

Grading the likelihood of an event

Please note that this grading is only to be used for scoring project risk. Scoring of organisational risks is in the [‘How do I score risks’](#) section.

| Grade | % chance | Description |
|--------------------------|------------|------------------------------------------------------------|
| A: Almost Certain | Over 70% | Event is almost certain to occur in most circumstances |
| B: Likely | 30% to 70% | Event likely to occur in most circumstances |
| C: Possible | 10% to 30% | Event will possibly occur at some time |
| D: Unlikely | 1% to 10% | Event unlikely and may occur at some time |
| E: Rare | Under 1% | Event rare and may occur only in exceptional circumstances |

Rating the impact of an event

| Rating | Time / cost / objectives | Service performance | Reputation | Financial cost |
|--------------|--------------------------------------------------------------------------------------------|----------------------------------------------------------------|-------------------------------------------------------------------|----------------|
| 1: Very High | More than 50% increase to project time or cost. Project fails to meet objectives or scope. | Unable to deliver core activities. Strategic aims compromised. | Trust severely damaged and full recovery questionable and costly. | Over £5million |

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| Rating | Time / cost / objectives | Service performance | Reputation | Financial cost |
|--------------------|---------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|--------------------------------------------------------------------------|------------------------|
| 2: High | 20% to 50% increase to project time or cost. Impact on project scope or objectives unacceptable to sponsor. | Significant disruption to core activities. Key targets missed. | Trust recoverable at considerable cost and management attention. | £1million to £5million |
| 3: Medium | 5% to 20% increase to project time or cost. Major impact on project scope or objectives requiring sponsor approval. | Disruption to core activities / customers | Trust recovery demands cost authorisation beyond existing budgets. | £350,000 to £1million |
| 4: Low | Less than 5% increase to project time or cost. Minor impact on project scope or objectives. | Some disruption to core activities / customers | Trust recoverable at modest cost with resource allocation within budgets | £50,000 to £350,000 |
| 5: Very Low | Insignificant increase to project time or cost. Barely noticeable impact on project scope or objectives. | Minor errors or disruption. | Trust recoverable with little effort or cost. | Less than £50,000 |

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What risks should I consider?

Risks should be captured whether they are under the council's direct control or not. It should be noted that there is a positive side to risk (opportunity) that should not be overlooked and can often be captured as a potential missed opportunity.

To ensure a consistent approach is taken across the council, we use the following framework of risk categories. These categories focus on the source of risk, and are intended to be used as a set of prompts to consider scenarios that will give rise to consequences that will impact on specific outcomes.

Political

Arising from the political situation

- Change of Government policy
- Political make-up
- Election cycles
- Decision-making structure
- Abuse (e.g. fraud, corruption)
- Reputation management

Economic and financial

Arising from the economic situation, and the financial planning framework

- Treasury – investment, reforms
- Demand predictions
- Competition and the effect on price
- General / regional economic situation

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- Value / cost of capital assets

Community

Demographics, social trends, and meeting customer needs or expectations

- Residential patterns and profile
- Social care
- Regeneration
- Customer care
- Quality of community consultation

Technological

Arising from the ability to deal with pace of change, and the technological situation

- Capacity to deal with change or advance
- State of architecture
- Obsolescence of technology
- Current performance and reliability
- Security and standards
- Failure of key system or project

Legislative regulatory

Arising from current and potential legal changes and / or possible breaches, and the organisation's regulatory information

- New legislation and regulations
- Exposure to regulators

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- Legal challenges or judicial review
- Adequacy of legal support

Environmental

Concerned with the physical environment

- Type of environment (urban, rural, mixed)
- Land use – green belt, brown field sites
- Waste disposal and recycling issues
- Impact of civil emergency (i.e. flood)
- Traffic problems, planning, and transport
- Pollution, emissions, noise
- Climate change and energy efficiency

Professional or managerial

The need to be managerially and professionally competent

- Peer reviews
- Stability of officer structure
- Competency and capacity
- Management frameworks and processes
- Turnover, recruitment, and retention
- Profession-specific issues

Physical hazards and health and safety

Physical hazards associated with people, land, buildings, vehicles and equipment

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- Health, safety and wellbeing of staff, partners and the community
- Accident and incident record keeping
- Maintenance practices
- Security of staff, assets, buildings, equipment
- Nature and state of asset base

Partnership or contractual

Partnerships, contracts and collaboration

- Key partners – public, private and voluntary
- Accountability frameworks and partnership boundaries
- Large-scale projects with joint ventures
- Outsourced services
- Relationship management
- Change control / exit strategies
- Business continuity
- Partnerships – contractual liabilities

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How do I describe risks?

Describing the risk is important to ensure that risks are fully understood, and to assist with the identification of actions, the cause and effect of each risk must also be detailed.

Typical phrases used to do this could include:

Description

- risk of ...
- failure to ...
- failure of ...
- lack of ...
- loss of ...
- uncertainty of...
- delay in ...
- inability to ...
- inadequate ...
- partnership with...
- development of...
- opportunity to...
- damage to...

Cause

- ... due to ...
- because ...

Effect

- ...leads to...
- results in...

Having identified and described a risk, it is important to assess the causes, the potential consequences / impact and how effectively it is being managed.

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How do I score risks?

Risk is measured in terms of impact and likelihood against agreed risk assessment criteria. The risk assessment criteria we use in Denbighshire are 'semi-quantitative', which means they are more than a simple high, medium and low approach. These criteria help us to be more objective in our assessment and enable risks to be both prioritised and escalated consistently. This prioritisation helps us decide where we should focus our risk management efforts.

The impact of a risk is measured in five broad bands, from very low to very high and the likelihood from rare to almost certain. When assessing likelihood, it should be based on an appropriate time frame, generally over the Service Plan but extending in line with longer term plans if necessary.

Grading the likelihood of an event

| Grade | % chance | Description |
|--------------------------|------------|------------------------------------------------------------|
| A: Almost Certain | Over 70% | Event is almost certain to occur in most circumstances |
| B: Likely | 30% to 70% | Event likely to occur in most circumstances |
| C: Possible | 10% to 30% | Event will possibly occur at some time |
| D: Unlikely | 1% to 10% | Event unlikely and may occur at some time |
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Rating the impact of an event

| Rating | Time / cost / objectives | Service performance | Reputation | Financial cost |
|---------------------|---------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|--------------------------------------------------------------------------|------------------------|
| 1: Very High | More than 50% increase to project time or cost. Project fails to meet objectives or scope. | Unable to deliver core activities. Strategic aims compromised. | Trust severely damaged and full recovery questionable and costly. | Over £5million |
| 2: High | 20% to 50% increase to project time or cost. Impact on project scope or objectives unacceptable to sponsor. | Significant disruption to core activities. Key targets missed. | Trust recoverable at considerable cost and management attention. | £1million to £5million |
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| 4: Low | Less than 5% increase to project time or cost. Minor impact on project scope or objectives. | Some disruption to core activities / customers | Trust recoverable at modest cost with resource allocation within budgets | £50,000 to £350,000 |

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| Rating | Time / cost / objectives | Service performance | Reputation | Financial cost |
|-------------|-------------------------------------------------------------------------------------------------------------|-----------------------------|-----------------------------------------------|-------------------|
| 5: Very Low | Insignificant increase to project time or cost. Barely noticeable impact on project scope or objectives. | Minor errors or disruption. | Trust recoverable with little effort or cost. | Less than £50,000 |

A number of different descriptors are provided to help estimate the risk impact – service performance, reputation and financial cost. The purpose of multiple descriptors is that whilst it is not always easy to estimate the cost impact of a risk, it is sometimes easier to compare to a qualitative statement (e.g. “disruption to core activities / customers”).

In addition to qualitative statements, some guidance probabilities are given. These can also be considered as frequency of occurrence where 1% is equivalent to the likelihood of a 1 in a 100-year event occurring, 10% is a 1 in 10-year event, and 50% is a 1 in 2-year event, etc.

Remember these are to be used as a guide and to provide consistency – they are not meant to be exact descriptors.

The likelihood and impact of risks need to be considered after existing controls have been evaluated as to their effectiveness. Existing controls refers to controls actually in place not those we plan to put in place. For each control identified it is important to review its effectiveness in managing the risk and that the residual risk assessment accurately reflects this.

Inherent Risk: The risk that an activity would pose if **no controls** or other mitigating actions were in place.

Residual Risk: The risk that remains **after controls** are taken into account.

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What action do I take once I know the score?

Once you identify the risk and have considered existing controls and given your risk a score, you need to determine if any additional actions are required.

Generally, where the risk is **High** or **Critical**, then further action is necessary.

Where the risk is **Moderate**, careful consideration should be given to the need for further action.

Where the risk is **Low**, generally no action is required.

There are normally options for improving the management of risk and they fall into the following categories:

Tolerate: Involves accepting the risk and its impacts. This could include deciding to cover any losses if it were to happen, or where the costs to control exceed the benefits.

Treat: Reduce the risk by making it less likely to happen or reducing the impact if it does. This can include training, improved procedures, new equipment / systems or changing policies etc.

Transfer: Involves passing the risk or costs of the impact outside of the organisation. This could include outsourcing or taking out insurance to cover the costs.

Terminate: Eliminate the risk by ceasing the activity that presents the risk.

It is also important to compare the risk evaluation to the agreed Risk Appetite for each risk category.

The risk appetite sets out the level of risk that the council is prepared to accept, tolerate or be exposed to at any point in time. This will vary depending on the category of risk. In some areas, the council will take more risk in order to support innovative thinking. In other areas the council may take less risk to ensure legal compliance for example.

While the council deems any critical risk intolerable, it is envisaged that all other risks will be managed in accordance with the risk appetite framework.

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However, risk appetite does not replace the reporting and escalation process outlined below. Risks continue to be managed at the lowest and most appropriate level in the organisation and only escalated when action is required outside the control of the current risk owner.

How do I report and escalate risks?

The monitoring of risks is a normal management activity and as such should be integrated as part of normal line management responsibilities.

It is important to ensure that risks themselves are subject to review with appropriate frequency through, Cabinet, Senior Leadership Team, Service Performance Challenges and team meetings within individual services.

It is then expected that six monthly reports are presented to Members at the Performance Scrutiny Committee, highlighting key risks facing the council and their management through the presentation of the Corporate Risk Register.

All service risks will have been agreed and endorsed by the Head of Service and relevant lead Cabinet Member(s). This is done through 1-2-1 meetings between the Head of Service and Lead Members. If a risk is considered to then be a 'Corporate' risk this would need to be a discussion between the Head of Service and the relevant Director to escalate it to a 'Corporate' level via the Council's Senior Leadership Team. All corporate risks subsequently will be agreed and endorsed by Cabinet and the Senior Leadership Team and will be scrutinised by the Performance Scrutiny Committee.

The combination of impact and likelihood scores results in a risk exposure rating and escalation criteria below, allowing us to manage intervention based on severity. These criteria are set at corporate level and are not intended to suggest that a moderate risk (at corporate level) is not important to a particular service (at service level) and might require further actions or monitoring at that service level:

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| Risk Score | Risk Severity | Escalation Criteria |
|---------------------------------------|----------------------|--------------------------------------------------------------------------------------------|
| C5, D4, D5, E4, E5 | Minor | Risk easily managed locally – no need to involve management |
| A5, B4, B5, C3, C4, D3, E2, E3 | Moderate | Risk containable at service level – senior management and SLT may need to be kept informed |
| A3, A4, B3, C2, D1, D2, E1 | Major | Intervention by SLT with Cabinet involvement |
| A1, A2, B1, B2, C1 | Critical | Significant SLT and Cabinet intervention |

Where do I record risks?

In Denbighshire [we use a cloud storage system called Verto](#) to help record and monitor all service and project risks.

Services are advised to monitor their Risk Register every 6 months with officers in services to help collect and input risk information into Verto.

What does the Wellbeing of Future Generations Act mean for managing risk?

The Act requires the council to think more about the long term, how we work better with people and communities and each other, look to prevent problems and take a more joined up approach with partners.

All decisions made by the council must be understood in the context of the Sustainable Development Principle; i.e. are the needs of the present being met without compromising the ability of future generations to meet their own needs?

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There are five things we need to consider to be able to demonstrate that we have applied the Sustainable Development Principle (Long Term Thinking, Prevention, Integration, Collaboration and Involvement).

There will be long term risks that will affect both the delivery of services, but also the communities you are enabling to improve. Therefore, it is important that you use these five ways of working and the well-being goals identified in the Act in order to frame what risks you may be subject to in the short, medium and long term. This will then allow you to take the necessary steps to ensure they are well managed now and in the future.

For more information, take a look at the [Essentials Guide](#) online at [Future Generations Wales](#).

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Expectations

We all expect:

- Council services delivered to a high standard, ensuring risks are managed effectively
- Legislative duties to be met
- Access to up-to-date information and data that tells us how the council is managing risk
- To be listened to and our concerns acted upon.

We all have a responsibility to promote:

- Communication and engagement
- The Welsh language
- Access to services and respect to others, keeping in mind the nine protected characteristics and those in poverty
- The Sustainable Development principle and the five governance approaches.

How do we do this?

Collectively we all have a role to play to make sure that these expectations are met. We do this naturally through our interaction with one another and the council. To understand the contribution that you can make as an individual, read through the following roles.

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Members of the public

As a member of the public I expect:

- High quality services that are well planned and meet my needs
- Access to up to date information and data that is easy to understand

I am responsible for:

- Challenging the council's management of risk, and letting them know where things can be done better. Tell us your thoughts through [our website](#).

How do I do this?

- Our [Annual Performance Report](#) details our current performance and risk management
- Council meetings, Cabinet and Scrutiny are public and you are welcome to attend. You can also view some meetings via the [Denbighshire County Council webcasts](#).

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Elected members

As an elected member I expect:

- Reliable information, advice and support from council officers to help me make decisions and carry out my role
- To be kept informed of issues and risks affecting my ward.

I am responsible for:

- Challenging the council's risk management, seeking improvement where possible
- Understanding the corporate risks facing the council, and being aware of how these risks are being managed
- Ensuring that any associated risks have been taken into consideration when scrutinising decisions
- Raising risks not already identified.

How do I do this?

- Participate in meetings, representing the voice of the citizen
- Raise issues / concerns with relevant managers
- Engage with and scrutinise the information available in the [Verto system](#) to help inform decisions and identify ways to make improvements.

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Cabinet Members

As a Cabinet Member I expect:

- Accurate and timely information regarding risks to help inform decisions and identify areas for improvement.

I am responsible for:

- Monitoring the delivery of service plans and the management of Service Risk Registers with Heads of Service on a quarterly basis
- Monitoring and driving forward the delivery of our corporate priorities
- Monitoring and managing risks on the Corporate Risk Register.

Have I:

- Met with the relevant Head of Service in my portfolio to give input and agree the content of the Service Plan and Risk Register?
- Reviewed risk information for the council and the services I represent on a quarterly basis?
- Reviewed the council's risk appetite on an annual basis?

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Scrutiny Members

As a Scrutiny Member I expect:

- Accurate and timely information regarding risks to help inform decisions and identify areas for improvement.

I am responsible for:

- Scrutinising the delivery of service plans and the management of Service Risk Registers
- Scrutinising the delivery of the council's priorities
- Scrutinising the management of our Corporate Risk Register.

Have I:

- Reviewed Service and Corporate Risk Registers on a regular basis?

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Corporate Governance Members

As a member of Corporate Governance I expect:

- Assurance that our risk management processes are robust and being consistently applied across the council.

I am responsible for:

- Reviewing and giving endorsement to the Risk Management Policy and Guidance
- Monitoring the application of our risk management processes.

Have I:

- Reviewed risk information in the [Verto system](#).

A guide to risk management

Members of Staff

As a member of staff I expect:

- To understand the council's priorities and the contribution my work makes towards them
- Tools and systems in place that support the development, communication, and monitoring of our risk information, helping me to understand how the council and its services are managing risk.

I am responsible for:

- Supporting the delivery of the Service Plan
- Improving services
- Mitigating potential risks where appropriate

How do I do this?

- Ask questions, contribute ideas and challenge the way we do things
- Raise any risks or concerns with managers
- Get involved in the Service planning process and give your input to the Service Plan
- Stay up to date with the council's risk management processes
- Provide honest and easy to understand updates on the progress of work and any issues being experienced

A guide to risk management

Chief Executive / Corporate Directors

As the Chief Executive / Corporate Director I expect:

- Staff to be engaged with our Risk Management process and understand their contribution.

I am responsible for:

- Ensuring the risk management processes remain fit for purpose and effectively implemented
- Championing a culture of risk management within the council
- Monitoring the Corporate Risk Register
- Keeping elected members informed of issues relevant to them
- Reviewing service risks with Heads of Service as part of regular one to one meetings.

Have I:

- Provided input to Service Plan and Risk Registers?
- Reviewed risk data on at least a quarterly basis with Heads of Service?
- Reviewed the council's risk appetite on an annual basis?
- Provided ongoing input to the council's Needs Assessment and used its intelligence to shape service planning, risk management and delivery?

A guide to risk management

Heads of Service

As a Head of Service I expect:

- Guidance from Corporate Directors, Cabinet Members, and the Strategic Planning and Performance Team on Risk Management
- Scrutiny members and staff to also be engaged in the development and delivery of the Service including risk management.

I am responsible for:

- Monitoring the Corporate Risk Register
- Keeping elected members informed of issues relevant to them
- The development, communication and delivery of the Service Plan and risks with key stakeholders, which includes keeping elected members informed of issues relevant to them
- Managing service risk, with input from staff, ensuring that risks are escalated as required
- Ensuring the risk management processes remains fit for purpose and effectively implemented, championing a culture of risk management within the council.

Have I:

- Consulted and engaged with key stakeholders, including managers, staff and Lead Cabinet members?
- Taken customer need into account and covered applicable legislative duties?
- Considered the implications of plans and potential risks?
- Reviewed risk data on a quarterly basis with Cabinet Member(s) and management team and identified opportunities to improve?
- Reviewed the council's risk appetite on an annual basis?
- Communicated key messages to staff (good and bad)?
- Provided input to the council's Needs Assessment and used its intelligence to shape service planning, risk management and delivery?

A guide to risk management

Middle Managers

As a Middle Manager I expect:

- Clear direction from the council and senior leaders
- Staff to be engaged in the delivery of the Service Plan, aware of the service risk register and understand their contribution towards successful service delivery.

I am responsible for:

- Helping Heads of Service communicate the strategic vision of the council and involving staff in the development and delivery of the Service Plan and risks, which includes keeping elected members informed of issues relevant to them
- Ensuring staff engage and commit to activity within the Service Plan
- Supporting the Head of Service with the monitoring of the service risk register, also engaging with team members
- Identifying potential risks in service delivery and discussing with the Head of Service.

Have I:

- Consulted and engaged with key stakeholders during the development of the Service Plan and Risk Register?
- Addressed any new legislative duties?
- Evaluated the implications of the plan and potential risks?
- Set realistic expectations for projects / activities?
- Reviewed risk data on a quarterly basis to inform the Service's own improvement?
- Communicated key messages to staff, good and bad?
- Provided ongoing input to the council's Needs Assessment and use its intelligence to shape service planning, risk management and delivery?

A guide to risk management

Performance Officers within a service

As a Lead Performance Officer I expect:

- To have a clear understanding of the council's risk management processes
- Service Plans and Risk Registers to have input and ongoing challenge from stakeholders, including Corporate Directors(s), Lead Cabinet Members(s), staff and the public.

I am responsible for:

- Supporting the Head of Service in the completion and communication of a clear and easy to follow Service Plan (by March 31st) and Risk Register, ensuring the involvement of the right people, and making sure that staff understand their commitments
- Keeping the Service Plan and Risk Register up to date which are live documents and should be updated with any new activity / developments during the year
- Ensuring that accurate and easy to understand risk updates have been provided in the [Verto system](#) within one month of the end of the quarter. Any comments provided should be in plain English and avoid acronyms.

Have I:

- Consulted with and involved the relevant Strategic Planning and Performance Officer to ensure that there is consistency in the approach you take and no conflict with work elsewhere?
- Ensured that customer needs are taken into account, as well as any legislative duties that apply?
- Analysed the implications of the service plan and potential risks?
- Used the [Verto system](#) to help collate the detail of the Service Plan and maintain the Service Risk?

A guide to risk management

Strategic Planning and Performance Officers

As a Strategic Planning and Performance Officer I expect:

- Service Risk Registers to be maintained and up to date
- Accurate quarterly updates to be submitted within one month of the end of a quarter, with clear and understandable comments where applicable
- Issues to be challenged by stakeholders, in particular by Cabinet, Scrutiny and the public.

I am responsible for:

- Maintaining the integrity of the data collection, monitoring and reporting process within the council
- Supporting services in their service planning and risk management, ensuring consistency of approach, and giving due regard to important considerations such as the Equality Act, the Wellbeing of Future Generations Act, the Social Services and Well-being Act, and other council and partnership commitments
- Producing accurate information and reports as required by Senior Leaders, the Council, Cabinet, Scrutiny and Corporate Governance.

Have I:

- Monitored quarterly risk updates from services?
- Supported services in the ongoing monitoring of risk as required?
- Liaised with services and senior management to ensure risks are properly recorded and escalated as required?

A guide to risk management

Appendix 1: Our Approach to Risk Appetite

Denbighshire's risk appetite statement, reviewed September 2020, sets out Denbighshire County Council's approach to risk taking by defining its risk appetite thresholds. It is a statement that will be reviewed and modified annually, so that any changes to the organisation's strategies, objectives or its capacity to manage risk, are properly reflected. It will be communicated throughout the organisation in order to drive robust risk management and to ensure risks are properly identified and actively managed.

Risk Appetite is the level of risk we are prepared to tolerate or accept in the pursuit of our long term, strategic objectives. Our aim is to consider all options to respond to risk appropriately, and make informed decisions that are most likely to result in successful delivery, whilst also providing an acceptable level of value for money.

The acceptance of risk is subject to ensuring that all potential benefits and risks are fully understood and that appropriate measures to mitigate risk are established before decisions are made. We recognise that the appetite for risk will vary according to the activity undertaken and hence different appetites and tolerances to risk apply.

Risk appetite does not replace the escalation process defined within the risk management policy. Risks continue to be managed at the lowest and most appropriate level in the organisation and only escalated when action is required outside the control of the current risk owner.

The council's appetite for risk across its activities is classified against the following scale, which is derived from the UK Government's Orange Book on Risk Management.

Classification and Description:

- Averse is the avoidance of risk and uncertainty. We are therefore not willing to tolerate any risk within this appetite classification.
- Minimalist is the preference for ultra-safe options that have a low degree of inherent risk and have a potential for only limited reward. Within this classification, we are willing to accept only **minor** risks.

A guide to risk management

- Cautious is the preference for safe options that have a medium degree of inherent risk and may have some potential for rewards. In terms of our risk exposure rating, we would therefore accept a **minor** or **moderate** risk.
- Open is the willingness to consider all delivery options and choose one that is most likely to result in successful delivery with an acceptable level of reward (and value for money). Within this, we will accept **minor**, **moderate** and **major** risks.
- Hungry is the eagerness to be innovative and to choose options offering potentially higher business rewards despite greater inherent risk. All risk exposure is accepted within this classification – **minor**, **moderate**, **major** and **critical**.

Denbighshire County Council's Risk Appetite Statement

- **Reputation and Credibility (risks about the trust / confidence people have in the council)** – It is considered essential that the council preserves its reputation. However, the council is willing to accept an **open risk appetite** in the conduct of any of its activities that could put its reputation at risk but only where there is confidence that the likely outcome is anticipated to be successful
- **Operational and Policy Delivery (risks which focus on long term goals and the service which our customers receive)** – The environment the council works in is continually changing through both its internal operations, the services it provides and the external environment. The council aims to be a leading local authority in North Wales and aims to be progressive and innovative. Therefore, the council is willing to accept an **open risk appetite**
- **Financial (risks about financial loss and value for money)** – The council aims to maintain its long term financial viability and its overall financial strength whilst aiming to achieve its strategic and financial objectives. Although the approach to risk is detailed in a number of key documents, such as the Medium Term Financial and the Treasury Management Strategy that are approved on an annual basis, the following key points are important:
 - The council is required to set a balanced overall revenue budget by early March every year and Heads of Service must then contain net expenditure within approved service totals. In practice the council aims to have a

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balanced budget approved by Cabinet and Council in January, and Council Tax set in February, well before the statutory deadline

- In accordance with its reserves strategy, a minimum General Fund unallocated reserves balance of 2.5% of net budget or £5million whichever is greater
- The council's Treasury Management Strategy sets out in detail the council's approach to risk around borrowing and investment, the approach is summarised below:
 - a. Both the Chartered Institute of Public Finance and Accountancy (CIPFA) Code and the Welsh Government Guidance require the Authority to invest its funds prudently, and to have regard to the security and liquidity of its investments before seeking the highest rate of return, or yield. The Authority's objective when investing money is to strike an appropriate balance between risk and return, minimising the risk of incurring losses from defaults and the risk of receiving unsuitably low investment income.
 - b. The council monitors its cash position and interest rate levels on a daily basis to ensure that further long term borrowing is undertaken from the Public Works Loan Board at the optimal time to ensure that ongoing capital commitments are fully funded.

Therefore, the council is willing to accept a **Cautious Risk Appetite** in relation to treasury management. However in relation to projects the council is willing to accept an **Open Risk Appetite**. This difference reflects the risk and reward inherent in many of our large-scale projects.

Compliance and Regulation (risks about adherence to law, regulations and guidelines): The council places high importance on safeguarding the well-being of individuals and will only accept a **Minimalist Risk Appetite** in this area. For other important areas of compliance, regulation and public protection the council adopts a **Cautious Risk Appetite** for breaches in statute, regulation, professional standards, ethics, bribery or fraud.

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People (Workforce): The council recognises that its employees are critical to the achievement of its objectives and that staff support and developments are key to making the council a place of work that inspires good performance. It places importance on equality and diversity, dignity and respect, and the well-being and safety of staff. Therefore, the council has a **Minimalist Risk Appetite** for any deviation from its standards in terms and conditions but has a **Cautious Risk Appetite** in relation to learning and development, where riskier approaches may be considered.

Risk Appetite Framework

Using the Risk Appetite Classification outlined earlier in the document, the consequences of risk and example behaviours when taking key decisions are as follows:

- Reputation and credibility
 - Averse – no tolerance for taking risks where there is a chance of any negative repercussion for the council (locally or further afield)
 - Minimalist – Tolerance for risk taking limited to those events where significant repercussion for the council is extremely unlikely
 - Cautious – Consider activities which could result in minor scrutiny and reputational repercussions but only where steps can be taken to minimise any exposure to an acceptable level
 - Open – Comfortable to take risks that could expose the council but only where appropriate steps have been taken to proactively manage community relations and media and coverage
 - Hungry – Keen to take decisions that are likely to result in significant or national scrutiny of the council, with reputational repercussions, where the benefits are considered to be great
- Operational and policy delivery
 - Averse – Aim to maintain or protect, rather than to create or innovate. Priority for tight management controls and oversight. General avoidance of systems / technological developments

A guide to risk management

- Minimalist – Innovations avoided unless essential. Decision making authority held by senior management. Only essential systems / technology developments are considered
- Cautious – Tendency to stick to the status quo, innovations generally avoided unless necessary. Decision making authority generally held by senior management. Systems / technological developments limited to improvements to protect current operations
- Open – Innovation supported, where measurable improvements anticipated. New systems / technological developments considered. Responsibility for non-critical decisions may be devolved
- Hungry – Innovation pursued. Desire to ‘break the mould’ and challenge current working practices. New technologies viewed as a key enabler of operational delivery. High levels of devolved authority – management by trust rather than tight control.
- Financial / Value for money (VfM)
 - Averse – Avoidance of financial loss is a key objective. Only willing to accept the low cost / most secure option. Resources withdrawn from non-essential activities
 - Minimalist – Only prepared to accept the possibility of very limited financial loss, if absolutely unavoidable. VfM is the primary concern
 - Cautious – Prepared to accept the possibility of some limited financial loss. VfM still the primary concern but also willing to consider wider benefits
 - Open – Prepared to invest where there is a high reward and risks of financial loss can be managed to a tolerable level. Value and benefits considered (not just cheapest price). Resources allocated in order to capitalise on potential opportunities
 - Hungry – Prepared to invest for the best possible reward and accept the possibility of financial loss (although controls may be in place). Resources allocated without firm guarantee of return
- Compliance – legal / regulatory
 - Averse – ‘Play it safe’ with no deviation from legal or regulatory requirements. Avoid anything which could be challenged.

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- Minimalist – Consider only activities that could deviate in a very minor way from compliance expectations
- Cautious – Only willing to ‘stick our neck out’ when the risk of challenge is very low
- Open – Some appetite to deviate where challenge is likely , but only if we are likely to win it and where the gain will outweigh the adverse consequences
- Hungry – Chances of losing are high and consequences serious but a win could be seen as a great coup
- People (workforce)
 - Averse – No transformational approaches are considered. Maintenance of status quo is considered the priority. Preference for tight management controls and oversight
 - Minimalist – Willing to consider tried and tested approaches that do not threaten staff morale or terms and conditions
 - Cautious – Will weigh up the potential rewards of new / untested approaches but only where the risk is low and can be managed
 - Open – Likely to choose an option that results in changes to staff morale or terms and conditions where that option results in value for money
 - Hungry – Innovative in taking risks in relation to our workforce that will offer benefits to staff and the organisation. Expectation that staff are highly self-motivated and self-supportive

A guide to risk management

Glossary

Plans

- **Corporate Plan.** The Corporate Plan is the overarching strategic plan for the council, and responds to the Public Services Board's Well-being Plan. It sets out our main priorities for the term of council. This sits above Service Plans.
- **Service Plan.** The Service Plan is really the basis of the Council's Performance Management Framework. It contains all indicators / performance measures and improvement activity relating to the key outcomes that services consider important. Service Plans feed up into the council's Corporate Plan and the Public Services Board's Well-being Plan, and are signed off by the relevant Cabinet Lead Member. Some services also have operational plans beneath their service plans, but these are not monitored corporately.
- **Service Planning.** Service Planning is activity that usually takes place between January and March to agree the content of service plans for the following financial year. Strategic Planning and Performance Officers work with Performance Lead Officers and Heads of Service to develop these in Verto by March 31st, though they are live documents that should be kept up to date throughout the year. The activity in Service Plans will inform the council's annual delivery document, which is published in April / May. The template for Service Plans is in Verto, and is based on the Results Based Accountability (RBA) approach. For further guidance on how to build a service plan, speak to the Strategic Planning and Performance Team.
- **Annual Performance Report.** The Annual Performance Report is a statutory requirement for all local authorities and must be published by October 31. This is the overall analysis of the council's performance against its Strategic Plans – primarily the Corporate Plan – for the preceding financial year. Our Annual Performance Report also includes an analysis of our corporate risk management approach during the year.

Risk Management

A guide to risk management

- **Control.** An existing process, policy, practice or other action that acts to minimize negative risk or enhance positive opportunities. The word 'control' may also be applied to a process designed to provide reasonable assurance regarding the achievement of outcomes.
- **Corporate Risk Register.** The Corporate Risk Register is owned by Cabinet and Senior Leadership Team. It is monitored by them and Performance Scrutiny on a six monthly basis. It takes the most severe and common risks from Service Risk Registers and Corporate Director portfolios. Like the Service Risk Registers, it is stored on the Verto system.
- **Event.** Occurrence of a particular set of circumstances. An event can be certain or uncertain. An event can be a single occurrence or a series of occurrences.
- **Impact.** Outcome or impact of an event. There can be more than one impact from one event. Impacts can range from positive to negative. Impacts can be expressed qualitatively or quantitatively. Impacts are considered in relation to the achievement of outcomes.
- **Inherent Risk (Gross).** Risk before consideration of existing controls and their effectiveness.
- **Issue.** Refers to the consequences of a risk already with us and management mitigation actions are underway or planned. In a project environment an issue is a point or matter in question or in dispute, or a point or matter that is not settled but is under discussion.
- **Likelihood.** Describes the extent to which an event is likely to occur. Likelihood can be expressed qualitatively or quantitatively. Probability or frequency may be used in describing a risk.
- **Residual Risk (Net).** Risk remaining after consideration of existing controls and their effectiveness.
- **Risk.** A risk is an event that, should it occur, would impact our ability to successfully achieve our priorities. Risk is a measure used to describe the uncertainty surrounding an event and its potential impact.
- **Risk Appetite.** The level of risk we are prepared to tolerate or accept in the pursuit of our long term, strategic objectives.

A guide to risk management

- **Risk Appetite Framework.** The framework describes the behaviours for each of the risk appetite classifications. This helps the council assess its appetite to take risks.
- **Risk Appetite Statement.** The statement sets out the council's approach to risk taking by defining its risk appetite thresholds.
- **Risk Assessment.** The overall process of risk identification, analysis, action planning and reviewing.
- **Service Risk Register.** The Service Risk Register captures risks within a Head of Service's portfolio. Like the Corporate Risk Register, these are monitored through the Verto system.

| | |
|------------------------------|---------------------------------------------------------------------------------------------------------------------------|
| Report to | Corporate Governance & Audit Committee |
| Date of meeting | 18 November 2020 |
| Lead Member / Officer | Barry Mellor, Chair of Corporate Governance and Audit Committee/ Gary Williams, Head of Legal, HR and Democratic Services |
| Report author | Gary Williams, Head of Legal, HR and Democratic Services |
| Title | Annual Report of Corporate Governance Committee |

1. What is the report about?

This report is about the annual report of the Committee to Council.

2. What is the reason for making this report?

To seek Members' approval of a draft report to be submitted to Council in respect of the Committee's work for the municipal year 2019/2020

3. What are the Recommendations?

That the Committee consider the draft report attached as Appendix 1 and approve its submission to Council subject to any amendments suggested and agreed by Members.

4. Report details

The Constitution requires that the Committee prepares and submits a report each year to the Council on the Committee's performance and effectiveness.

The draft report attached seeks to set out the main issues that the Committee has considered during the Municipal Year 2019/20 and the recommendations made by the Committee.

The draft report explains the role of the Committee, the standing items that it considers, and some of the important issues that it has considered during this period.

Members are asked to consider whether the content of the report reflects the work of the Committee and make any suggestions to improve the style and content of the report.

5. How does the decision contribute to the Corporate Priorities?

The Committee's work in scrutinising the Council's financial affairs, risk management and corporate governance controls assists the Council in delivering the Corporate Priorities.

6. What will it cost and how will it affect other services?

There are no direct costs associated with this report.

7. What are the main conclusions of the Well-being Impact Assessment?

An impact assessment is not required for this report

8. What consultations have been carried out with Scrutiny and others?

This report is seeking Members' views on the content of the Annual report. No other consultation is required.

9. Chief Finance Officer Statement

The Committee is a key part of the Council's governance arrangements. Effective scrutiny of significant financial processes, systems and transactions is a vital element of internal control and provides a level of assurance to the wider Council and other stake holders.

10. What risks are there and is there anything we can do to reduce them?

The risk of not having an effective Corporate Governance and Audit Committee is that there is no oversight of the Council's corporate governance which is a key component of good performance. Weak corporate governance can contribute to failures in service delivery.

11. Power to make the decision

Section 13 Council Constitution

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Appendix 1

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| Report To: | County Council |
| Date of Meeting: | 8 th December 2020 |
| Lead Member / Officer: | Chair Corporate Governance and Audit Committee |
| Report Author: | Gary Williams, Head of Legal, HR and Democratic Services, Lisa Lovegrove, Chief Internal Auditor |
| Title: | Annual Report of the Corporate Governance and Audit Committee |

1. What is the report about?

The report is about the work of the Corporate Governance and Audit Committee (the Committee) for the Municipal Year 2019/20

2. What is the reason for making this report?

To inform all Members of the work of the Committee.

3. What are the Recommendations?

3.1 That Members note the content of the report.

4. Report details

- 4.1 The Council is statutorily required under the provisions of the Local Government Wales Measure 2011 to have an Audit Committee. The Committee is the Council's designated committee for this purpose. The statutory role of the Audit Committee is to review and scrutinise the authority's financial affairs, make reports and recommendations in relation to the authority's financial affairs, review and assess the risk management, internal control and corporate governance arrangements of the authority and make reports and recommendations to the authority on the adequacy and effectiveness of those arrangements. The Committee is required to oversee the authority's internal and external audit arrangements, and review the financial statements prepared by the authority. The Committee is also the body that is responsible for keeping the Constitution under review.
- 4.2 The Council's Constitution provides that the membership of the Committee is made up of six elected Members on a politically balanced basis. There is no statutory requirement for the Committee to be politically balanced. There is a statutory requirement to have at least one independent lay member of the Committee and the current lay member is Mr. Paul Whitham.
- 4.3 Each meeting of the Committee is attended by the Council's s151 Officer, Monitoring Officer and Head of Internal Audit or their representatives. In addition each meeting is attended by officers of the Wales Audit Office.

- 4.4 During the period covered by this report, the Committee has received a number of internal annual reports on matters relating to governance. These have included:
- 4.4.1 Annual Governance Statement Report - this report provides the self-assessment report on the Council's governance and improvement arrangements for 2018-19, which incorporates the Council's 'annual governance statement'. There were no significant governance issues to report. Any less significant issues were included in the Governance Improvement Action Plan which is monitored by the Committee.
 - 4.4.2 Corporate Health and Safety Annual Report – this is a report from the Corporate Health and Safety Officer to provide assurance to the Committee that accidents and incidents are reported and monitored; that activity is planned in line with information provided by service hazard and gap analysis; and that training is delivered as required. The overall assessment of DCC's implementation of H&S systems and of employee involvement in H&S are both medium assurance (yellow). This means that H&S management systems are generally developed and recorded. Significant hazards are generally identified and managed to minimise risk. Employees are generally involved in the development and use of H&S management systems.
 - 4.4.3 Senior Information Risk Officer (SIRO) Annual Report – the Senior Information Risk Owner (SIRO) has an explicit responsibility to ensure that information held by the Council is managed safely, effectively and in accordance with legislation. This report provides Members with information as to any data protection breaches that may have occurred and whether there are any issues or trends that require further action to be taken. The report sets out statistical data regarding requests for information under the Freedom of Information legislation and the number of complaints made to the Information Commissioner's Office. There had been no significant data breaches during the reporting period. There had been a number of minor breaches involving inaccurate address details on correspondence and lost paperwork. The breaches were investigated, however none were considered serious enough to report to the ICO.
 - 4.4.4 Annual RIPA (Regulation of Investigatory Powers Act 2000) – the Senior Responsible Officer has a responsibility to provide a report to the Committee each year in respect of the Council's exercise and oversight of the use of directed surveillance powers provided under this legislation. There had been no surveillance conducted during the period of this report. There had been an inspection by the Office of the Surveillance Commissioners conducted by way of a desktop review which concluded that the Council's applications and authorisation over the period covered by the inspection were of a good standard.
 - 4.4.5 Annual Report on the Constitution – the Committee receives an annual report on the Constitution and any updates that are required to it. There were some changes recommended to the terms of reference of the Committee and its name. Reference was made to the combination of two committees to form the new Local Joint Consultative Committee on Employee Relations and Health and Safety. There were also some changes made to the scheme of delegation as a consequence of the creation of Denbighshire Leisure Limited.

The Annual Whistleblowing Report was to have been submitted to the Committee in March 2020, however, the meeting was cancelled due to the Coronavirus pandemic.

- 4.5 The Committee also receives a number of reports relating to financial matters each year. These have included:
- 4.5.1 Statement of Accounts – each year the Committee is required to approve the Council’s statement of accounts in order that they may be signed off by the Chair of the Committee and the s151 Officer. There is a large amount of information involved in the accounts and the draft is presented to the Committee in one meeting before summer recess and the final statement of accounts is presented for approval in September each year in order that the committee has sufficient opportunity to examine the documentation and scrutinise it. The accounts were approved.
 - 4.5.2 Treasury Management – the Committee receives two reports each year on the treasury management functions of the Council. The reports present details of capital financing, borrowing, debt rescheduling and investment transactions during the reporting period. The reports also deal with the risk implications of treasury decisions and transactions and compliance with treasury limits and Prudential Indicators. The Committee reviews the Annual Treasury Management Strategy prior to its approval by Council.
- 4.6 The Committee also receives external regulatory reports. During this reporting period the Committee has received the following reports:
- 4.6.1 Wales Audit Office Annual Improvement Report - this report was presented to the Committee and Full Council and is a summary of audit work by Wales Audit, including studies on Scrutiny. No significant recommendations for change were made, and the report was overall very positive about the Council. There were five ‘proposals for improvement’, which were presented to Council together with the actions in respect of each of these.
 - 4.6.2 WAO Annual Audit Letter – the Committee received the WAO’s annual audit letter, the key messages in which were that WAO was satisfied that the Council has appropriate arrangements in place to secure economy, efficiency and effectiveness in its use of resources and that their work to date on certification of grant claims and returns had not identified significant issues that would impact on the 2018-19 accounts or key financial systems. It stated that the council had a track record of managing its finances, but the significant financial challenge will continue over the medium term.
 - 4.6.3 Care Inspectorate Wales Local Authority performance Review - The CIW annual letter provides feedback on inspection and performance evaluation activity completed during the year; reports on progress the local authority has made in implementing recommendations from inspections and/or child and adult practice reviews; and, outlines CIW’s forward work programme. Areas identified as requiring improvement were in line with the Director of Social Services’ Annual Report and would be embedded within Service Business Plans for 2019 – 2020.

4.6.4 Wales Audit Office Review of Corporate Arrangements for Safeguarding – The review concluded that the Council had effective arrangements for safeguarding, but it needed to improve monitoring and performance reporting. Areas identified as requiring improvement were in line with the Director of Social Services' Annual Report and would be embedded within Service Business Plans for 2019 – 2020.

4.7 The Committee also receives internal audit reports. During this reporting period the Committee has received the following reports:

4.7.1 In July 2019, the Chief Internal Auditor presented the Annual Internal Audit Report for the year 2018/19 which provided an assurance opinion based on the work carried out by Internal Audit during the period:

“The governance, risk management and control arrangements in place for key business functions was satisfactory overall, and there were good relationships with the management whereby they openly share the areas where they perceive potential problems to be and take on board the results of audit work as an opportunity to make improvements.”

4.7.2 The Chief Internal Auditor reports the outcomes from audit assignments to the committee as part of the Internal Audit Update Report. ‘Low’ or ‘No’ assurance reports are also reported to committee separately and three audits were given Low (Amber) assurance rating during the year. While these audits indicate areas where controls require improvement, none were deemed significant in the context of the Council as a whole. Risks associated with these reviews are monitored by Corporate Governance & Audit Committee as part of its Forward Work Programme. A brief summary from the limited assurance reports is provided below:

4.7.3 Section 106 - Agreements under Section 106 d require that provisions be made at the landowner’s expense for affordable housing and/or financial contributions towards: affordable housing; education; open spaces; in connection with granting of permission for development of any size or type. Despite there being good processes in place for some elements of the S.106 process, there were a number of significant weaknesses relating to the overarching framework that need to be addressed, including setting up of a central register of S161 agreements that all relevant parties can access and monitoring in case agreements expire or are superseded.

4.7.4 Support Budgets & Direct Payments audit was performed at a time when the provision of support budgets and direct payments was in a transitional period with documentation, processes and procedures being reviewed. However, some staff were still uncertain of current arrangements and the process was not fully embedded. Issues were raised as: information held was inaccurate, inconsistent or difficult to access; process for reviewing outcomes was not robust; and returns showing expenditure were not always available.

4.7.5 The Housing Tenancy audit focused on data validity checks, policies and procedures, subletting and lodgers, and tenancy misuse. We highlighted issues relating to system data inaccuracies and absence of tenancy audits to

check that the terms of tenancy agreements were being met e.g. legitimate persons were living at the property with no unauthorised subletting or lodgers. During the review, the service confirmed that tenancy audits were due to commence and were in the process of being rolled out.

4.7.6 The Internal Audit Strategy 2019/20 and Internal Audit Charter were due to be presented to committee in March 2020; however, the meeting was cancelled at short notice due to the coronavirus pandemic and committee subsequently met remotely in July 2020.

5. How does the decision contribute to the Corporate Priorities?

The Committee's work in scrutinising the Council's financial affairs, risk management and corporate governance controls assists the Council in delivering the Corporate Priorities.

6. What will it cost and how will it affect other services?

There are no direct costs associated with this report.

7. What are the main conclusions of the Well-being Impact Assessment?

This report contains no proposal but is, rather, a report on the work done by the Committee over the past year. There is therefore no impact assessment required.

8. What consultations have been carried out with Scrutiny and others?

The Committee has received and commented upon a draft of this report.

9. Chief Finance Officer Statement

10. What risks are there and is there anything we can do to reduce them?

The risk of not having an effective Corporate Governance or Audit Committee is that there is no oversight of the Council's corporate governance which is a key component of good performance. Weak corporate governance can contribute to failures in service delivery.

11. Power to make the Decision

There is no decision required as a result of this report.

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| Report to | Corporate Governance and Audit Committee |
| Date of meeting | 18 th November 2020 |
| Lead Member / Officer | Gary Williams, Head of Legal HR and Democratic Services and SRO for RIPA |
| Report author | Gary Williams, Head of Legal HR and Democratic Services and SRO for RIPA |
| Title | Annual RIPA report |

1. What is the report about?

- 1.1. This is the annual report to the Corporate Governance and Audit Committee on the Council's use of its powers of surveillance under RIPA (Regulation of Investigatory Powers Act 2000)

2. What is the reason for making this report?

- 2.1. The Council is required under the Home Office Code of Practice to make at least annual reports to members, on the Council's use of its powers under the Regulation of Investigatory Powers Act 2000.

3. What are the Recommendations?

- 3.1. That Members receive and note the contents of this report

4. Report details

- 4.1. The Council has the power to undertake certain surveillance activities where it considers that these are necessary and proportionate for the prevention and detection of crime or for the prevention of disorder. These activities include obtaining access to communications data, directed surveillance and the use of a covert human intelligence source. These activities are defined in more detail

in the Council's Corporate Policy and Procedures which are attached as Appendix 1 to this report.

- 4.2. The use of these powers is heavily regulated. A formal application for authorisation of the use of directed surveillance must be made by the investigating officer to one of the officers designated as an authorising officer. The only officers who may authorise surveillance are the CEO, the Corporate Directors, the s151 Officer and the Monitoring officer.
- 4.3. Where an authorisation is granted by one of those officers, an application must then be made to the Magistrate's Court for judicial approval of the use of that authorisation.
- 4.4. The Home Office has published and maintained Codes of Practice regarding the use of these powers which local authorities are obliged to follow. The Codes of Practice require that a report is made at least annually to elected members on the operation of its powers in this field.
- 4.5. There have been no applications for authorisation of surveillance activity in the period covered by this report which is the period from the date of the last annual report on 5th June 2019 and the writing of this report.

5. How does the decision contribute to the Corporate Priorities?

- 5.1. No decision is required.

6. What will it cost and how will it affect other services?

- 6.1. Costs are retained within existing resources and training is delivered in house.

7. What are the main conclusions of the Well-being Impact Assessment?

- 7.1. No assessment is required for this report

8. What consultations have been carried out with Scrutiny and others?

- 8.1. No consultation is required.

9. Chief Finance Officer Statement

9.1.

10. What risks are there and is there anything we can do to reduce them?

10.1. In utilising its powers under this regime, the Council can risk breaching an individual's right to a private and family life as set out in the European Convention on Human Rights. Any exercise of these powers, requires the Council to set out very comprehensively, in an application to an Authorising Officer and then the Magistrates Court, those reasons and grounds for proceeding with the surveillance, which should address why it is proportionate to interfere with any human rights of an individual.

Regular training of officers who use these powers and close oversight by the Monitoring Officer of such activities reduce any risk involved. The Council is also inspected every three years by the Office of Surveillance Commissioners and the report of such inspection is brought to this Committee once it is received.

11. Power to make the decision

- No decision is required.

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DENBIGHSHIRE COUNTY COUNCIL

Corporate Policy & Procedures **For Denbighshire County Council Employees on** **the Regulation of Investigatory Powers Act 2000**

HR/R23
Version 8 (2016)

THE REGULATION OF INVESTIGATORY POWERS ACT 2000

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FOREWORD

This Corporate Policy and Procedures has been produced for the use of Denbighshire County Council Employees and any relevant contractors employed by the Council. All relevant Council contracts will includes a term that this policy is to be observed by any Contractor acting on behalf of the Council. Its provisions must be followed, where they apply, by all Officers. In addition, all employees must use only the Authorising Forms that are available on the Home Office website for authorisation purposes.

This policy has been developed in consultation with representatives from across the departments performing surveillance. This policy replaces any previous policy and procedures. A copy of this policy together with the Home Office Codes of Practice and the Investigatory Powers Tribunal leaflets will be made available for public inspection at Council offices. The policy is also available on the Council's website.

In addition a copy of this document will be readily available to all employees, and a copy may be found on the Denbighshire Information Centre. This Policy has been produced in English and Welsh, and any comments or observations on its contents may be made to the Head of Legal and Democratic Services /Monitoring Officer who also acts as the Council's Senior Responsible Officer in respect of RIPA.

If you are unclear as regards any aspect of this document, you should contact the Head of Legal, HR and Democratic Services.

Any minor amendments to this policy will require the approval of the RIPA Working Group. Any substantial amendments to policy will require additional approval of the Council's Corporate Governance Committee and Cabinet.

September 2016

CHAPTER 1: INTRODUCTION

1.1 The Human Rights Act 1998 became part of UK law on the 2nd October 2000, making it unlawful for a "public authority" (which includes a Local Authority) to breach any Article of the European Convention on Human Rights. The Act also made provision for any person who has suffered as a result of a breach of the European Convention on Human Rights to seek redress within the UK domestic courts, without having to pursue a claim via the lengthy and costly process of the European Court of Human Rights in Strasbourg.

Article 8 of the Convention on Human Rights has a significant impact upon Local Authorities and the ways in which they operate. The Article states that:

"everyone has the right to respect for his private and family life, his home and his correspondence"

Essentially, the "public authority" must not in any way interfere with the exercise of this right except as in accordance with the law and is necessary in a democratic society in the interests of any of the following:-

- National Security
- Public Safety
- The Economic well-being of the Country
- The Prevention of Crime and Disorder
- The Protection of Health or Morals
- Protection of the Rights and Freedoms of Others

In addition, any interference with the Article 8 rights should be a proportionate interference in the circumstances.

Since the 5th January 2004 the only ground on which a local authority can now authorise Directed Surveillance is for the purpose of preventing or detecting crime or of preventing disorder. Subsequent changes in legislation now also stipulate that the 'serious crime' test needs to be met; see section 2.7 of this policy.

1.2 Whenever a person undertakes covert surveillance on behalf of a Local Authority, they are placing themselves at risk of breaching Article 8 of the European Convention on Human Rights, unless that surveillance can be justified on the basis that it is conducted in accordance with the law, is necessary for the purpose listed above (ie the prevention or detection of crime or disorder), and is a proportionate action to take.

1.3 The Regulation of Investigatory Powers Act 2000 (RIPA) was passed by Parliament and came into force on the 25th September 2000. This Act regulates covert surveillance and investigations by a number of bodies - including Local Authorities. One of the main purposes of the Act is to ensure that the human rights of any person who is the subject of covert surveillance is protected. However the Act also ensures that law enforcement officers and agencies have the powers they need to do their job properly and to carry out surveillance effectively.

- 1.4** The purpose of this document is to explain the impact of RIPA upon Denbighshire County Council's procedures in respect of surveillance activity and to provide employees with an understanding of the circumstances where the Act's provisions might apply. This document provides officers with guidance in respect of the procedures that should be followed when covert surveillance is undertaken. This policy should be read in conjunction with the latest Codes of Practice issued by the Home Office and Officers should have regard to the Codes when considering the exercise of their surveillance powers under RIPA 2000. The Codes which are relevant to a Local Authority are:

Covert Surveillance and Property Interference Revised Code of Practice 2014
Covert Human Intelligence Source Code of Practice 2014

Copies of these codes of practice can be obtained from any Authorising Officer listed in chapter 3, from the Councils Legal department or directly from the Home Office website at www.homeoffice.gov.uk

The Council should also have regard to the following revised Procedures:

OSC Procedures and Guidance – Oversight arrangements for covert surveillance and property interference conducted by public authorities and to the activities of relevant sources July 2016. A copy is available from the Legal and Democratic Services department and hard copies have also been circulated amongst members of the Council's Ripa Working Group. The document is not available on the Home Office website therefore you may seek a copy from your line manager or Legal Services.

- 1.5** It is important to note that if any covert surveillance work is conducted by the Council and it falls within the provisions of RIPA then the authorisation procedures described in Chapter 3 must be followed before the surveillance occurs. Failure to do so may result in disciplinary proceedings. Obtaining proper authorisation for surveillance will assist in protecting the Council and its officers against complaints of interference with an individual's human rights, and will also protect the admissibility of any evidence gained from such surveillance in a Court of Law.

1.6 Access to Communications Data

In addition, the Council has powers to gain access to communications data. This is information held by telecommunication or postal service providers about the use of their services by persons who are the subject of a criminal investigation. In exercising these powers Officers must have full regard to the Codes of Practice issued by the Home Office:

'The Acquisition and Disclosure of Communications Data' (2007) available on www.homeoffice.gov.uk or from the Councils' nominated Single Point of Contract (SPOC).

As for Covert Surveillance, access to communications data must be authorised by a Designated Authorising Officer and obtained via the Councils' SPOC. Specific guidance on these procedures is contained in Chapter 5.

1.7 Encryption

Part 3 of RIPA 2000 came into force in October 2007 to provide a statutory framework allowing all public authorities to require electronic information which they have obtained lawfully or are likely to be obtained lawfully to be put into an 'intelligible form', to acquire the means to gain access to protected information and put that information into 'intelligible form'. For example, where the Council seize a laptop, which may contain protected information that could assist in a prosecution. This is achieved through the assistance of 'NTAC' (National Technical Assistance Centre), who must be approached at the earliest opportunity if the Council are considering the use of these powers. In practice a case is put forward to NTAC, who will provide feasibility and costings of the exercise. NTAC will support the Council in the process to ensure the exercise of these Part 3 powers are undertaken appropriately.

The Code of Practice refers to NTAC as the 'guardian and gatekeeper' of the use of Part 3 and any Officer considering the use of these powers should refer to the Home Office Code of Practice available on the Home Office website – www.homeoffice.gov.uk

Investigation of Protected Electronic Information (version 1. 2007)

Specific guidance on these procedures is contained in Chapter 5.

CHAPTER 2: DEFINITIONS OF THE MAIN SURVEILLANCE TECHNIQUES REGULATED BY RIPA

2.1 Surveillance

The Act defines “surveillance” as monitoring, observing or listening to persons, watching or following their movements, listening to their conversations or their other activities or communications. It can also encompass recording anything that is monitored, observed or listened to during the course of surveillance. Surveillance may, or may not, be conducted with the assistance of a device.

For example, the installation of CCTV cameras in order to generally observe activity in a particular area will not be “surveillance” unless the CCTV camera is being used to target a specific person, persons or operation. In cases of uncertainty, officers should seek advice from their department’s Authorising Officers who will in turn consult with the Head of Legal and Democratic Services should they require further clarification or guidance.

2.2 Covert Surveillance

Surveillance will be “covert” if it is carried out in a manner calculated to ensure that the person(s) subject to the surveillance are unaware that it is or may be taking place. If surveillance is open and not hidden for the subjects of the surveillance, the surveillance will not generally be covert. Please note that RIPA applies only to covert surveillance so it is vital to consider initially whether or not you are conducting covert surveillance.

2.3 Intrusive Surveillance

This is a form of covert surveillance that is regulated by RIPA.

Intrusive surveillance is defined in the Act as covert surveillance (see 2.2 above) that is carried out in relation to anything taking place on any residential premises or in any private vehicle, and it involves the presence of an individual in the premises or in the vehicle or is carried out by means of a surveillance device.

It is imperative to note that Local Authorities are not empowered by RIPA to carry out intrusive surveillance. If a Local Authority does carry out this type of surveillance, it will be acting beyond the scope of its powers. If you think that your proposed surveillance activity could fall within the definition of “intrusive surveillance” you must not proceed with the surveillance. If you need help in determining whether or not you could be conducting intrusive surveillance seek advice from the Head of Legal and Democratic Services.

2.4 Directed Surveillance

This is a crucial method of surveillance which affects Local Authorities. This is surveillance that is covert, but is not intrusive and is undertaken for the purposes of a specific investigation or operation. The surveillance is undertaken in such a manner that it is likely to result in obtaining “private information” about a person or persons. Directed surveillance involves the observation of a person or persons with the intention of gathering private information about them to produce a detailed picture of their life, activities and/or,

associates. It will not include entry upon or interference with property, but may include the use of photographic and video equipment (including CCTV).

Before conducting directed surveillance, you need to consider the meaning of “private information”. Private information will include any information relating to a person’s private or family life, and is therefore a very wide definition. The 2000 Act states that private information includes any information relating to a person’s private or family life. *Private information should be taken generally to include any aspect of a person’s private or personal relationship with others, including family and professional or business relationships.*

Whilst a person may have a reduced expectation of privacy when in a public place, covert surveillance of that person’s activities in public may still result in the obtaining of private information. This is likely to be the case where that person has a reasonable expectation of privacy even though acting in public and where a record is being made by a public authority of that person’s activities for future consideration or analysis.

Private life considerations are particularly likely to arise if several records are to be analysed together in order to establish, for example, a pattern of behaviour, or one or more pieces of information (whether or not available in the public domain) are covertly (or in some cases overtly) obtained for the purposes of making a permanent record about a person or for subsequent data processing to generate further information. In such circumstances, the totality of information gleaned may constitute private information even if individual records do not. Where such conduct includes surveillance, a directed surveillance authorisation may be considered appropriate.

Private information may include personal data, such as names, telephone numbers and address details. Where such information is acquired by means of covert surveillance of a person having a reasonable expectation of privacy, a directed surveillance authorisation is appropriate.

The Code of Practice (December 2014) gives practical examples of what is private information and officers may wish to consult pages 12 to 14 of this document which is available on the Home Office RIPA pages of their website.

Officers should also be aware that although access to open sources such as Social Networking Sites may be easy, this could still amount to directed surveillance. Officers should consult paragraph 289 of the OSC Procedures and Guidance (July 2016), and for further advice should consult the RIPA Senior Responsible Officer.

Surveillance is directed surveillance if the following are all true:

- It is covert, but not intrusive surveillance
- It is conducted for the purposes of a specific investigation or operation
- It is likely to result in the obtaining of private information about a person (whether or not one specifically identified for the purposes of the investigation or operation)
- Its is conducted otherwise than by way of an immediate response to events or circumstances the nature of which is such that it would not be reasonably practicable for an authorisation under Part II of the 2000 Act to be sought.
- Thus the **planned** covert surveillance of a specific person, where not intrusive, would constitute directed surveillance if such surveillance is likely to result in the obtaining of private information about that, or any other person.

Please note that directed surveillance would not cover an immediate response to events (eg: detecting something suspicious by chance and continuing to watch). Though in these circumstances applicants must have regard to paragraph 4.17 and the urgency procedures if you *continue* to watch when you ought to have obtained an urgent oral authorisation.

All reasonable alternative methods to resolve a situation such as interview, changing methods of working or levels of security if appropriate for example, should be attempted first.

Where the subject of the covert surveillance is an employee of the Council, subject to the investigation of a criminal matter, the Head of Legal, HR and Democratic Services must be informed.

2.5 Covert Human Intelligence Sources

Covert Human Intelligent Sources (CHIS) is another crucial definition within RIPA which could affect a Local Authority's activities. A person will be a CHIS if he or she establishes or maintains a personal or other relationship with a person for the covert purpose of:

- Obtaining information relating to another person or
- Accessing information about another person, or
- Disclosing information obtained by the use of or as a consequence of such a relationship.

A purpose will be "covert" in this respect if the relationship is conducted in such a manner so that one of the parties to the relationship is unaware of the purpose behind that relationship.

An example of this type of surveillance might occur where a professional obtains information about a person without that person understanding the real reason why that information is being collected and without knowing that a professional is seeking to obtain the information in question. This will encompass the use of professional witnesses to obtain information and evidence.

a) Test Purchases

These do not usually require the use of a CHIS because carrying out a test purchase will not usually require the purchaser to establish a relationship with the supplier with the covert purpose of obtaining information. Be aware however, that developing a relationship with a person in a shop to collect information about the seller's suppliers of an illegal product, would involve the use of CHIS.

b) Anti-Social behaviour activities

Persons who complain about anti-social behaviour and are asked to keep a noise log will not normally be a CHIS because they aren't required to establish or maintain a relationship for a covert purpose. (Where the however the complaint is requested to record personal information in the form of a detailed diary, on those carrying out the anti social behaviour, there is the possibility that such persons could be regarded as carrying out directed surveillance, acting as our agents, for which an authorisation

may be required depending on the circumstances. If in doubt, seek advice from the Head of Legal and Democratic Services)

2.6 Persons used as a CHIS

The Council can use a CHIS if RIPA authorisation procedures as detailed in Chapter 3 are followed. However, Officers should always consider whether or not the person to be employed as a CHIS is a suitable person, taking the following into account:-

a) Juvenile Sources

Special safeguards apply to the use of persons under 18 years of age. Only the Chief Executive (or a Corporate Director in the Chief Executive's absence) can authorise the use of a juvenile source. A child under 16 years of age must never be used to give information about his/her parent.

b) Vulnerable Individuals

These are persons who are or may be in need of community care because of age, illness or other disability. Use of such sources should be avoided and in any event, may only be authorised by the Chief Executive (or Corporate Director in the Chief Executive's absence)

It is **not** the Council's normal procedure to recruit a CHIS though it is recognised that some rare circumstances may give rise to this necessity. In these circumstances, Authorising Officers should consider obtaining advice from the Head of Legal, HR and Democratic Services prior to authorisation.

2.7 What you need to do before you undertake any surveillance.....

Before any Council officer undertakes surveillance of any individual or individuals they must first assess whether the activity falls within RIPA.

The following questions may help you decide.....

(a) Is the surveillance "covert?"

If the investigation and activities are open and are not hidden from the subjects of the investigation then the surveillance will probably not be covert, and the RIPA provisions will not apply. You do not need to obtain authorisation as outlined in Chapter 3 of this Corporate Policy and Procedures if the proposed surveillance is not covert. (See section 2.2 to help you decide this).

(b) Is the surveillance conducted for the purposes of a specific investigation or operation?

Consider CCTV cameras that are regularly visible to anybody walking around a Council office as an example. The cameras will be used to monitor what is generally happening in that Council office and will not be used for the purposes of a specific investigation or operation unless those cameras are used to target a known particular individual and are used to monitor his particular activities.

(c) Will the surveillance reveal private information?

If the surveillance is likely to result in obtaining “private information” (see section 2.4), about a person, RIPA may apply and you will need formal authorisation to carry out that surveillance.

(d) Does the criminal offence that is being investigated punishable, whether on summary (magistrates) or indictment (Crown Court) by a maximum term or **at least 6 months imprisonment, or would constitute an offence under sections 146, 147 or 147A of the Licensing Act 2003 or s.7 of the Children and Young Persons Act 1933 (sale of tobacco and alcohol to underage children)?** If the criminal offence does not meet this criteria, known as the ‘Serious Crime Test”, then the Council does **not** have the powers to conduct the covert surveillance. Please speak to a legal officer if you have any doubts.

If you have answered “yes” to Questions (a) to (d), you will probably be carrying out RIPA regulated surveillance and should therefore seek authorisation as outlined in Chapter 3. If you are unsure as to whether their surveillance will be covert or covered by the Act, you must seek advice from the Head of Legal, HR and Democratic Services before any surveillance is carried out. If in doubt, follow the authorisation procedure outlined in Chapter 3 of this Corporate Policy and Procedures.

CHAPTER 3: PROCEDURES FOR AUTHORISING COVERT SURVEILLANCE

- 3.1** If, having considered the matters outlined in Chapter 2, you decide that will be conducting surveillance activities covered by RIPA, you must seek authorisation in accordance with the procedures outlined in this chapter. Deciding when authorisation is required involves making a judgement based upon the particular circumstances of each case. If you are in doubt, it is always safer to get authorisation. Alternatively, seek advice as soon as possible from the Head of Legal, HR and Democratic Services.

The Protection of Freedoms Act 2012 now provides that a local authority who wishes to use directed surveillance, acquire communications data or the use of a CHIS under RIPA will need (in addition to an Officer granting authorisation as set out below) to then obtain an order approving the grant or it's renewal, from the Magistrates Court. (a Justice of the Peace, namely a single Stipendiary Magistrate or a Lay Magistrate) before the authorisation can take effect. The standard template for making this application is set out in Appendix 3. The local authority shall following approval by the Authorising Officer, contact the administration team at the Magistrates Court by telephone to arrange a hearing, which shall be in private. A copy of the original RIPA application form duly signed by the AO must be attached. There is further detailed guidance in the Home Office guidance October 2012 available on the Home Office RIPA pages.

Following the changes in 2012 which requires the Council to involve the Magistrates', the effective time is that at which the authorisation is approved by the Magistrate and not the time authorisation is given by the authorising officer.

The decision on who shall appear before the Magistrates is one for the Local Authority; the Home Office guidance expects that it is appropriate for the Investigating Officer to attend as opposed to a Solicitor given they will know most about the matter under investigation, and to keep legal costs down. In respect of applications for Communications Data, the SPOC may attend, subject to any arrangements that are in place with the National Anti Fraud Network (NAFN).

All covert operations should involve a consideration of the health and safety implications involved and an assessment of risk to be undertaken eg such as the need for Investigating Officers to attend in pairs in some circumstances or any necessary precautions which should be in place before embarking on a covert operation. Additionally, the issue of the Council's insurance position may need to be ascertained in advance of the operation.

- 3.2** The following officers may act as authoring officers for the purposes of RIPA.

Chief Executive only in respect of juveniles/confidential information (or in his/her absence the person acting as the Head of Paid Service)

Corporate Director: Economy and Public Realm

Corporate Director: Communities

s.151 Officer

Monitoring Officer/Senior Responsible Officer only where another Authorising Officer is unavailable to grant an authorisation.

The list may be amended at any time by the Chief Executive and in accordance with The RIPA (Directed Surveillance and CHIS) Order 2010 SI 2010/52. An Investigating Officer should in the first instance attempt to seek authorisation from the Authorising Officer for their department. However if this is impracticable, an authorisation may be sought from any Authorising Officer listed above.

- 3.3.** Authorising Officers should not be responsible for authorising their own activities; however it is recognised that this may sometimes be unavoidable where it is necessary to act urgently. Such instances should however be kept to a minimum. In these circumstances this particular authorisation must be drawn to the attention of the OSC Inspector and the Central Record will reflect this activity for ease of reference.
- 3.4** Only the forms found on the Home Office website (RIPA page) can be used for authorisation under this policy. Authorising Officers may authorise covert surveillance only where it is considered necessary in accordance with the relevant purpose of preventing or detecting crime or of preventing disorder and where the extent and nature of the surveillance is proportionate to the aim sought. Authorising Officers will need to be satisfied that any intrusion into an individual's private life can be justified and that the intrusion is essential to the success of an investigation. If the investigation can be furthered without having to resort to covert surveillance techniques, then the use of RIPA should be avoided. It is helpful for applicants to explain what overt measures have been tried or ruled out, before resorting to covert techniques. Authorising Officers should refuse a premature application in these circumstances. In order to ensure that Authorising Officers have enough information to make sensible and informed decisions, officers applying for authorisation should submit a detailed application form to the Authorising Officer..
- 3.5** Where surveillance is deemed to be necessary, it must be authorised in accordance with the provisions of this Chapter before it is carried out. Proper authorisation should render the Council in a stronger position if challenged on the grounds that it is breached human rights legislation. If authorised and conducted accordingly, the activity is lawful for all purposes (paragraph 27 RIPA)
- 3.6** Authorising Directed Surveillance

An Authorising Officer will not grant authorisation to an officer to conduct directed surveillance unless he or she *believes* that the authorisation is **necessary** on the relevant ground and also that the surveillance is **proportionate** to the aim sought. Authorising Officers need to have in mind that directed surveillance is an interference with a persons Article 8 rights and that this is only justifiable if it is necessary and proportionate for these activities to take place. If not satisfied, the Authorising Officer must refuse authorisation.

An Authorising Officer must not add to the parts of an application which is completed by the investigating officer or applicant, the content of which must be exclusive to the applicant. The applicant must not in any circumstances complete the parts of the application which is exclusively the Authorising Officer. The applicant's role in the application stops at that part of the form. If further matters are however discussed with the applicant, the Authorising Officer, as a matter of good practice, should mention these discussions in his authorising statement.

The Home Office Code of Practice specifically refers to the following in respect of 'necessity' and 'proportionality':

'..if the activities are necessary, the person granting the authorisation must believe that they are proportionate to what is sought to be achieved by carrying them out. This involves balancing the intrusiveness of the activity on the target and others who might be affected by it against the need for the activity in operational terms. The activity will not be proportionate if it is excessive in the circumstances of the case or if the information which is sought could reasonably be obtained by other less intrusive means. All such activity should be carefully managed to meet the objective in question and must not be arbitrary or unfair. '

The Authorising Officer will therefore carry out a balancing exercise and this needs to be demonstrated on paper, even though the Authorising Officer may well have conducted this exercise in his or her mind. They also may state which matters they personally consider attract greater weight.

The Authorising Officer should take into account the risk that the operation presents to collateral intrusion (intruding upon the privacy of persons who aren't the subject of the investigation). This could affect whether or not an operation is proportionate. The applicant, if collateral intrusion has been identified, must show why the intrusion is in fact justified.

In no circumstances will any covert operation be given backdated authorisation after commencement. Embarking on covert surveillance without authorisation or conducting covert surveillance outside the scope of the authorisation will not provide the protective umbrella of RIPA and may result in disciplinary action being taken against the Officers involved.

The Authorising Officer must set a review date for reconsidering the authorisation, ensure that all forms are completed satisfactorily and that the requirements in 3.8 are complied with. All forms must be submitted to the Head of Legal and Democratic Services department within 3 working days of the authorisation. It is the responsibility of the Authorising Officer, to send the authorisation form, and to consider the most appropriate method of delivery. For high risk operations, where the safety of an individual is concerned, hand delivery may be the only safe and sensible method.

Finally, the **Authorising Officer must allocate a Unique Reference Number** to the application as follows:-

Year/Department/Number of Application - The URN is available from the Head of Corporate Governance's department.

3.7 Equipment

Surveillance equipment will only be installed with the necessary authorisation of the Authorising Officer. The type of equipment used must be documented on the application and also on the Authorising Officer's statement. Those investigating the matter need to be clear what equipment they have authorisation to utilise.

Any surveillance equipment located in occupied residential premises must only be as a result of the express written permission of the tenant or owner occupier.

An inventory of the Council's surveillance equipment is kept by the Authorising Officers of the respective departments. Any purchasing of further surveillance equipment, the respective Authorising Officers must be informed in order for the inventory to be kept up to date.

Any use of this equipment must be documented in the inventory which should make reference to the URN only for security and confidentiality purposes.

Additionally, any surveillance equipment must be kept securely in Council premises.

3.8 Evidence

Any information or recorded evidence will be stored securely and disclosure/access to this evidence will be to those Officers to whom disclosure is necessary such as those Authorising Officers, Investigating Officers and Legal Officers involved in the process or prosecution. Any requests for disclosure to third party agencies will be dealt with via the Authorising Officers, who may seek the advice of the Head of Legal, HR and Democratic Services' department if necessary. Generally disclosure will only be permitted to other law enforcement agencies such as the DWP or the police, to the Subject's legal advisors or to the Subject themselves. Consideration will always be given to the redaction of any third party information, whether written, visual or audio, and also on any possible prejudice to any criminal proceedings, of the Council or another law enforcement agency.

The Data Protection Act 1998 requires the Council to ensure the personal data is stored securely and is not kept for longer than is necessary. See also Chapter 9 of the Covert Surveillance and Property Interference Code of Practice December 2014. Ultimately, it is the Authorising Officer, who owns the product that is obtained, and therefore is responsible for the security of the information.

Tapes and storage

Planning and Public Protection :

Handling Recorded Evidence Obtained by Means of Surveillance

The original recording will be copied, then sealed in an evidence bag and numbered. This will be the 'Master Copy' and handed to the Assistant Head of Service or the Section Manager who will store the 'Master Copy' securely.

The copy disc/tape will become the 'Working Copy' and should this become lost or damaged then application will be made to the Magistrates' Clerk for permission to duplicate the 'Master Copy'. Resealing of the Master Copy will be carried out in front of the Magistrates Clerk.

An entry should be made in the Office Evidence Book for the Master Copy which should include details of the date when handed to the senior officer, together with the identity number on the evidence bag.

The Master Copy should only be removed from storage for production as evidence in court proceedings or as described above.

Where evidence is revealed of an offence and the Authority decide to institute proceedings the following time limits for retention of the recording will apply:

Upon conviction - the recording will be retained for the duration of the case and for two years thereafter.

If no conviction then the recording will be destroyed within 28 days.

Where the Authority decide to offer a formal caution in accordance with Home Office Guidelines, the recording will be retained for two years from the date of the acceptance of the formal caution.

Where it is decided that no formal action will be instituted the recording will be destroyed forthwith, likewise after the expiry of the RIPA where no offence is shown the recording will be destroyed.

Destruction of the recording will be by breaking the disc or cutting it into pieces and an entry made in the Office Evidence Book of the date of destruction and the name of the officer who carried out the destruction.

3.9 Authorising Covert Human Intelligent Sources (CHIS)

When an Authorising Officer is considering authorising the use of a CHIS, he or she must consider the grounds referred to in respect of directed surveillance (3.6 above) and also ensure that arrangements are in place to deal with the following matters:-

- That there is an employee of the Council with day to day responsibility for dealing with the source and for the source's security and welfare (the handler) There must also be a senior officer who has general oversight of the use made of the source, who will in particular have regard for the CHIS safety (the Controller). A full risk assessment must take place, which will be reviewed throughout the recruitment of the CHIS.
- That there is an officer responsible for maintaining a record of the use made of the source
- Consider any adverse impact on Community confidence that may result from the use, conduct or information sought.
- That records disclosing the identity of the source will not be made available to others except strictly on a need to know basis.

Additionally, The RIPA (Source Records) Regulations 2000 (SI 2000/2725) provides for mandatory record keeping in respect of a CHIS :

- The identity of the source
- The identity, where known, used by the source
- Any relevant investigating authority other than the authority maintaining the records
- The means by which the source is referred to within each relevant investigating authority
- Any other significant information connected with the security and welfare of the source
- Any confirmation made by a person granting or renewing an authorisation for the conduct or use of a source that relevant information has been considered and that any identified

risks to the security and welfare of the source have where appropriate been properly explained to and understood by the source

- The date when, and the circumstances in which, the source was recruited,
- The identifies of the persons who will act as handler, controller and person responsible for maintaining records of the use of the source
- The periods during which those persons have discharged those responsibilities
- The tasks given to the source and the demands made of him in relation to his activities as a source
- All contacts or communications between the source and the Council's handler
- The information obtained by the Council by the conduct or use of the source
- Any dissemination by that authority of information obtained in that way
- Any payment benefit or reward made or provided to the source (other than where the source is a council employee acting as an undercover operative).

The Home Office 'Covert Human Intelligence Sources' Code of Practice 2014 in respect of CHIS provides for the additional records to be kept for the use of CHIS, and Officers are strongly recommended that this Code is referred to when considering the use of a CHIS and throughout the process.

In respect of CHIS whom are juveniles or the mentally impaired, this can only be authorised by the Chief Executive or in their absence a Corporate Director.

3.10 Making sure your authorisations are correct.

As good practice, you should always ensure that each separate authorisation complies with the following points:-

- (a) record all applications and approvals for authorisations in writing in the format of the forms available on the Home Office website.
- (b) approach each authorisation on an individual basis - apply your mind to the circumstances of the individual case. In respect of Directed Surveillance make full use of the Checklist (at Appendix 1) as you go through the form, if necessary. As a rule of thumb completion of the application form by an Investigating Officer should take at least one hour, given the detail that is required in most cases.
- (c) complete one form for each type of authorisation. Distinguish clearly between directed surveillance and covert human intelligent sources and consider whether any collateral intrusion or interference with a privacy of persons other than the subject of a surveillance is likely to arise. You need to describe in the application forms how collateral intrusion is justified in each particular case.
- (d) include an assessment of the risk of any collateral intrusion or interference. The Authorising Officer must take this into account particularly when considering whether the surveillance is proportionate to the ends hoped for.
- (e) those carrying out surveillance must inform the Authorising Officer if the operation or investigation unexpectedly interferes with the privacy of other individuals who are not the original subjects of the investigation or are not covered by the authorisation. No retrospective application can be made and Investigating Officers should consider the need for a fresh application.

- (f) Review authorisations regularly, and diarise dates for expiry and renewals!!! (See chapter 4).

3.11 Confidential Information

Particular care should be taken when any act of surveillance is likely to result in obtaining confidential information. RIPA does not provide for any special protection for confidential material but such information will cover matters subject to legal professional privilege, confidential personal information or confidential journalistic information. Confidential personal information is information that is held in confidence relating to the physical, mental or spiritual counselling concerning an individual (whether living or dead) who can be identified from it.

Please bear in mind that such information is particularly sensitive and that it will be subject to additional safeguards.

Any application for authorisation likely to result in the acquisition of confidential material should include an assessment of how likely it is that confidential material will be acquired. Special care should be taken when the target of the investigation is likely to be involved in handling confidential information. Such applications should only be considered in very exceptional and compelling circumstances with full consideration given to the proportionality issues that it raises. Officers should always seek advice from the Head of Legal, HR and Democratic Services in these instances.

Please note that it is only the Chief Executive (or in his absence, the Acting Head of Paid Service) who is able to act as an Authorising Officer where an operation is likely to result in obtaining confidential information.

3.12 Central Register of Covert Surveillance.

The Head of Legal, HR and Democratic Services will maintain the central register of all requests and authorisations including any request that has been denied by an Authorising Officer. The records in this Central Register will be kept for three years from the date of the authorisation in accordance with the Home Office Code. This record will be made available to the relevant Commissioner or Inspector on request. The central record will also contain, in accordance with the Code of Practice, a copy of the complete application and authorisation. Any subsequent renewal, review or cancellation must also be submitted.

The Head of Legal, HR and Democratic Services must be informed by email in advance that a RIPA form is to be dispatched to the Central Record. All RIPA forms must be sent to the Head of Legal, HR and Democratic Services department within 3 working days of authorisation being granted. The receipt of the RIPA form must be acknowledged by the Head of Legal, HR and Democratic Services department by email. The Central record will be updated upon receipt from the information contained on the form.

The sender must consider the most secure method of delivery of the RIPA form in line with the type of surveillance and risk. Eg a major joint covert surveillance operation with another enforcement agency, where hand delivery of the form would be appropriate. The documents must be secure and marked private and confidential.

In respect of joint operations with other agencies, one party will lead on obtaining the authorisation, but all the parties will need to see the detail of the authorisation. (R v Sutherland). Those carrying out the investigation, need to be aware of the limits of an authorisation.

3.13 Internal Oversight Arrangements.

The Head of Legal, HR and Democratic Services will be responsible for the monitoring of the authorisations, renewals, reviews and cancellations. Monitoring will take the form of a random selection of forms quarterly, using the Quality Assurance Checklist as a basis. In addition, the Head of Legal, HR and Democratic Services will consider the lawfulness of the authorisation, in particular the necessity and proportionality issues upon receipt of each form, whilst the information required for the central record is inputted.

The outcome of the monitoring will be reported mid year in a short report with the Head of Legal, HR and Democratic Services producing a more detailed Annual Review Report. The Annual Review Report will be reported to the Council's Corporate Governance Committee by the Monitoring Officer/RIPA Senior Responsible Officer.

CHAPTER 4: DURATION, REVIEW AND CANCELLATION OF AUTHORISATIONS

- 4.1 Authorising directed surveillance or the use of a CHIS is not a decision that should be taken lightly - it is after all, surveillance that interferes with people's privacy. On that basis, a regular review of authorisations must be carried out in order to assess the need for such surveillance to continue. The results of reviews should be kept and recorded safely.
- 4.2 Please note that there are time limits upon the length of any authorisations granted under RIPA. The length of authorisation will depend on the type of surveillance activity involved:
- (a) Directed Surveillance - in all cases 3 months from the date the authorisation should be given, or the date of the latest renewal **ti**. **Please not that since the changes introduced in 2012 and the involvement of the Magistrates', the effective time is that at which the authorisation is approved by the Magistrates and not the time authorisation is given by the authorising officer.** Directed Surveillance authorisations do not expire. Under s.45 there is a requirement on the person granting or renewing an authorisation to cancel if he is satisfied that the relevant requirements are no longer satisfied. Even where you believe the authorisation is needed for the full statutory 3 months, the authorisation still needs to be cancelled, it will not expire at the end of the 3 months. On this point the Surveillance Commissioners are very clear. Therefore grant each application for 3 months, then set a review date to cancel or renew during this 3 month time limit. If the evidence is obtained prior to the renew date and no further directed surveillance is necessary, the authorisation must be cancelled.
- (b) CHIS - 12 months from the date the authorisation was given, or the date of the renewal. Urgent oral authorisations last initially for 72 hours. In the case of a vulnerable individual eg a juvenile the duration will be 1 month.
- 4.3 All authorisations must be cancelled either when they are no longer necessary or proportionate.

CHAPTER 5 ACCESS TO COMMUNICATIONS DATA and THE INVESTIGATION OF PROTECTED ELECTRONIC INFORMATION .

5.1 Access to Communications Data

Local Authorities can acquire limited information in respect of subscriber details and service data. It does NOT allow Local Authorities to intercept, record or otherwise monitor communications data. **The sole grounds to permit access to communications data, for a Local Authority, is for the purposes of either "preventing or detecting crime, or of preventing disorder".**

Communications data' embraces the 'who', 'when' and 'where' of a communication but not the content - not what was said or written. It includes the manner in which, and by what method, a person or machine communicates with another person or machine. It excludes what they say or what data they pass on within a communication, including text, audio and video

A strict necessity test must be applied before any consideration is given to requesting communications data. **Any application must be legal, necessary** (a last resort) **& proportionate**. 'Proportionate' includes 'collateral intrusion', as the data provided may invade a third parties' privacy and should, so far as is possible, be minimised.

The overall responsibility for obtaining communication data rests with the Senior Responsible Officer (SRO), who is the Head of Legal, HR and Democratic Services

A Designated Person (DP), who authorises a communication data application must be, at least, a Service Manager

A Single Point of Contact (SPoC) must be accredited by the Home Office, after undergoing accredited training & have proved their competency, by exam. The Council currently uses the National Anti-Fraud Network for this aspect of investigation.

CSPs (Communication Service Providers) have access to the Home Office's relevant database of accredited SPoCs to ensure the validity of any Notice to provide data.

Procedure for obtaining telecommunications data

Applications to obtain telecommunications data must be submitted to a Home Office accredited Single Point of Contact (SPOC). The Council uses the services of NAFN (the National Anti-fraud Network) for this purpose.

Officers may make the application by accessing the NAFN website. They must therefore be appropriately registered on the NAFN website.

There are full instructions on how to submit an application in the Guidance Manual on the NAFN website. In addition, NAFN have produced a "RIPA Toolkit" for registered users.

The application will first be vetted by NAFN for consistency, before being forwarded by NAFN to the Council's Designated Persons for the purposes of approving the online application.

The Council's Designated Persons are the Public Protection Manager and the Trading Standards Manager. In the future, these roles may be extended (or limited to) Corporate Directors, CEO, and the Council's Monitoring Officer. NAFN will inform the Designated Persons jointly once the application is ready to be reviewed by the Designated Persons.

The relevant Designated Person will then access the restricted area of the NAFN website using a special code, in order to review and approve the application. When approving the application, the Designated Person must be satisfied that the acquiring of the information is necessary and proportionate.

Approvals are documented by the Designated Person completing the online document and resubmitting it by following the steps outlined on the site by NAFN. This online documentation is retained by NAFN who are inspected and audited by the IOCCO.

When submitting an online application, the officer must also inform their Team Manager AND the Designated Person (if different), in order that the Director is aware that the NAFN application is pending.

Acquisition & Disclosure of Communications Data

More information for officers is available in the document "*Guidance for Applicants & Designated Persons Considering Necessity & Proportionality*", produced by the Data Communications Group, is available on the Home Office's website

Although the Council subscribes to NAFN, officers may wish to familiarize themselves with the Home Office 'Acquisition and Disclosure of Communications Data' Code of Practice March 2015.

<http://www.homeoffice.gov.uk/publications/counter-terrorism/ripa-forms/code-of-practice-acquisition?view=Binary>

5.2 Encryption – the investigation of protected electronic information.

The power under s.49(1) of RIPA describes the means by which protected information has come into the possession of any person within a public authority. This is likely to include as regards the Council, protected information obtained under an authorisation under Part 2 of RIPA 2000, under Chapter 1, Part 2 of RIPA 2000 (communications data), or obtained by the Council in the exercise of their statutory duties.

Specifically, the provisions of these Part 3 powers are:

- Power to require disclosure of protected information in an intelligible form. (s.49)
- Power to require disclosure of the means to access protected information. (s.50 (3) (c))
- Power to require disclosure of the means of putting protected information into an intelligible form (section 50 (3)(c))

No person can seek to obtain appropriate permission until the approval of the National Technical Assistance Centre has been obtained. NTAC should be consulted in the first instance by email on ripaii@ntac.gsi.gov.uk

Permission will not be granted by the permission, cannot give permission unless the protected information has been obtained lawfully.

CHAPTER 6: CCTV

6.1 The revised Code (2010) states: *Where overt CCTV is used in a covert and pre-planned manner as part of a specific investigation or operation, for the surveillance of a specific person or group of people, a directed surveillance authorisation should be considered. Such covert surveillance is likely to result in the obtaining of private information about a person (namely a record of their movements and activities) and therefore falls properly within the definition of directed surveillance. The use of the CCTV in these circumstances goes beyond their intended use for the general prevention or detection of crime and protection of the public.*

6.2 The CCTV control room may on occasions be asked to carry out covert surveillance on behalf of the Council's or other law enforcement agencies, usually the police. This will be in accordance with the protocol the Council has with the police. Such requests to carry out directed surveillance must be supported by a RIPA authorisation, signed by an Authorising Officer, from the enforcement agency concerned and provided to the Council's CCTV Superintendent. It is the Authorising Officers statement that the Councils CCTV control room will require, if the other law enforcement agency do not wish for reasons of confidentiality, to provide the full details of the investigating officers application to the control room staff. For example it is not usually essential that the CCTV be provided with the personal information of the subject under surveillance, it is the scope of the actual surveillance itself that is essential. A copy of the original (whether or not redacted) is acceptable either in person or via the agency email.

The CCTV control room manager shall be provided with copies of any review or cancellation of any authorisation, this includes any Council or other law enforcement agency authorisations, subject to any redactions that the enforcement agency wish to make such as personal information.

This requirement will not apply if the directed surveillance is an immediate response to events or circumstances the nature of which is such that it would not be reasonably practicable for an authorisation to be sought.

6.3 In respect of applications from internal Council services to conduct covert surveillance via CCTV, the same process shall be followed as if the enforcement agency were external. No covert surveillance shall take place unless the CCTV control room personnel have sight of a copy of the original signed authorisation (redacted if necessary) and a copy of the Magistrates Order signing off the authorisation (again this may be redacted).

6.4 Copies of any authorisations (redacted or otherwise) shall be retained securely in line with the Data Protection Act 1998 at the CCTV control room and retained in accordance with Home Office retention guidelines and this policy.

CHAPTER 7: SCRUTINY AND COMPLAINTS.

- 7.1** The Office of the Surveillance Commissioner (OSC) has a duty to review the exercise and performance of Council departments in respect of their activities under RIPA. The OSC will regularly inspect the Council in order to ensure that it is complying with statutory functions and duties. This will include scrutiny of authorisations of directed surveillance and CHIS and some activities relating to the investigation of protected electronic information. The latter activity is also overseen by the Interception of Communications Commissioner in part, who will also oversee activities carried out under the Access to Communications regime.
- 7.2** An Investigatory Powers Tribunal has been established in order to consider complaints made under the 2000 Act. The Tribunal is empowered to order bodies who breach the provisions relating to covert surveillance to pay compensation. Claims must be brought within one year of the alleged breach, although there are provisions which enable the tribunal to extend that period. A person may also complain to the Investigatory Powers Tribunal whose address is:-
- Investigatory Powers Tribunal,
PO Box 33220,
London
SW1H 9ZQ.
Tel: 0207 0353711
- 7.3** Any person who reasonably believes they have been adversely affected by any surveillance activity carried out by on behalf of the Council may either complain to the Monitoring Officer of the Council who will then investigate the complaint, or make a complaint of maladministration to the Ombudsman.
- 7.4** Clearly, any form of sanctions exercised against the Council, could result in damaging the County Council's reputation and generate adverse media publicity. This is quite apart from any financial implications that could arise. On that basis, it is imperative that all Officers are familiar with the possible (and quite serious) implications that could arise if the guidance offered by this Policy isn't adhered to.
- 7.5** The Legal, HR and Democratic Services department, additionally report the Council's use of these powers at least annually to the Council's Corporate Governance Committee in order to ensure that the powers are being used consistently and that the policy remains fit for purpose.

This policy will be reviewed no later than January 2018



REGULATION OF INVESTIGATORY POWERS ACT 2000

Direct Surveillance Form – Quality Assurance Checklist

√

1. **Has the application been allocated a Unique Reference Number? Is this inserted on all pages?**

2. **Are the full details of the Investigating Officer, Investigation Name (if applicable) and Authorising Officer inserted on page 1?**

3. **Does Box 2 (page 2) contain a full, clear explanation of the nature of the investigation and the intelligence that has led to it? Would a person with no prior knowledge of the case understand what this investigation is? If possible include relevant legislation that gives you the power to prosecute or duty to carry out the investigation.**

4. **Does Box 3 (page 2) contain a detailed description of the surveillance to be undertaken and the equipment to be used?**
ie what is going to be done? Who is going to do it? Where they are going to do it? When they are going to do it? How they will do it? Eg specific times/public or private vehicle/type of equipment/staff involved etc. Investigating Officer to consider (if appropriate) attaching a plan/map providing the Authorising officer with the full picture.

5. **Does Box 4 (page 2) provide the names, addresses and dates of birth (if known) of the subjects of the surveillance? If you do not know the identity say so.**

6. **Does Box 5 (page 2) explain in sufficient detail what the desired outcome of the surveillance is?**

The Investigating Officer should include all the separate pieces of information hoping to be obtained eg where the offender is dumping illegal waste, who it is that employs him and when this is taking place.

7. Box 6 – The only purpose Local Authorities can now use is the ‘prevention or detection of crime or of preventing disorder’ All other grounds must be deleted.

Is this the only purpose stated in this box?

8. Does Box 7 (page 3) explain why the surveillance is necessary? Provide detail of other means of obtaining the evidence that have been tried? Does it explain why overt surveillance is inadequate?

Factors to include will be: the specific offence, its seriousness, any other evidence you have that links the target with the offender which requires corroboration through surveillance.

9. Does Box 8 (page 3) identify who else may be affected by surveillance (collateral intrusion) & explain the steps taken to minimise this? Even if you cannot minimise you need to show you have considered it.

10. Does Box 9 (page 4) describe how the surveillance is proportionate, when balanced against the desired outcome? ie balance the intrusiveness on the target and others against the need for the activity in operational terms. Does it say why the desired outcome cannot be achieved in a less intrusive way?

Demonstrate proportionality by showing you have considered:

- *Can you use less intrusive/overt methods?*
- *Other means used already?*
- *What could be done to lessen the impact on the target eg the amount of information to be gathered, the way the surveillance is carried out, the impact of surveillance on the subject, timing etc.*

Balance this proportionality against:

- *What the surveillance will achieve?*
- *Nature and seriousness of the offence.*
- *Impact of the offence on the victims and community.*
- *The effect the offences have on the public purse.*

11. Does Box 10 (page 4) identify whether

**‘Confidential Information’ will be likely to be obtained? Eg where following someone you are likely to end up at a church or GP surgery.
*NB If so, this can only be authorised by the Chief Executive and Box 14 (page 6) completed**

12. Do Boxes 12 & 13 (page 5) contain the Authorising Officer’s full statements as to why they believe the surveillance is necessary & proportionate and give full details of the proposed surveillance. Has the AO considered the application objectively?

The 5 ‘W’s must be considered – the Investigating Officer needs to be clear what they can and cannot do. The AO may set out matters in the application that they have given particular weight to when considering necessity and proportionality. If the application is unclear and there is insufficient detail the AO should consider rejecting.

13. On page 6, has the Authorising Officer –
- **signed, dated and completed the authorisation**
- **inserted the date of the first review?**
- **completed the expiry date and time of the authorisation?**

14. On page 17, if this was an urgent authorisation, has the Authorising Officer completed Box 15?

Completed forms must be sent to Legal Services department within 3 working days of authorisation. If the hard copy is sent consider the most secure form of transit (eg hand delivery if possible) and put the Officer holding the Central Record on notice that the authorisation is being dispatched and confirmation of the URN.

APPENDIX 2

STRICTLY CONFIDENTIAL

Denbighshire County Council RIPA CHIS RISK ASSESSMENT FORM

RISK ASSESSMENT FOR THE USE OF COVERT HUMAN INTELLIGENCE SOURCE
THIS FORM IS TO BE SUBMITTED TO LEGAL SERVICES WITH THE CHIS FORM. ALL CHIS
FORMS MUST BE HAND DELIVERED AND NOT SENT IN THE INTERNAL POST

Name of source :

Unique reference number:

Is the identity used by the source different to the above?

CHIS pseudonym

Handler details and date duties commenced:

Controller details and date duties commenced:

Is the source working for any other investigation authority? If so by what identity?

Assess and detail the nature and magnitude of any risk connected with the use of the source:

This will include all considerations including risks to the source personally and operational or ethical risks in using the source :

Detail any arrangements made to minimise the risk:

If the source is under 18 detail the arrangements made to satisfy the RIPA (Juveniles) Order 2000:

Authorising Officers' comments on the above arrangements:

Does the Authorising Officer consider that any identified risks are justified? YES/NO and give details:

Have the identified risks been properly explained to, and understood by the source? YES/NO

Date and circumstances in which source was recruited. Give dates when handler and controller commenced duties and any changes to these.

The following officer will be responsible for recording use of the source:

Has the Authority passed the information by the source to anyone else? Give details.

Has the Source been offered or received payment, benefit or reward? Give details.

Detail the tasks given to the Source:

Detail dates of contact with source and notes of information obtained:

Appendix 3

Application for judicial approval for authorisation to obtain or disclose communications data, to use a covert human intelligence source or to conduct directed surveillance. Regulation of Investigatory Powers Act 2000 sections 23A, 23B, 32A, 32B.

Local authority:.....

Local authority department:.....

Offence under investigation:.....

Address of premises or identity of subject:.....

.....

.....

Covert technique requested: (tick one and specify details)

Communications Data

Covert Human Intelligence Source

Directed Surveillance

Summary of details

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Note: this application should be read in conjunction with the attached RIPA authorisation/RIPA application or notice.

Investigating Officer:.....

Authorising Officer/Designated Person:.....

Officer(s) appearing before JP:.....

Address of applicant department:.....

.....

Contact telephone number:.....

Contact email address (optional):.....

Local authority reference:.....

Number of pages:.....

ATTACHED TO THIS APPLICATION IS: COPY OF THE ORIGINAL SIGNED RIPA APPLICATION.

Order made on an application for judicial approval for authorisation to obtain or disclose communications data, to use a covert human intelligence source or to conduct directed surveillance. Regulation of Investigatory Powers Act 2000 sections 23A, 23B, 32A, 32B.

Magistrates' court:.....

Having considered the application, I (tick one):

- am satisfied that there are reasonable grounds for believing that the requirements of the Act were satisfied and remain satisfied, and that the relevant conditions are satisfied and I therefore approve the grant or renewal of the authorisation/notice.
- refuse to approve the grant or renewal of the authorisation/notice.
- refuse to approve the grant or renewal and quash the authorisation/notice.

Notes

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Reasons

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.....

Signed:

Date:

Time:

Full name:

Address of magistrates' court:

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Corporate Governance and Audit Committee Forward Work Programme

| | | | |
|------------------------|---|--------------------------------------------------------|-------------------------------------------------------------------------|
| 27 January 2021 | | Standing Items | |
| | 1 | Issues Referred by Scrutiny Committees (if any) | Scrutiny Coordinator – Rhian Evans |
| | 2 | Recent External Regulatory Reports Received (if any) | Head of Business Improvement & Modernisation– Alan Smith, Nicola Kneale |
| | 3 | Internal Audit Update | Head of Internal Audit – Lisa Lovegrove |
| | 4 | Forward Work Programme | Democratic Services |
| | | | |
| | | Reports | |
| | 5 | Schools in Financial difficulties | Head of Finance |
| | 6 | Annual Report on Whistleblowing | Head of Legal, HR & Democratic Services |
| | 7 | Annual Complaints Report and Ombudsman’s Annual Letter | Statutory & Corporate Complaints Officer |
| | | | |
| 17 March 2021 | | Standing Items | |
| | 1 | Issues Referred by Scrutiny Committees (if any) | Scrutiny Coordinator – Rhian Evans |
| | 2 | Recent External Regulatory Reports Received (if any) | Head of Business Improvement & Modernisation– Alan Smith, Nicola Kneale |
| | 3 | Forward Work Programme | Democratic Services |
| | | | |
| | | Reports | |
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| 28 April 2021 | | Standing Items | |
| | 1 | Issues Referred by Scrutiny Committees (if any) | Scrutiny Coordinator – Rhian Evans |
| | 2 | Recent External Regulatory Reports Received (if any) | Head of Business Improvement & Modernisation– Alan Smith, Nicola Kneale |
| | 3 | Internal Audit Update | Head of Internal Audit – Lisa Lovegrove |
| | 4 | Forward Work Programme | Democratic Services |
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Corporate Governance and Audit Committee Forward Work Programme

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| 9 June 2021 | | Standing Items | |
| | 1 | Issues Referred by Scrutiny Committees (if any) | Scrutiny Coordinator – Rhian Evans |
| | 2 | Recent External Regulatory Reports Received (if any) | Head of Business Improvement & Modernisation– Alan Smith, Nicola Kneale |
| | 3 | Forward Work Programme | Democratic Services |
| | | | |
| | | Reports | |
| | | | |
| 28 July 2021 | | Standing Items | |
| | 1 | Issues Referred by Scrutiny Committees (if any) | Scrutiny Coordinator – Rhian Evans |
| | 2 | Recent External Regulatory Reports Received (if any) | Head of Business Improvement & Modernisation– Alan Smith, Nicola Kneale |
| | 3 | Internal Audit Update | Head of Internal Audit – Lisa Lovegrove |
| | 4 | Forward Work Programme | Democratic Services |
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| | | Reports | |
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| 22 September 2021 | | Standing Items | |
| | 1 | Issues Referred by Scrutiny Committees (if any) | Scrutiny Coordinator – Rhian Evans |
| | 2 | Recent External Regulatory Reports Received (if any) | Head of Business Improvement & Modernisation– Alan Smith, Nicola Kneale |
| | 3 | Forward Work Programme | Democratic Services |
| | | | |
| | | Reports | |
| | | | |
| 24 November 2021 | | Standing Items | |
| | 1 | Issues Referred by Scrutiny Committees (if any) | Scrutiny Coordinator – Rhian Evans |
| | 2 | Recent External Regulatory Reports Received (if any) | Head of Business Improvement & Modernisation– Alan Smith, Nicola Kneale |

Corporate Governance and Audit Committee Forward Work Programme

| | | | |
|---------------------|---|----------------------------------------------------|-----------------------------------------|
| | 3 | Internal Audit Update | Head of Internal Audit – Lisa Lovegrove |
| | 4 | Forward Work Programme | Democratic Services |
| | | | |
| | | Reports | |
| | | | |
| FUTURE ITEMS | | | |
| | 1 | Updated Action plan from the Whistleblowing Report | Head of Legal, HR & Democratic Services |
| | | | |

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