Public Document Pack

Simon Hobbs
Director of Legal and Democratic Services
County Hall
Matlock
Derbyshire
DE4 3AG

Extension 38357
Direct Dial 01629 538357
Ask for Danny Sunderland

PUBLIC

To: Members of Audit Committee

Monday, 30 November 2020

Dear Councillor,

Please attend a meeting of the **Audit Committee** to be held at **2.00 pm** on **Tuesday, 8 December 2020.** This meeting will be held virtually. As a member of the public you can view the virtual meeting via the County Council's website. The website will provide details of how to access the meeting, the agenda for which is set out below.

Yours faithfully,

Simon Hobbs
Director of Legal and Democratic Services

A G E N D A

1. To receive apologies for absence

2. To receive declarations of interest (if any)

3. To confirm the minutes of the meeting held on 24 November 2020 (Pages 1 - 6)

To consider the reports of the Director of Finance and ICT on:

4 (a) Annual Strategic Risk Register Review (Pages 7 - 28)

To consider the reports of the Assistant Director of Finance (Audit) on:

To consider External Auditor reports (if any)

PUBLIC Agenda Item No.3

MINUTES of a meeting of the **AUDIT COMMITTEE** held on 24 November 2020.

PRESENT

Councillor K S Athwal (in the Chair)

Councillors N Barker, S Brittain, L M Chilton, A Griffiths and P Murray

Officers in attendance – D Ashcroft, P Handford, C Hardman, J Lakin, E Scriven and P Spencer (representing Derbyshire County Council) and J Pressley and M Surridge (representing Mazars)

Declarations of Interest

Councillor K S Athwal declared a personal interest in Minute No.39/20 as a former Director of Derbyshire Developments Limited.

36/20 **MINUTES** **RESOLVED** that the minutes of the meeting held on 22 September 2020 be confirmed as a correct record.

37/20 **MATTERS ARISING a (Minute No.30/20) Annual Strategic Risk Register Review** The Strategic Risk Register was due to go before CMT in October 2020 in order to allocate the identified risks to specific risk owners. This had been delayed due to the Covid-19 pandemic.

b (Minute No.31/20) Review of the Effectiveness of the System of Internal Control The Director of Finance & ICT reported that the Annual Governance Statement was due to be signed off by Emma Alexander, the Executive Director Commissioning, Communities & Policy and the Leader of the County Council and would be included in the accounts.

c (Minute No.35/20) External Audit – Update Report A paper on the Redman Review had been put before the Ministry of Housing, Communities and Local Government (MHCLG). A report would be brought to the next meeting of the Audit Committee detailing the Council's response.

38/20 **ASSESSMENT OF GOING CONCERN STATUS** (The Chairman had agreed to consider this report as an urgent item as a formal Assessment of Going Concern Status was required to allow the Statement of Accounts to be signed in accordance with the Statutory Deadline).

The purpose of this report was to provide assurances to the Committee and External Audit that the Council had the ability to continue to provide core services and enable business continuity. The Director of Finance & ICT had considered the following factors which underpinned this assessment:

- Council's current financial position;
- Council's projected financial position;
- Council's governance arrangements; and
- regulatory and control environment applicable to the Council as a local authority.

The Director of Finance & ICT provided the Committee with more detail of each of these factors.

The Council had set a balanced budget for 2020-21 and over the Five Year Financial Plan period in February 2020. However, since then Covid-19 had impacted significantly on the Council's activity and finances. Covid-19 posed a significant risk to the Council's financial resilience.

It was unclear how much further Government support would be provided to cover the costs resulting from the pandemic; these costs were expected to be well in excess of the support already provided. It was encouraging that a new round of Covid-19 funding had been announced on 12 October 2020, as the second wave of the pandemic was starting to escalate in severity. Although the immediate impact of losses on the collection of funds (council tax and business rates) had been eased by allowing these costs to be spread over three years instead of one, there had been no commitment to reimburse councils for these losses.

Despite these risks, the Council had sufficient reserves it could deploy in 2020-21 to meet the anticipated funding shortfall, should it be required to do so. If it were to use its reserves for this purpose, however, this would significantly impact on the funding of the Council's planned improvements, delay some savings plans and require additional general reserves to be set aside in order to ensure that the balance of general reserves remained at a prudent risk-assessed level.

The Director of Finance & ICT responded to Members' concerns regarding the effects of Brexit and how the Council was planning for any impact on its finances. Although it was fairly unknown at this moment, it was envisaged that the impact in the first six months would be manageable.

Having regard to the Council's arrangements and such factors as highlighted in the report, the Director of Finance & ICT as Section 151 Officer concluded that Derbyshire County Council remained a going concern and that it was appropriate that the Council's Statement of Accounts for 2019-20 had been prepared on this basis.

RESOLVED that the Audit Committee notes this formal assessment of the Council's status as a "going concern" and the conclusion that it was an appropriate basis for preparing the Council's Statement of Accounts 2019-20.

39/20 **STATEMENT OF ACCOUNTS 2019-2020** At the meeting of the Audit Committee on 21 July 2020, a detailed presentation, followed by a question and answer session, had taken place to explain the Statement of Accounts in more detail and to respond to any particular queries Members had.

The Director of Finance & ICT referred to Appendix 2 of the report which highlighted the changes that had been made to the pre-audit Statement of Accounts. Covid-19 had delayed the production of the accounts and subsequently had led to a very challenging audit, however the revised publication date for audited accounts of 30 November 2020 had been met.

A copy of the audited Statement of Accounts was appended to the report at Appendix 1. The audit opinions had yet to be inserted but would be included in the Audit Completion Reports of the external auditor presented at this meeting. As reported earlier, the Annual Governance Statement would be inserted after the meeting, once it had been approved.

The International Standard on Auditing ISA 580 required the Council to provide a Management Representation Letter to the external auditors. The letter outlined the responsibilities of those charged with governance. Separate letters had been provided in respect of the Council's Statement of Accounts and the Pension Fund Accounts. These letters were still to be finalised, but drafts were included at Appendix Three and Appendix Four of the report, respectively.

The approved Statement of Accounts would be reported to full Council in February 2021. The Pension Fund Accounts would be reported to the Pensions and Investment Committee in December 2020.

The Committee was informed that there had been a decrease of £228.934m in the total pensions liability of the Council up to 31 March 2020. This followed a re-assessment by Hymans Robertson, the Fund's actuary.

The Director of Finance & ICT wished to thank the finance team, the property, plant and equipment assets team and the External Auditors for the work they had undertaken in the production of the accounts.

The Chairman reported he was very impressed with the work the team had carried out and on behalf of the Committee wished to thank the Director of Finance & ICT and his team.

RESOLVED to approve the Post-Audit Statement of Accounts for 2019-20.

40/30 AUDIT SERVICES UNIT PROGRESS AGAINST AUDIT PLAN 2020-21 Members were informed of progress against the approved Audit Plan for 2020-21 as at 31 October 2020.

The Audit Services Unit continued to progress its approved programme of work, including those areas of additional, unplanned work which were necessary to support Senior Management facing the challenges of the pandemic, and undertaking “deep dives” into specific areas of risk in greater detail. In common with previous years some work forming part of last year’s approved Audit Services Plan had been completed and reported in the current year which was identified at Appendix 1 to the report. Audit staff routinely followed up progress against agreed recommendations as part of subsequent work in that area.

The potential impact of the coronavirus was reported to the Audit Committee at its meetings on 27 May and 22 September 2020 and these factors still remained. The impact of these restrictions on the Audit Services Plan were considered in detail and included in the last progress report to the Audit Committee.

The considerable and continuing pressures placed on the Unit’s staffing resources had been reported to the Audit Committee on a regular basis. With the exception of a vacant Senior Auditor post, which had been re-advertised on several occasions, all other posts were currently occupied. Since the last progress report to the Audit Committee the Senior Auditor post had been re-advertised and the closing date for applications was 6 December 2020.

In addition, the Unit’s levels of sickness absence continued to remain higher than estimated and at 31 October 2020 152 days had been lost through sickness absence. Whilst staff attendance continued to be managed in accordance with the Council’s Policies, this situation had an ongoing impact on available days to deliver the Audit Services Plan. Support mechanisms were in place for members of staff returning to work

Whilst current restrictions prevented school and establishment Audit visits taking place the Unit had recently developed, and implemented a programme of virtual school audits. Although this programme would not provide the same level of coverage as planned it would allow a level of assurance to be drawn on schools’ operations. Members welcomed this approach to enable the school audits to progress.

At 31 October 2020 1,480 productive days had been delivered against the pro-rata target of 1,682 days (total planned days for 2020-21 was 2,884). This included 449 days deployed on projects not specifically included in the original Audit Services Plan.

On behalf of the Committee, the Chairman thanked the Assistant Director of Finance (Audit) and his team for the work they had undertaken particularly in these difficult circumstances.

RESOLVED that the Committee note the information on progress to date against the approved Audit Services Plan.

41/20 **EXTERNAL AUDIT – UPDATE REPORT** John Pressley and Mark Surridge from Mazars attended the meeting to present their Audit Completion Report which set out the findings from their audit of Derbyshire County Council and the Pension Fund for the year ending 31 March 2020.

It was reported that they anticipated issuing an unqualified opinion on the financial statements. They anticipated concluding that the Council had proper arrangements in place to secure economy, efficiency and effectiveness in its use of resources. The significant audit risks that had been identified were highlighted.

Members raised concern that Mazars audit work may not be completed by 30 November 2020. Mr Surridge informed the Committee that this was as a result of a delay in the National Audit Office issuing their Group instructions.

Mr Surridge stated that this had been a most unusual year and they had reflected on the work that had been carried out and would report back on lessons learned and issues they could have done better. It was reported that not many local authorities were in a position to meet the deadline of 30 November and the Finance Team should be congratulated on producing the accounts in good time.

On behalf of the Committee, the Chairman thanked Mr Pressley and Mr Surridge for their report.

RESOLVED that the report be noted.

This page is intentionally left blank

Agenda Item No.4(a)

DERBYSHIRE COUNTY COUNCIL

AUDIT COMMITTEE

8 December 2020

Report of the Director of Finance and ICT

ANNUAL STRATEGIC RISK REGISTER REVIEW

1 Purpose of the Report

To advise Members of the updated Strategic Risk Register and Covid-19 Risk Register.

2 Information and Analysis

Strategic Risk Register
The Strategic Risk Register was considered by Corporate Management Team on 1 December 2020 in order to allocate the identified risks to specific risk owners. The Director of Finance & ICT will provide a verbal update at the meeting. . The Strategic Risk Register is contained in Appendix A, whilst Appendix B summarises changes to the Strategic and Departmental Risk Registers.

This will enable the Executive Directors to have full oversight of the risks that could directly impact the ability of the Council to achieve its plans, whilst having an overview of the mitigations to be implemented.

The risks noted require a further workshop to identify the mitigations and owner of each risk. Unfortunately, COVID-19 has interrupted the initial timetable, however, it will resume in the coming months co-ordinated by the new Senior Risk Officer, who is returning to post the week commencing 7 December 2020 following their secondment to the PPE hub.

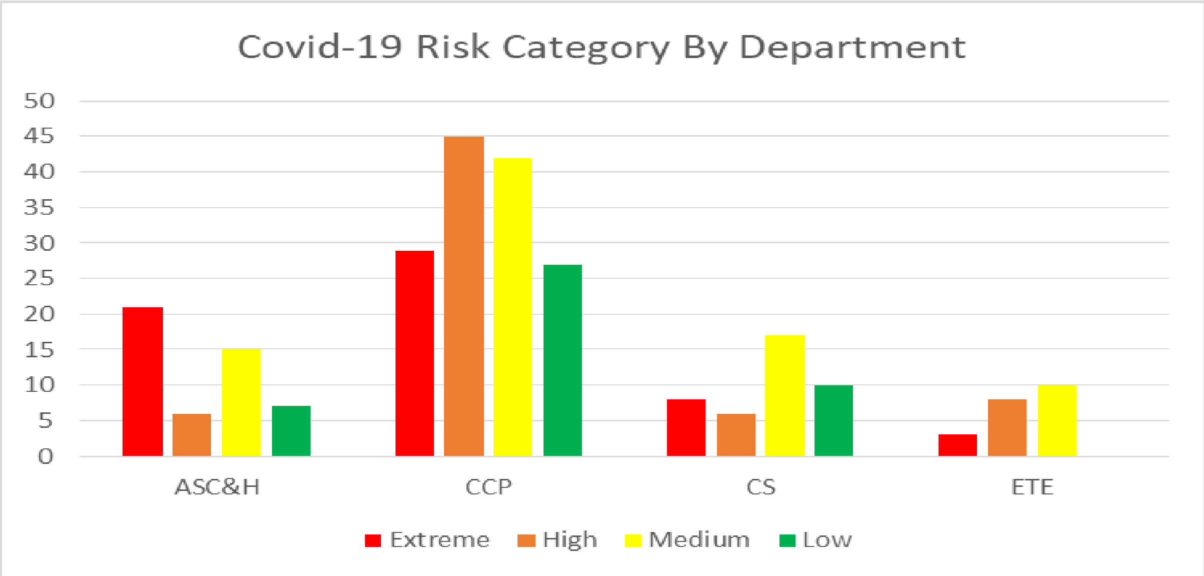
Upon finalisation of these details, the Strategic Risk Register will be linked to the Councils performance management system, APEX, to allow for live risk reporting, which will provide further assurance that risks are being actively managed within the Council. This will also link into performance and financial monitoring.

COVID-19 Risk Register
The Council has compiled a risk register specific to the COVID-19 pandemic in order to actively manage the risks that this has presented. The COVID-19

specific risk register is contained in Appendix C, however, a summary is detailed in the tables below.

In order to respond to the situation rapidly, it was initially decided to reduce the risk rankings to three risk ratings rather than the Council's usual four. However, these have now been reviewed and returned to the Council's standard ratings.

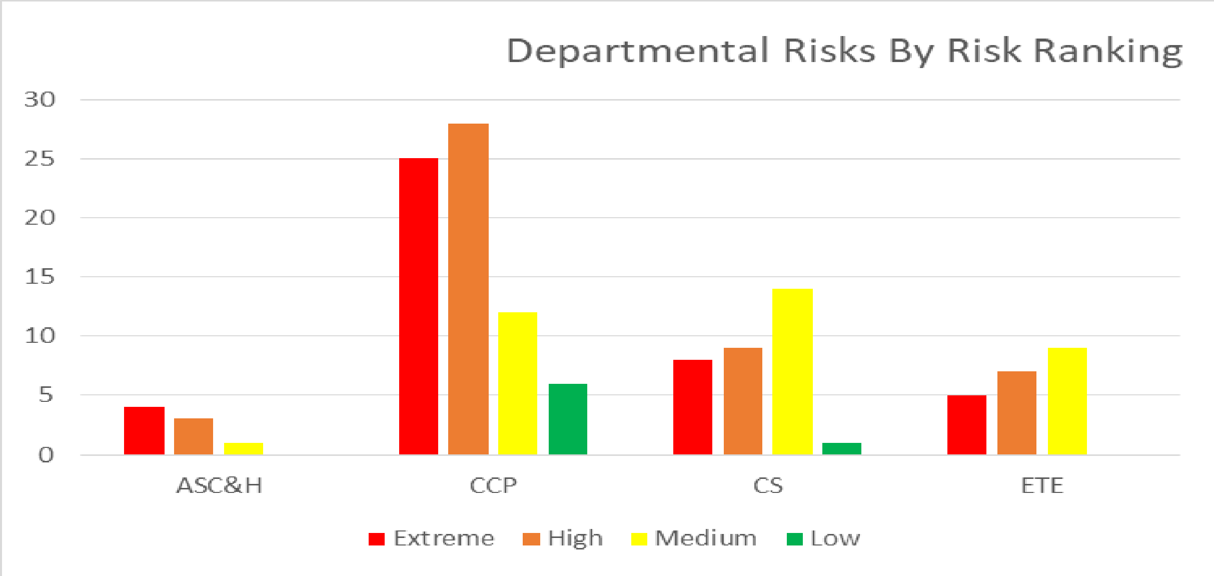
Rating	ASC&H	CCP	CS	ETE	Grand Total
EXTREME	21	29	8	3	**61**
HIGH	6	45	6	8	**65**
MEDIUM	15	42	17	10	**84**
LOW	7	27	10	0	**44**
Grand Total of Risks	**49**	**143**	**41**	**21**	**254**



Departmental Risk Register

An analysis of the Departmental registers is detailed below in risk ranking order.

Rating	ASC&H	CCP	CS	ETE	Grand Total
EXTREME	4	25	8	5	**42**
HIGH	3	28	9	7	**47**
MEDIUM	1	12	14	9	**36**
LOW	0	6	1	0	**7**
Grand Total of Risks	**8**	**71**	**32**	**21**	**132**



3 Considerations

In preparing this report the relevance of the following factors has been considered: financial, legal, prevention of crime and disorder, equality and diversity, human resources, environmental, health, property, transport and social value considerations.

4 Officer's Recommendation

That Audit Committee:

i) note the Strategic Risk Register
ii) note the Covid-19 Risk Register

PETER HANDFORD

Director of Finance & ICT

Appendix A

Strategic Risk Movement Report:

Report Date: November 2020 **Date of Previous Risk Score**: September 2020

Notes: References highlighted **Purple** have been added since the previous report.
Old Category is shown when there has been a change of category.
Previous Risk Score shows rating, probability and impact prior to the Current Risk Score

No Change Downwards movement Upwards movement

Risk Ref: ***2011/1*** **Category: Strategic**	**Risk Owner**	**Progress Update**	**Previous Risk Score**	**Movement Direction**	**Current Risk Score**	**Target Risk Score**
Risk Description ***Impact of a prolonged recovery and a funding gap*** In the event that the Authority does not develop sufficient and timely proposals to deal with the ongoing or further reductions in funding/resources, there is a risk that the need to close the funding gap may result in identifying measures for unplanned reductions in service spend leading to deterioration or interruption of front line service delivery.	**Paul Stone** Assistant Director Finance	The Council has updated its Five Year Financial Plan alongside the setting of the Revenue Budget 2020/21 in February 2020. The update reflects the outcomes of the Spending Round 2019 and the Local Government Finance Settlement 2020/21. The continuation of mainstream funding for local authorities at 2019/20 levels is welcome, together with the additional funding for social care including the implementation of the Adult Social Care precept. This additional funding has allowed	EXTREME 25 **Probability** Almost Certain 5 **Impact** Very High 5	No Change	EXTREME 25 **Probability** Almost Certain 5 **Impact** Very High 5	HIGH 12 **Probability** Probable 4 **Impact** Medium 3

		the Council to invest in critical services, such as adults and children's' social care. However, savings of £65m+ are still required over the medium in order to maintain a balanced annual budget.		
Controls:	**REF:**	**Control Description**	**Status**	**Owner**
	2011/1 FIN001	Five Year Financial Plan is updated at least annually and following key Government announcements e.g. Spending Rounds.	In Place/Embedded	E Scriven
	2011/1 FIN002	Departmental budget reductions programmed developed together with a plan of lead-in times for consultation, where appropriate and the identification of workforce reductions.	In Place/Embedded	P Handford
	2011/1 FIN003	Budget Management Strategy Group established to ensure a cohesive approach to the monitoring of departmental budget saving targets, associated consultation activity and budget setting procedures. Departmental representatives following agreed terms of reference are meeting at least monthly with an expectation that the frequency of meetings will be more regular during the budget setting period.	In Place/Embedded	P Handford

	2011/1 FIN004	Budget Monitoring Policy ensures that there is regular reporting to SMTs and Members. The Director of Finance meets with Executive Directors and Cabinet Members to discuss the latest monitoring position. The position is reported to Cabinet and Council on a quarterly basis (effective from 1/4/2020).	In Place/Embedded	E Scriven
	2011/1 FIN005	The Reserves Policy stipulates that the Council's level of reserves will be reviewed at least annually. This includes a projection of the General Reserve balance to ensure that is maintained at an adequate risk assessed level.	In Place/Embedded	E Scriven
	2011/1 FIN006	Positive use of Better Care Fund and alignment of health and social care priorities for integrated working.	In progress/Taking effect	H Jones
	2011/1 FIN007	Lobby Government in ensuring fair funding for Derbyshire. The Council responds to all key Government consultations in respect of the Funding Review which is currently ongoing.	In progress/Taking effect	P Handford
	2011/1 FIN008	Monitor the impact of the National Funding Formula for schools and closely monitor the implications of the High Needs Block level of funding ensuring compliance with the revised Government regulations.	In progress/Taking effect	C Allcock

Risk Ref: ***2011/05*** **Category: Strategic**	**Risk Owner**	**Progress Update**	**Previous Risk Score**	**Movement Direction**	**Current Risk Score**	**Target Risk Score**
Risk Description ***Failure to have adequate business continuity plans in place*** The Council's ability to respond to a major incident, such as severe weather (eg. climate change based flooding), fire damage, loss of power or pandemics, and to maintain its critical services to the public. The emerging risk environment, the number and type of emergency and the interdependencies of services is increasingly making continuity or "resilience" a significant focus for the Council. Budget cuts and rationalisation (including resourcing reductions) also challenge the Council in its ability to fulfil its Category 1 Responder statutory duty.	**TBC** **Executive Director Environment, Transport and Economy**	Following the outbreak of the Coronavirus, the Council has engaged in significant scenario planning across all departments to ensure that the Council is equipped to respond to ensure continuity of services on a priority basis	HIGH 10 **Probability** Unlikely 2 **Impact** Very High 5	↑	EXTREME 25 **Probability** Almost Certain 5 **Impact** Very High 5	HIGH 10 **Probability** Unlikely 2 **Impact** Very High 5

Controls:	REF	Control Description	Status	Owner
	2011/05 ETE001	Corporate Business Continuity Plans updated and tested on an annual basis. Plan is held on an external system to which key staff have access to in the event of an emergency.	In Place/Embedded	**E Partington**
	2011/05 ETE002	In the event of an emergency, key corporate staff will meet at appropriate intervals, escalating in frequency as required in order to co-ordinate the response.	In Place/Embedded	**E Crapper**
	2011/05 ETE001	Departments hold in-depth reviews of their continuity arrangements to ensure key services can continue.	In progress/Taking effect	**T Gregory**
	2011/05 ETE001	ICT and procurement to work with departments to ensure systems procured provide resilience.	In progress/Taking effect	**T Gerrard**
	2011/05 ETE001	Cross departmental working in place to support key areas. Skills and training identified.	In progress/Taking effect	**E Crapper**

Risk Ref: 2020/01 Category: Strategic	Risk Owner	Progress Update	Previous Risk Score	Movement Direction	Current Risk Score	Target Risk Score
Risk Description ***Increase in Demand on Council Services*** As demand for services changes, the Council may need to adapt the services it currently offers in order to provide the new or additional services. Failing to manage the changes could lead to core services being reduced leading to significant impact upon stakeholders and partnerships; potential litigation; fines; risk of injury or death.	**TBC**	A new risk owner needs to be identified to ensure that the Council has robust plans to manage increased demands across all departments. The mitigations need to be aligned across all departments. The Enterprising Council Board has a number of workstreams examining a range of service issues including demand management.	EXTREME 20 **Probability** Probable 4 **Impact** Very High 5		EXTREME 20 **Probability** Probable 4 **Impact** Very High 5	HIGH 12 **Probability** Probable 4 **Impact** Medium 3
	Ref:	**Control Description**		**Status**		**Owner**

Risk Ref: 2011/19 Category: Strategic	Risk Owner	Progress Update	Previous Risk Score	Movement Direction	Current Risk Score	Target Risk Score
Risk Description ***Effective Change Management*** The Council is undergoing significant organisational change from financial pressure or political change which could create significant workforce issues around having the right skills, productivity and capacity, each of which may adversely impact upon service delivery if not managed. The effect of reducing the Council workforce and pressure for increased productivity without effective change management and employee engagement also carries health and attendance risks. The lack of effective change management can lead to significant impact upon	**TBC**	A new risk owner needs to be identified to ensure that the Council has robust plans to manage effective change management across all departments. The mitigations need to be aligned across all departments.	**EXTREME 20** **Probability** Probable 4 **Impact** Very High 5		**EXTREME 20** **Probability** Probable 4 **Impact** Very High 5	**HIGH 12** **Probability** Probable 4 **Impact** Medium 3

stakeholders and partnerships; potential litigation; fines; risk of injury or death and unplanned spending increases.						

	Ref:	**Control Description**	**Status**	**Owner**

Risk Ref: 2011/20 **Category: Strategic**	**Risk Owner**	**Progress Update**	**Previous Risk Score**	**Movement Direction**	**Current Risk Score**	**Target Risk Score**
Risk Description ***Supply Chain Failure*** Failure to manage outsourced contracts could lead to unforeseen increased costs; risk of contracts collapsing; increased carbon footprint.	**TBC**	A new risk owner needs to be identified to ensure that the Council has robust plans to manage effective change management across all departments. The mitigations need to be aligned across all departments.	**EXTREME 25** **Probability** Almost Certain 5 **Impact** Very High 5		**EXTREME 25** **Probability** Almost Certain 5 **Impact** Very High 5	**MODERATE 6** **Probability** Unlikely 2 **Impact** Medium 3

	Ref:	**Control Description**	**Status**	**Owner**

Risk Ref: 2011/2 Category: Strategic	Risk Owner	Progress Update	Previous Risk Score	Movement Direction	Current Risk Score	Target Risk Score
Risk Description ***Failure to meet waste management targets*** The Council is faced with challenges of presenting alternatives to landfill whilst considering environmental impact, increasing financial costs and reputational impacts arising from decisions over types of waste management employed.	**Claire Brailsford** **Assistant Director of Environment**		EXTREME 20 **Probability** Probable 4 **Impact** Very High 5	↑	EXTREME 25 **Probability** Almost Certain 5 **Impact** Very High 5	MODERATE 6 **Probability** Unlikely 2 **Impact** Possible 3
	Ref:	**Control Description**			**Status**	**Owner**

Appendix A

Risk Ref: 2020/02 Category: Strategic	Risk Owner	Progress Update	Previous Risk Score	Movement Direction	Current Risk Score	Target Risk Score
Risk Description ***Failure to comply with GDPR and Cyber resilience*** The Council manages a significant amount of personal data and information in relation to service users and employees in the delivery of services using a range of systems and mediums. With data held in a vast array of places and in varying formats, it becomes susceptible to loss, protection, availability, misuse and privacy risks particularly with increased use of electronic transfer, and management (including use of the Government Public Sharing Network). The Council is exposed to financial penalties and reputational impact.	**Peter Handford** **Director of Finance and ICT**	**TBC**	EXTREME 15 **Probability** Possible 3 **Impact** Very High 5		EXTREME 15 **Probability** Possible 3 **Impact** Very High 5	High 12 **Probability** Possible 3 **Impact** Medium 4
	Ref:	**Control Description**			**Status**	**Owner**

Risk Ref: Category: Strategic	Risk Owner	Progress Update	Previous Risk Score	Movement Direction	Current Risk Score	Target Risk Score
Risk Description ***Adapting to Climate Change*** The Council faces a challenge in relation to an increase in inclement weather patterns (flood, heat waves, drought, windstorm, increased snow fall) building the right infrastructure and new statutory flood and water risk management duties. Having sufficient financial resources and flexibility to address these challenges may become increasingly difficult.	**Helen Jones** **Executive Director, Adult Social Care & Health**	**TBC**	**MODERATE 8** **Probability** Unlikely 2 **Impact** High 4		**High 12** **Probability** Possible 3 **Impact** High 4	**MODERATE 6** **Probability** Possible 2 **Impact** Medium 3
	Ref:	**Control Description**			**Status**	**Owner**

Risk Ref: 2011/9 Category: Strategic	Risk Owner	Progress Update	Previous Risk Score	Movement Direction	Current Risk Score	Target Risk Score
Risk Description ***Protection of Children and Vulnerable Adults*** Failure to protect the most vulnerable in our society could lead to significant fines; special measures; litigation; decreased staff morale; reputational damage	**Helen Jones Strategic Director Adult Social Care and Health** **Jane Parfrement Director or Children's Services**	**TBC**	EXTREME 15 **Probability** Possible 3 **Impact** Very High 5		EXTREME 15 **Probability** Possible 3 **Impact** Very High 5	HIGH 10 **Probability** Unlikely 2 **Impact** Very High 5
	Ref:	**Control Description**			**Status**	**Owner**

Risk Ref: 2012/2 Category:	Risk Owner	Progress Update	Previous Risk Score	Movement Direction	Current Risk Score	Target Risk Score
Risk Description ***Maintenance of Assets*** Failure to maintain our assets could lead to significant fines; significant litigation; decreased staff morale; reputational damage; HSE investigation	**Dave Massingham Director of Property** **Geoff Pickford Service Director - Highways**	**TBC**	**EXTREME 15** **Probability** Possible 3 **Impact** Extreme 5		**EXTREME 15** **Probability** Possible 3 **Impact** Extreme 5	**MODERATE 6** **Probability** Unlikely 2 **Impact** Medium 3

	Ref:	**Control Description**	**Status**	**Owner**
	Refer to Appendix B			

Risk Ref: 2018/5 Category	Risk Owner	Progress Update	Previous Risk Score	Movement Direction	Current Risk Score	Target Risk Score

Risk Description ***Failing to comply with Statutory Duties*** Lack of knowledge and understanding of Departmental Legislative duties meaning the Council is at increased risk of special measures, HSE investigation, Corporate manslaughter charges, personal prosecution and Insurers refusing to provide indemnity on property or liability claims.	**TBC**	**TBC**	**EXTREME 25** **Probability** Almost Certain 5 **Impact** Very High 5		**EXTREME 25** **Probability** Almost Certain 5 **Impact** Very High 5	**MODERATE 10** **Probability** Unlikely 2 **Impact** Very High 5

	Ref:	**Control Description**	**Status**	**Owner**

Risk Ref: 2018/4 **Category: Strategic**	**Risk Owner**	**Progress Update**	**Previous Risk Score**	**Movement Direction**	**Current Risk Score**	**Target Risk Score**

Risk Description ***Ineffectual workforce planning*** A failure to recruit and retain experienced staff; a lack of succession planning in order to ensure effective continuity of key skills and knowledge at all levels including leadership skills. Resulting in unfilled posts, accepting a lower calibre of staff, increasing training requirement to upskill new staff, vital knowledge lost leading to service delivery issues	**Emma Crapper**	**TBC**	**EXTREME 25** **Probability** Almost Certain 5 **Impact** High 5		**EXTREME 25** **Probability** Almost Certain 5 **Impact** High 5	**EXTREME 20** **Probability** Almost Certain 5 **Impact** High 4
	Ref:	**Control Description**			**Status**	**Owner**
	TBC					

Strategic Risk Register – Summary of Changes

None.

Summary of Risks Which Will No Longer Appear on the Strategic Register

None

Departmental Risk Registers

New Risks on Departmental Registers scoring over 12

The Committee is asked to note that Public Health have not provided an updated departmental risk register, and no new risks scoring over 12 were reported on Adult Care, Children's Services or ETE.

Dept	Dep't Risk Identifier	Description	Impact	Score	Link to Strategic Risk	Impact on Council Plan
CCP	70	Non-compliance with hot works procedures	Hot works which includes, roofing, plumbing & heating. Risk to service delivery. Disruption to services, PMP delivery delays, operations teams work being stopped, non-compliance, deteriorating buildings due to procurement delays. Potential for the Council's insurance provider to	**20**	2012/2 Maintenance of Assets	• High performing council services

			prohibit or suspend hot working practices by Property delivery teams			
CCP	71	Failure to improve property risk	Leads to increased premiums and potential no insurance on hot works carried out by DCC property. Meaning any losses caused by Property as a result of hot works being carried out will be uninsured and costs to be borne by Council	**25**	2012/2 Maintenance of Assets	• High performing council services

Risks on Departmental Registers Increasing scoring above 12

Dept	Dep't Risk Identifier	Description	Impact	Old Score	New Score	Link to Strategic Risk	Impact on Council Plan
CCP	52	Failure to deliver priorities set out in Council Plan and Service Plans 2020/21	Council Plan may be delayed or not delivered	**6**	**12**	2011/19 Effective Change Management	• High performing Council Services.

Risks on Departmental Registers Decreasing scoring to below 12

Dept	Dep't Risk Identifier	Description	Impact	Old Score	New Score	Link to Strategic Risk	Impact on Council Plan
ETE	20	Failure to follow procurement regulations or undertake effective contract management	Open to legal challenge. Financial and reputational damage	12	9	2011/20 Supply Chain Failure	• High performing Council Services.
CCP	41	Financial viability of Concertus and/or Vertas as a JV Partner for DCC	Financial and reputational damage	25	6	2011/19 Effective Change Management	• Value for money
CS	32	Education, Health and Care Plans - failure to meet the statutory timetable or quality standards as a result of capacity constraints within the service and increasing demand. Timeliness of new EHCPs and Annual Reviews has dropped as a consequence of focus on conversions	Potential for reputational damage, complaints and children not getting the benefit of the new reforms as quickly as they should	16	4	2011/9 Protection of Children and Vulnerable Adults	• A focus on prevention and early intervention

Agenda Item No.4(b)

DERBYSHIRE COUNTY COUNCIL

AUDIT COMMITTEE

8 December 2020

Report of the Director of Finance & ICT

TREASURY MANAGEMENT ANNUAL REPORT 2019-20

1 Purpose of the Report

To report on Treasury Management activities during the last financial year 2019-20 and to indicate the Council's compliance with the prudential indicators set by Council at its meeting of 6 February 2019, in accordance with the Treasury Management in the Public Services: Code of Practice and Cross-Sectorial Guidance Notes 2017 (the Code).

2 Information and Analysis

(i) Introduction

Treasury risk management at the Council is conducted within the framework of the Chartered Institute of Public Finance and Accountancy's Treasury Management in the Public Services: Code of Practice (the CIPFA Code) which requires the Council to approve a Treasury Management Strategy before the start of each financial year and, as a minimum, a semi-annual and annual treasury outturn report. This report fulfils the Council's obligation under the CIPFA Code to produce a Treasury Management Annual Report.

The Council's Treasury Management Strategy for 2019-20 was approved by Council on 6 February 2019, as part of the Capital Programme Approvals, Treasury Management and Capital Strategies Report. The Council has borrowed and invested substantial sums of money and is therefore potentially exposed to financial risks, including the loss of invested funds and the revenue effect of changing interest rates. The successful identification, monitoring and control of risk is therefore central to the Council's Treasury Management Strategy.

(ii) External Context

Economy

The United Kingdom's exit from the European Union (Brexit) and associated future trading arrangements remained one of the major influences on the UK economy during 2019-20. The Brexit deadline of 29 March 2019 was extended to 12 April 2019, then to 31 October 2019 and finally to 31 January 2020. Politics played a major role in financial markets over the period, with negotiations, over Brexit and future trading arrangements, driving volatility, particularly in foreign exchange markets. The outcome of the December 2019 General Election removed much economic uncertainty, at that time, and looked set to provide a 'bounce' to confidence and activity.

The UK Consumer Price Inflation Index (CPI) fell to 1.7% year on year in February 2020, below the Bank of England's target of 2%. UK labour market data remained positive. For the three months to January 2020 the unemployment rate was 3.9%, while the employment rate hit a record high of 76.5%. The average annual growth rate for pay excluding bonuses was 3.1% in January 2020, providing some evidence that a shortage of labour had been supporting wages.

There was no growth in Annual UK Gross Domestic Product (GDP) in the last three months of 2019. Service sector growth slowed and production and construction activity contracted, on the back of what, at the time, were concerns over the impact of global trade tensions on economic activity. The annual rate of GDP growth remained below-trend, at 1.1%.

Then the coronavirus pandemic very rapidly changed everything. Covid-19, which had first appeared in China in December 2019, started spreading across the globe, causing plummeting sentiment and falls in financial markets not seen since the Global Financial Crisis, as part of a flight to quality into sovereign debt and other perceived 'safe' assets.

In response to the spread of the virus and the sharp increase in those infected, governments enforced lockdowns and central banks and governments around the world cut interest rates and introduced massive stimulus packages, in an attempt to reduce some of the negative economic impact to domestic and global growth.

The Bank of England, which held its Base Rate steady at 0.75% through most of 2019-20, moved to cut rates to 0.25% in March 2020 and then swiftly reduced them further, to a record low of 0.10%. In conjunction with these cuts, the Government introduced a number of measures to help businesses and households impacted by a series of ever-tightening social restrictions, culminating in what was, in substance, the entire lockdown of the United Kingdom.

The United States economy grew at an annualised rate of 2.1% in the last there months of 2019. After escalating trade wars and a protracted stand-off, the signing of Phase One of the trade agreement between the United States and China in January 2020 was initially positive for both economies, but Covid-19 severely impacted sentiment and production in both countries.

Against a slowing economic outlook, the United States Federal Reserve began cutting rates in August 2019. Following a series of five cuts, the largest of which were in March 2020, the target interest rate fell from 2.5% to a range of 0% - 0.25%. The United States government also unleashed a raft of Covid-19 related measures and support for its economy, including a $2 trillion fiscal stimulus package.

With interest rates already on (or below) the floor, the European Central Bank held its base rate at 0% and deposit rate at -0.5%.

Financial markets

Financial markets suffered a rapid sell-off of securities, such as shares and bonds, as the impact of Covid-19 worsened. After starting positively in 2020, the FTSE 100 fell over 30% at its worst point, with stock markets in other countries seeing similar huge falls. In March 2020 Sterling fell to its lowest level against the US dollar since 1985. The measures implemented by central banks and governments helped to restore a degree of confidence and financial markets regained some losses but remain extremely volatile. The flight to quality caused gilts yields to fall substantially. The 5-year benchmark gilt yield fell from 0.75% to 0.26% over the period. There were similar falls in the 10-year and 20-year gilt yields over the same period, dropping from 1% to 0.4% and from 1.47% to 0.76%, respectively. 1-month, 3-month and 12-month bid rates averaged 0.61%, 0.72% and 0.88% respectively over the period. In the first three months of 2020, the yield on 2-year US treasuries fell from 1.57% to 0.20% and for 10-year treasuries the fall was from 1.88% to 0.61%. German Bund yields remained negative.

Credit background

In the first three months of 2020, the Bank of England announced its latest stress tests results for the main seven UK banking groups. All seven passed on both a common equity Tier 1 (CET1) ratio and a leverage ratio basis. Under the test scenario the banks' aggregate level of CET1 capital would remain twice their level before the 2008 financial crisis.

Credit Default Swap spreads rose sharply in March 2020, as the potential impact of Covid-19 on bank balance sheets gave cause for concern. Spreads declined from late March 2020 to mid-April but remained above their initial 2020 levels.

Fitch downgraded the UK sovereign rating to AA- in March, which was followed by a number of actions on UK and Non-UK banks. Although the UK and Non-UK banks on the counterparty list of the Council's Treasury Management Advisor remained in a strong and well-capitalised position, the duration advice on all these banks was cut to 35 days in mid-March 2020.

(iii) Local Context

On 31 March 2020, the Council had net borrowing of £103.094m arising from its revenue and capital income and expenditure. The underlying need to borrow for capital purposes is measured by the Capital Financing Requirement (CFR), while usable reserves and working capital are the underlying resources available for investment. These factors are summarised in table 1 below.

Table 1: Balance Sheet Summary

	31.3.20 Actual £m
General Fund CFR	525.169
Less: *Other debt liabilities	-68.878
Borrowing CFR	**456.291**
Less: Usable reserves	-305.525
Less: Working capital	-47.672
Net borrowing	**103.094**
Borrowing CFR is comprised:	
External borrowing	329.974
Internal borrowing	126.317
	456.291

* finance leases, PFI liabilities and transferred debt that form part of the Council's total debt.

The Council's strategy was to maintain borrowing and investments below their underlying levels, sometimes known as internal borrowing, in order to reduce risk and keep interest costs low. The treasury management position as at 31 March 2020 and the year-on-year change is shown in table 2 below.

Table 2: Treasury Management Summary

	31.3.19 Balance £m	2019-20 Movement £m	31.3.20 Balance £m	31.3.20 Rate %
Long-term borrowing	286.624	-9.150	277.474	4.57
Short-term borrowing	26.500	26.000	52.500	0.30
Total borrowing	**313.124**	**16.850**	**329.974**	**3.89**
Long-term strategic pooled funds	68.244	-7.776	60.468	4.32
Long-term investments	23.510	-8.510	15.000	1.78
Short-term investments	144.709	-61.797	82.912	1.42
Cash and cash equivalents	36.700	31.800	68.500	0.98
Total investments	**273.163**	**-46.283**	**226.880**	**2.13**
Net borrowing	**39.961**	**63.133**	**103.094**	

Borrowing Activity

At 31 March 2020, the Council held £329.974m of loans, an increase of £16.850m, as part of its strategy for funding previous and current years' capital programmes. The year-end external borrowing position and the year-on-year change is shown in table 3 below.

Table 3: External Borrowing Position

	31.3.19 Balance £m	2019-20 Movement £m	31.3.20 Balance £m	31.3.20 Interest Rate %	31.3.20 WAM* Years
Public Works Loan Board	271.624	-9.150	262.474	4.56	18
Banks (LOBO)	5.000	0	5.000	4.50	19
Banks (fixed-term)	10.000	0	10.000	4.69	24
Local authorities (short-term)	26.500	26.000	52.500	0.30	0
External Borrowing	**313.124**	**16.850**	**329.974**	**3.89**	**18**

*WAM – Weighted Average Maturity

The Council's chief objective when borrowing has been to strike an appropriately low risk balance between securing low interest costs and achieving cost certainty over the period for which funds are required, with flexibility to renegotiate loans being a secondary objective, should the Council's long-term plans change.

In furtherance of these objectives, no new long-term borrowing was undertaken in 2019-20, while £9.150m of existing loans were allowed to mature without replacement. This strategy enabled the Council to reduce net borrowing costs (despite foregone investment income) and reduce overall treasury risk.

With short-term interest rates remaining much lower than long-term rates, the Council considers it to be more cost effective in the near term to use both internal resources and short-term loans instead. The net movement in short-term loans is shown in table 3 above.

The internal borrowing (reserves and working capital) of the Council at 31 March 2020 was £126.317m. If the Council had externally borrowed £126.317m over 18 years at a rate of 2.56% (the PWLB Certainty rate for 18 years, the average length of borrowing), the Council would have incurred additional interest of £3.234m. If the Council had invested this sum of £126.317m at 2.13% (the Council's investment return for 2019-20, including pooled funds), then the Council would have received £2.691m of interest. In 2019-20, the Council saved net interest of £0.543m by utilising internal borrowing.

The Council continues to hold a £5.000m LOBO (Lender's Option Borrower's Option) loan, where the lender has the option to propose an increase in the interest rate at set dates, following which the Council has the option to either accept the new rate or to repay the loan at no additional cost. No banks exercised their option during the year.

Other Debt Activity

After £4.104m repayment of prior years' Private Finance Initiative contracts, finance leases and transferred debt liabilities, total debt other than borrowing stood at £68.878m on 31 March 2020, taking total debt to £398.852m.

Treasury Investment Activity

The Council holds significant invested funds, representing income received in advance of expenditure plus balances and reserves held. During 2019-20, the Council's investment balance ranged between £218.195m and £403.008m, because of timing differences between income and expenditure. The year-end investment position and the year-on-year change is shown in table 4 below.

Table 4: Investment Position (Treasury Investments)

	31.3.19 Balance £m	2019-20 Movement £m	31.3.20 Balance £m	31.3.20 Income Return %	31.3.20 WAM* days
Banks and building societies (unsecured)	56.201	-18.799	37.402	1.02	23
Government (including local authorities)	138.010	-31.500	106.510	1.43	131
Corporate Bonds	10.709	-10.709	0	N/A	N/A
Registered Social Providers	0	5.000	5.000	2.15	696
Money Market Funds	0	17.500	17.500	0.71	1
Pooled Funds – Strategic Bond Funds	4.865	-0.377	4.488	2.19	N/A
Pooled Funds – Equity Income Funds	14.362	-4.034	10.328	5.31	N/A
Pooled Funds – Property Funds	24.106	-0.496	23.610	4.41	N/A
Pooled Funds – Multi Asset Income Funds	24.910	-2.868	22.042	4.21	N/A
Total investments	**273.163**	**-46.283**	**226.880**	**2.13**	**N/A**

*WAM – Weighted Average Maturity

Both the CIPFA Code and Government guidance require the Council to invest its funds prudently and to have regard to the security and liquidity of its treasury investments before seeking the optimum rate of return, or yield. The Council'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.

In furtherance of these objectives and given the increasing risk and low returns from short-term unsecured bank investments, the Council diversified into higher yielding, asset classes. As a result, the average rate of income return on investments has increased to 2.13%. This compares to 1.26% on traditional investments.
The progression of credit risk and return metrics for the Council's investments managed in-house are shown in the extracts from the Council's external investment advisor's (Arlingclose) quarterly investment benchmarking in table 5 below.

Table 5: Investment Benchmarking – Treasury investments managed in-house

	Credit Score	Credit Rating	Bail-in Exposure	Weighted Average Maturity (days)	Rate of Return %
31.03.2019	4.15	AA-	33%	201	1.92
31.03.2020	4.15	AA-	33%	110	2.13
Similar Local Authorities	3.83	AA-	41%	644	1.55
All Local Authorities	4.03	AA-	56%	20	1.23

The global economic fallout of the Covid-19 pandemic was sharp and large, impacting on 2019-20 returns. Market reaction was extreme with large falls in equities, corporate bond markets and, to some extent, real estate, echoing lockdown-induced paralysis and the uncharted challenges for governments, businesses and individuals. Volatility was almost as high as during the global financial crisis of 2008-09, evidenced in plummeting equity prices and the widening of corporate bond spreads, very close to rivalling those twelve years ago. Gilt yields fell but credit spreads widened markedly, reflecting the sharp deterioration in economic and credit conditions associated with a sudden stagnation in economies, so corporate bonds yields (comprised of the gilt yield plus the credit spread) rose and prices therefore fell.

At 31 March 2020, the Council's portfolio of externally managed pooled strategic bond, equity, property and multi-asset funds amounted to £59.892m. The Council holds these funds with the aim of receiving regular revenue income and because over the long-term their prices are relatively stable. However, falls in the capital values of the underlying assets were reflected in 31 March 2020 fund valuations, with every fund registering negative capital returns over twelve months to March 2020. During 2019-20 the Council's pooled funds generated a net total loss of £5.232m (-7.68%), comprising a £3.120m (4.54%) income return, which has been used to support services in 2019-20, and a £8.352m (-12.22%) unrealised capital loss. The value of these pooled funds was £61.704m at 30 September 2020, which is an increase of £1.812m since 31 March 2020, reducing the unrealised capital loss.

These pooled funds have no defined maturity date but are available for withdrawal after a notice period. Their performance and continued suitability in meeting the Council's investment objectives are regularly reviewed. Strategic fund investments are made in the knowledge that capital values will move both up and down over months, quarters and even years; but with the confidence that over a three to five-year period total returns will exceed cash interest rates. The Council is using the alternative fair value through profit and loss (FVPL) accounting method to account for these funds, which means that if there are any long term unrealised losses in the funds' fair values there will not be an impact on the Council's General Reserve balance until 2023-24 at the earliest. In light of their performance over the medium-term and the Council's latest cash flow forecasts, investment in these funds has been maintained.

Other Non-Treasury Holdings and Activity

The definition of investments in CIPFA's revised Treasury Management Code covers all the financial assets of the Council as well as other non-financial assets which the Council holds primarily for financial return. This is replicated in the Ministry of Housing, Communities and Local Government's (MHCLG) Investment Guidance, in which the definition of investments is further broadened to also include all such assets held partially for financial return. This includes service investments for operational and/or regeneration, as well as commercial investments which are made mainly for financial reasons.

At 31 March 2020, the Council held £12.268m of investments in loans to local businesses and subsidiaries, with the whole balance being in respect of a regeneration loan to Buxton Crescent Hotel & Thermal Spa Co Ltd. This represents an increase on the previous year of £4.860m because of further investment in the company. This investment generated £0.878m of interest for the Council, after taking account of direct costs, representing a rate of return of 4.65%. This interest has been capitalised and is included in the value of the outstanding loan at 31 March 2020. The loan will become repayable one year after the Buxton Crescent hotel opened, on 1 October 2021.

Treasury Performance

The Council measures the financial performance of its treasury management activities both in terms of its impact on the revenue budget and its relationship to benchmark interest rates, as shown in table 6 below. Investment benchmarking is performed quarterly and debt benchmarking is performed annually. Debt benchmarking is performed less frequently than investment benchmarking because of the long term nature of debt the Council holds, as opposed to the shorter term nature of the Council's investments.

Table 6: Performance

	Actual £m	**Budget (CFR) £m**	**Over/ (Under) £m**	**Interest Actual %**	**Interest Other LA (Counties) Benchmark %**	**Interest Over/ (Under) %**
Borrowing	14.295	17.126	-2.831	4.30	3.42	0.98
Investments	-6.011	-6.000	-0.011	2.13	1.55	0.58

The Council's average interest rate on borrowing is higher than the Other Counties Benchmark as all the Council's longstanding debt was taken before the global financial crisis, when interest rates were significantly higher.
The Council uses a strategy of internal borrowing, as the saving from not borrowing is greater than the interest foregone on investments, even at the lower prevailing interest rates.

The Council achieved its 2019-20 investment target and continued to exceed the Other Counties Benchmark.

Compliance Report

The Director of Finance & ICT reports that all treasury management activities undertaken during 2019-20 complied fully with the CIPFA Code of Practice and the Council's approved Treasury Management Strategy.

Compliance with the authorised limit and operational boundary for external debt is demonstrated in table 7 below and compliance with specific investment limits is demonstrated in table 8 below.

Table 7: Debt Limits

	2019-20 Maximum £m	**31 March 2020 Actual £m**	**2019-20 Operational Boundary £m**	**2019-20 Authorised Limit £m**	**Complied**
Total debt	454.502	398.852	625.000	655.000	✓

Table 8: Investment Limits

	2019-20 Maximum * £m	2019-20 Limit £m	March 2020 Actual £m	Complied
Any single organisation, except UK Central Government (+£30m Lloyds (Main Bank))	52.907	60.000	31.402	✓
Any group of organisations under the same ownership	30.000	30.000	17.500	✓
Any group of pooled funds under the same management	29.626	30.000	27.766	✓
Negotiable instruments held in a broker's nominee account	10.709	100.000	0	✓
Foreign countries	0	50.000	0	✓
Registered providers	5.000	50.000	0	✓
Unsecured investments with Building Societies	0	100.000	0	✓
Money Market Funds – Total	130.037	200.000	17.500	✓
Non Treasury Investments (loans to unrated bodies)	12.268	50.000	12.268	✓

*Maximum held at any one time.

Treasury Management Indicators

The Council measures and manages its exposure to treasury management risks using the following indicators.

Security: The Council has adopted a voluntary measure of its exposure to credit risk by monitoring the value-weighted average credit rating of its investment portfolio. This is calculated by applying a score to each investment (AAA=1, AA+=2, etc.) and taking the arithmetic average, weighted by the size of each investment. Unrated investments are assigned a score based on their perceived risk.

	31 March 2020 Actual	2019-20 Target	Complied
Portfolio average credit rating	AA-	A	✓

Liquidity: The Council has adopted a voluntary measure of its exposure to liquidity risk by monitoring the amount of cash available within a rolling three-month period and additional borrowing secured without giving prior notice.

	31 March 2020 Actual £m	2019-20 Target £m	Complied
Total cash available within 3 months	123.903	30.000	✓
Total sum borrowed in past 3 months without prior notice	72.500	30.000	✓

Interest Rate Exposures: This indicator is set to control the Council's exposure to interest rate risk. The upper limits on fixed and variable rate interest rate exposures, expressed as the proportion of net principal borrowed were:

	31 March 2020 Actual	2019-20 Limit	Complied
Upper limit on fixed interest rate exposure	83	100	✓
Upper limit on variable interest rate exposure	17	40	✓

Fixed rate investments and borrowings are those where the rate of interest is fixed for at least 12 months, measured from the start of the financial year, or the transaction date if later. All other instruments are classed as variable rate.

Maturity Structure of Borrowing: This indicator is set to control the Council's exposure to refinancing risk. The upper and lower limits on the maturity structure of all borrowing were:

	31 March 2020 Actual %	Upper Limit %	Lower Limit %	Complied
Under 12 months	19	40	0	✓
12 - 24 months	0	20	0	✓
24 months - 5 years	5	20	0	✓
5 - 10 years	12	20	0	✓
10 - 20 years	29	40	10	✓
20 - 30 years	30	40	10	✓
Over 30 years	5	40	0	✓

Time periods start on the first day of each financial year. The maturity date of borrowing is the earliest date on which the lender can demand repayment.

Principal Sums Invested for Periods Longer than 365 days: The purpose of this indicator is to control the Council's exposure to the risk of incurring losses by seeking early repayment of its investments. The limits on the long-term principal sum invested to final maturities beyond the period end were:

	Beyond 31 March 2020 £m	Beyond 31 March 2021 £m	Beyond 31 March 2022 £m
Actual principal invested beyond the year end	87.160	72.160	72.160
Limit on principal invested beyond the year end	150	125	100
Complied	✓	✓	✓

Other

IFRS 16: CIPFA/LASAAC has proposed delaying the implementation of the new IFRS 16 Leases accounting standard for a further year to 2021-22.

3 Considerations

In preparing this report the relevance of the following factors has been considered:- financial, legal, prevention of crime and disorder, equality and diversity, human resources, environmental, health, property, transport and social value considerations.

4 Background Papers

Treasury Management Strategy 2019-20.

Papers held electronically by Technical Section, Finance & ICT Division, Room 137.

5 Officer's Recommendation

That Audit Committee notes the Treasury Management Annual Report 2019-20 and notes the Council's compliance with the prudential indicators set by Council for 2019-20, in accordance with the terms of the Treasury Management in the Public Services: Code of Practice and Cross-Sectorial Guidance Notes 2017.

PETER HANDFORD

Director of Finance & ICT

Agenda Item No.4(c)

DERBYSHIRE COUNTY COUNCIL

AUDIT COMMITTEE

8 December 2020

Report of the Director of Finance & ICT

CIPFA FINANCIAL MANAGEMENT CODE

1 Purpose of the Report

To provide Audit Committee with an overview of the Financial Management Code and details of progress towards complying with its standards.

2 Information and Analysis

Background

The Chartered Institute of Public Finance and Accountancy (CIPFA) published The Financial Management Code (FM Code) in October 2019. The FM Code provides guidance for good and sustainable financial management in local authorities, giving assurance that authorities are managing resources effectively.

The FM Code requires authorities to demonstrate that the processes they have in place satisfy the principles of good financial management, which is an essential part of ensuring that public sector finances are sustainable.

The FM Code identifies risks to financial sustainability and introduces a framework of assurance. This framework is built on existing successful practices and sets explicit standards of financial management.

Complying with the standards set out in the FM Code is the collective responsibility of elected members, the chief finance officer and their professional colleagues in the leadership team. Complying with the FM Code will help strengthen the framework that surrounds financial decision making.

The FM Code builds on elements of other CIPFA codes, such as The Prudential Code for Capital Finance, the Treasury Management in the Public Sector Code of Practice and the Code of Practice on Local Authority Accounting in the United Kingdom.

By following the essential aspects of the FM Code, local authorities are providing evidence to show they are meeting important legislative requirements.

The first full year of compliance will be 2021-22. This recognises that organisations will require time to reflect on the contents of the FM Code and allows them to use 2020-21 financial year to demonstrate how they are working towards compliance.

Financial Management Code

The FM Code establishes an approach based on six principles of good financial management:

1. **Organisational Leadership**
   Demonstrating a clear strategic direction based on a vision in which financial management is embedded into organisational culture.
2. **Accountability**
   Based on medium term financial planning, driving the annual budget process, supported by effective risk management, quality supporting data and whole life costs.
3. **Transparency**
   At the core of financial management, using consistent, meaningful and understandable data, reported frequently, with evidence of periodic officer action and elected member decision making.
4. **Professional Standards**
   Promoted by the leadership team, with adherence evidenced.
5. **Assurance**
   Recognised as an effective tool, mainstreamed into financial management, including political scrutiny and the results of both external audit, internal audit and inspection.
6. **Long-Term Sustainability**
   At the heart of all local services' financial management processes, evidenced by the prudent use of public resources.

Explicit standards of financial management are also set out by the FM Code. These are the minimum standards which have to be complied with in order for the Council to demonstrate its compliance with the FM Code. The standards articulate the practical application of the principles of financial management based on the requirements of primary legislation, associated CIPFA codes and guidance on professional codes of practice and ethics. Whilst compliance with the standards is mandatory, the FM Code does not prescribe how they should be achieved. The standards are summarised in Appendix One.

Progress

Cabinet received a report on 23 April 2020, informing them of the contents of the FM Code. In this report it was noted that Audit Committee would receive reports on the Council's progress towards achieving the requirements of the FM Code by 1 April 2021. These reports were to include details of the Council's compliance with the FM Code's standards and proposals for additional practices, where appropriate.

To demonstrate conformity with the FM Code's standards, a document evidencing the applicable parts of the Council's Constitution, Financial Regulations, reports and policies is being compiled.

From work on this document to date it is evident that the Council already has a strong level of compliance with many aspects of the FM Code. Areas where it is particularly strong include:

- Risk arrangements.
- The Chief Financial Officer's role within the Council.
- Budget and treasury management and strategy.
- Budget setting.
- Delivery of the statutory accounts.
- Auditor Value for Money opinion.
- Capital strategy.
- Stakeholder engagement.
- Using reports to identify and correct emerging risks to the Council's financial sustainability.

The significant areas where further work is required to document how the Council is compliant with the FM Code relate to governance and financial management style; that:

- The Council applies the CIPFA/SOLACE Delivering Good Governance Framework in Local Government.

- The Council's leadership team demonstrates in its actions and behaviours responsibility for governance and internal control.

  Audit Services will be able to document compliance in these areas, based on the substantial work they have already performed on the Local Code of Corporate Governance.

Areas which have been identified as less strong, with a need for improvement and action include:

- Adequate staff resources and processes to project manage transformation programmes.

A planned centralised project management office will help shape and support the Council's transformation programme by contributing to its financial management.

- Planning and managing capital resources well.

  The Council's Asset Management Plan sets out how it will ensure that Council assets are fit for purpose. The Council is reviewing its asset base in a joint arrangement with PSP, to ensure value for money.

  Highways Infrastructure Asset Management Plans (HIAMS), which align with the Council's Local Transport Plan (LTP), are in place for each highways asset group, for example carriageways and footways, street lighting and structures etc. This asset management framework is based on the delivery of the Well Managed Highway Infrastructure Code of Practice. All the HIAMS incorporate appropriate levels of service and approach to whole life cost and lifecycle planning to provide the most appropriate value for money approach.

- Reviewing and re-engineering financial processes to ensure they are efficient, effective and delivery of agreed outcomes is optimised.

  Whilst annual reviews of the Council's Financial Regulations go some way to addressing this issue, the ongoing Finance Review aims to examine this further. The Finance Review will be concluded in 2021-22.

- Sensitivity analysis in financial planning.

- Scenario planning in financial forecasts.

  Historically, elements of sensitivity analysis have been undertaken utilising 'Monte Carlo' analysis, a risk management technique used for conducting a quantitative analysis of risks. However, sensitivity analysis has not been completed to understand whether the forecasts will remain viable under different sets of circumstances. The Council recognises the importance of good scenario planning, however, historically, there is little evidence of scenario planning in its medium-term financial forecasts. The Council is working with Grant Thornton in utilising the Financial Foresights Toolkit to aid scenario planning. Work commenced in August 2020.

- Adequate use and reporting of options appraisals.

  The Council's Project Management Toolkit follows the principles of option appraisal. However, it is not widely utilised in the development of business cases, or in preparing Cabinet reports where there is material expenditure. The results of options appraisal techniques should be reported in a clear, robust and informative manner, giving clear recommendations and outlining the risk associated with any preferred options. Again, the planned centralised project management office should help reinforce this.

A financial resilience assessment is also required. In producing the assessment, the sensitivity of financial sustainability to alternative plausible scenarios for the key drivers of costs, service demands and resources will be considered. This will require an analysis of future demand for key services and consideration of alternative options for matching demand to resources. It is anticipated that ongoing work with Grant Thornton, referred to above, will demonstrate this assessment. It is planned to complete this work in March 2021, following the setting of the budget for 2021-22 and ahead of closing the accounts for 2020-21. A short document will be produced, to support External Audit in arriving at their Value for Money (VfM) opinion.

An annual report detailing issues of compliance with the FM Code will be taken to Full Council alongside the Statement of Accounts in late Autumn each year, commencing in 2022, following the first full financial year of the FM Code's application. This Full Council meeting will also include a presentation by the external auditor on the accounts and their value for money opinion, or its replacement.

3 Considerations

In preparing this report the relevance of the following factors has been considered: financial, legal, prevention of crime and disorder, equality and diversity, human resources, environmental, health, property, transport and social value considerations.

4 Background Papers

Papers held electronically by Technical Section, Finance & ICT Division, Room 137.

5 Officer's Recommendation

That Audit Committee notes this overview of the FM Code and the progress made in identifying and recording the Council's current level of compliance and also notes details of the areas where compliance has been assessed as particularly strong, where further work is required to document compliance, or where it is acknowledged that compliance is weaker, with a need for improvement and action required.

PETER HANDFORD
Director of Finance & ICT

APPENDIX ONE

CIPFA Financial Management Standards

FM Standard Reference	Standard
	LEADERSHIP
A	The leadership team is able to demonstrate that the services provided by the authority provide value for money.
B	The authority complies with the CIPFA *Statement on the Role of the Chief Finance Officer in Local Government.*
O	The leadership team monitors the elements of its balance sheet that pose a significant risk to its financial sustainability.
	ACCOUNTABILITY
D	The authority applies the CIPFA/SOLACE *Delivering Good Governance in Local Government: Framework* (2016).
P	The chief finance officer has personal and statutory responsibility for ensuring that the statement of accounts produced by the local authority complies with the reporting requirements of the *Code of Practice on Local Authority Accounting in the United Kingdom.*
Q	The presentation of the final outturn figures and variations from budget allows the leadership team to make strategic financial decisions.
	TRANSPARENCY
L	The authority has engaged where appropriate with key stakeholders in developing its long-term financial strategy, medium-term financial plan and annual budget.
M	The authority uses an appropriate documented options appraisal methodology to demonstrate the value for money of its decisions.
	STANDARDS
H	The authority complies with the CIPFA *Prudential Code for Capital Finance in Local Authorities.*
J	The authority complies with its statutory obligations in respect of the budget setting process.

APPENDIX ONE

FM Standard Reference	Standard
K	The budget report includes a statement by the chief finance officer on the robustness of the estimates and a statement on the adequacy of the proposed financial reserves.
	ASSURANCE
C	The leadership team demonstrates in its actions and behaviours responsibility for governance and internal control.
F	The authority has carried out a credible and transparent financial resilience assessment.
H	The authority complies with the CIPFA *Prudential Code for Capital Finance in Local Authorities.*
	SUSTAINABILITY
E	The financial management style of the authority supports financial sustainability.
G	The authority understands its prospects for financial sustainability in the longer term and has reported this clearly to members.
I	The authority has a rolling multi-year medium-term financial plan consistent with sustainable service plans.

This page is intentionally left blank

DERBYSHIRE COUNTY COUNCIL

AUDIT COMMITTEE MEETING

8 December 2020

Report of the Assistant Director of Finance (Audit)

AUDIT SERVICES UNIT – PROGRESS AGAINST AUDIT PLAN 2020-21

1. Purpose of Report

To inform Members of progress against the approved Audit Services Plan for 2020-21 as at 30 November 2020.

2. Information & Analysis

At the meeting of this Committee held on 27 May 2020 Members approved the Audit Services Plan for 2020-21 which had been formulated from our risk assessment drawn from a wide range of sources including the Council Plan, the Council's strategic risk register, Departmental risk registers, service plans and meetings with Executive Directors and Directors. These meetings included the Executive Director of Commissioning, Communities and Policy (Head of Paid Service), Director of Finance & ICT (Section 151 Officer) and Director of Legal and Democratic Services (Monitoring Officer).

At the last meeting of the Audit Committee on 24 November 2020 Members received a detailed report providing an update on progress against the Audit Services Plan for the seven months to 31 October 2020. That report also set out those factors which may impact on Audit work due to the pandemic, and the impact of vacancies and sickness on Audit Services' resources.

Members are aware that the delivery of Audit work is routinely monitored on a weekly basis by Senior Audit Management and it is essential that the Audit Services Plan can continue to respond to changing and emerging threats to the Council's governance, control and risk management framework.

The current situation is unparalleled and although the country is emerging from a second lockdown it remains unclear when the Council's services will return to normal. I have undertaken a detailed review of the Audit Services Plan, including the status of individual projects identified, and forecast potential, available resources to 31 March 2021 which is attached at Appendix 1.

It should be noted that it is possible that some projects scheduled to be completed in the remainder of the financial year may not be able to progress, due to the impact of coronavirus or other operational factors which are unknown at this time. However, I consider that it is prudent to inform the Audit Committee of the status of the approved Plan, work completed, projects to be scheduled during the remainder of the financial year and those which Audit will be unable to undertake due to the impact of coronavirus in order that Members are aware of this situation.

Members will recall that at the last meeting of the Audit Committee the detailed progress report identified work undertaken on projects not included in the original Audit Services Plan totalling 449 days as at 31 October 2020. This covers a wide range of activity and will contribute to the assurance which can be drawn on the Council's system of governance, risk management and control.

Further detailed reports showing progress against the Audit Services Plan will be brought to future meetings of the Audit Committee in order that Members are aware of how Audit resources have been deployed.

3. Considerations

In preparing this report the relevance of the following factors has been considered: financial, legal, prevention of crime and disorder, equality and diversity, human resources, environmental, health, property and transport considerations.

4. Background Papers

A file held by the Assistant Director of Finance (Audit).

5. Officer's Recommendation

That the Committee note the information on progress to date against the approved Audit Services Plan.

Carl Hardman
Assistant Director of Finance (Audit)

Audit Services - Progress Against the Audit Plan 2020-21 – November 2020

Name	Planned Days	Current Status	Audit Prepped	Audit Started	In Review	Audit Complete	Memo Issued	Comments
Corporate Activities	1,060							
Corporate Projects	335							
VP018 East Midlands Broadband (emPSN)	5							
VP037 Workforce Development/ Succession Planning	30							Agreed project based approach with the Director of Organisation Development & Policy.
VP044 D2N2 LEP (Growth Hub Funding Grant)								
VP044 D2N2 LEP (Main Audit)	50							
VP047 Supply Chain Failure	20							Work will be included in Departmental Audit reviews in addition to the central review.
VP053 Cyber Security Review	30							Cyber Security Group established.
VP055 Corporate Culture	30							Not able to progress due to the Covid-19 pandemic.
VP056 Health & Safety	20							Not able to progress due to the Covid-19 pandemic.
VP058 Serious & Organised Crime	10							Preliminary data washing has been undertaken. This initiative is to be further developed.
VP062 Data Protection Compliance	20							
VP064 New Delivery & Commissioning Models/Partnership Working	30							Some Audit work has been completed.
VP066 Maintenance of Council Properties	30							
VP067 Climate Change	30							Work to be scheduled later in 2020-21.
VP068 Major Incident Response	30							Work to be scheduled later in 2020-21.
VP069 Fraud Awareness	50							Audit not included in original Audit Plan.
Corporate Governance	100							
CO002 Business Continuity Planning	20							Not able to progress due to the Covid-19 pandemic.
CR001 Embedding Corporate Governance	40							Supporting the Audit Committee and the work of the Governance Group.
CR001 Embedding Corporate Governance	5							Audit not included in original Audit Plan. Work undertaken in respect of declarations of interest.
CR006 Corporate Health Check	20							Unlikely to progress due to resource constraints.
CR007 Information Governance Group & Support	20							Supporting the work of the IGG.

Name	Planned Days	Current Status	Audit Prepped	Audit Started	In Review	Audit Complete	Memo Issued	Comments
CR007 Security Incidents Review	5							Audit not included in original Audit Plan.
Corporate Fraud Prevention	425							
CZ100 External Audit Liaison	5							
CZ200 National Fraud Initiative	20							Data submitted by required deadline. Further work required.
CZ300 National Anti-Fraud Network	10							Information disseminated to Members and Senior Management.
CZ400 RIPA Management & Admin	5							External Inspection of Council's procedures. Policy to be reviewed and training to be provided to appropriate staff.
ZZ000 Internal Audit-Special Investigations General	385							Time allocation to undertake special investigations.
Audit Planning Contingency	200							
XX000 Audit Planning Contingency	200							
Commissioning, Communities and Policy Department	705							
Departmental Review - Management & Administration (CCP)	115							
CA100 Commissioning, Communities and Policy Departmental Review	40							Work to be scheduled later in 2020-21.
CA101 Commissioning, Communities and Policy - General Support	20							
CA102 External Grants and Certifications	10							
CA104 Information Security and Follow Up Reviews	45							
DK840 Property Services - Accounting System (CCP)	5							Part of CA104 allocation.
DK917 County Pension System (CCP)	5							Part of CA104 allocation
Operational Reviews	80							
CO006 Public Library Service	5							Not able to progress due to the Covid-19 pandemic.
CO007 Democratic Services	25							Work to be scheduled later in 2020-21.
CO008 Communications and Call Derbyshire	25							Not able to progress due to the Covid-19 pandemic.
CO009 Implementation of ICT Strategy	25							Work to be scheduled later in 2020-21.

Name	Planned Days	Current Status	Audit Prepped	Audit Started	In Review	Audit Complete	Memo Issued	Comments
Regulatory	20							
QE100 Registration Service Audit Review	20							Not able to progress due to the Covid-19 pandemic.
Divisional Activity - Corporate/Departmental IT Systems	90							
DK100 Systems Development Controls (CCP)	20							
DK500 Network Infrastructure Review (CCP)	15							
DK823 Server Infrastructure Review (CCP)	20							Work to be scheduled later in 2020-21.
DK888 Bacs Payment System Review (CCP)	15							Work to be scheduled later in 2020-21.
DK923 Corporate Database Review (CCP)	20							
DK125 - Core System Interfaces (Corporate)	5							Audit not included in original Audit Plan.
Divisional Activity - Core Financial Systems (CCP)	285							
MA100 Core Financial Systems - General Queries	5							
MB100 Human Resources Management	40							Work to be scheduled later in 2020-21.
MC100 Accounts Payable	40							
MD100 Corporate Purchasing	40							Work to be scheduled later in 2020-21.
ME100 Accounts Receivable	35							
MG100 Accountancy, Budgetary Control and Financial Resilience	45							
MK100 Asset Management System	30							
ML100 Funds Management	50							Work to be scheduled later in 2020-21.
Divisional Activity - Probity and Compliance (CCP)	95							
DC200 HM Revenue & Customs Compliance	20							
DE101 Cash Audit & ISO 27001 Visits	20							Not able to progress due to the Covid-19 pandemic.
DE400 Pensions Administration	25							
DE500 Insurance & Risk Management	30							Work to be scheduled later in 2020-21.

Name	Planned Days	Current Status	Audit Prepped	Audit Started	In Review	Audit Complete	Memo Issued	Comments
Divisional Activity - County Property Division (CCP)	20							
DV100 Property Services Review	20							
Children's Services Department	650							
Departmental Review - Management & Administration (CS)	115							
AA001 Children's Services - Departmental Review	40							
AA002 Children's Services Department - General Support	5							
AA004 Information Security and Follow Up Reviews	70							
DK188 School Library System - Libresoft (SCH)	5							Part of AA004 allocation.
DK190 Mathletics School IT System (SCH)	5							Part of AA004 allocation.
Operational Reviews (CS)	105							
AO013 Troubled Families Programme	30							
AO015 Adult Community Education	25							
AO020 Derbyshire Music Partnership	25							Not able to progress due to the Covid-19 pandemic.
AO026 Use of Personal Budgets for Children with SEND	25							
AO021 Review of Commissioning & Partnership Working	5							Audit not included in original Audit Plan.
AO022 Impact of Children in Care	5							Audit not included in original Audit Plan.
Primary, Nursery & Special Schools	348							Currently 12 virtual Audits arranged from a planned total of 75 reviews.
Secondary Schools	56							No Audits scheduled from a planned total of 8 reviews.
AM001 Derbyshire Outdoors Lea Green	10							Not able to progress due to the Covid-19 pandemic.

Name	Planned Days	Current Status	Audit Prepped	Audit Started	In Review	Audit Complete	Memo Issued	Comments
Children's Homes (CS)	16							Not able to progress due to the Covid-19 pandemic.
Adult Social Care and Health Department	299							
Departmental Review - Management & Administration (AC)	140							
BA001 Adult Social Care and Health Departmental Review	40							
BA002 Adult Social Care and Health Department - General Support	5							
BA004 Information Security and Follow Up Reviews	70							
BD001 Public Health Review	25							Unlikely to be completed due to Covid-19 Pandemic.
Operational Reviews (AC)	75							
BO022 Direct Payments	25							
BO026 Review of Quality Assurance Framework	25							
BO027 Delayed Transfers of Care and Data Accuracy	25							
BO002 Domiciliary Care	5							Audit not included in original Audit Plan.
BO018 Emergency Response and Service Continuity	5							Audit not included in original Audit Plan.
Social Care - Residential	24							Not able to progress due to the Covid-19 Pandemic.
Social Care - Day Care - Physical/Mental Disability	24							Not able to progress due to the Covid-19 Pandemic.
Social Care - Day Care & Hostels	20							Not able to progress due to the Covid-19 Pandemic.
Social Care - Comm Care Centres (Learning Dis)	16							Not able to progress due to the Covid-19 Pandemic.
Economy, Transport and Environment Department	170							
Departmental Review - Management & Administration (ETE)	60							

Name	Planned Days	Current Status	Audit Prepped	Audit Started	In Review	Audit Complete	Memo Issued	Comments
HA100 Economy, Transport and Environment - Department Review	40							Work to be scheduled later in 2020-21.
HA101 Economy, Transport and Environment - General Support	5							
HA103 Information Security and Follow Up Reviews	15							
DK185 Waste Management Accounting System (ETE)	5							Part of HA103 allocation.
Operational Reviews (ETE)	110							
HO001 Review of Waste Management	25							Work to be scheduled later in 2020-21.
HO006 Concessionary Fares	20							Not able to progress due to the Covid-19 Pandemic.
HO021 Public Transport & Taxi Contracts	25							Not able to progress due to the Covid-19 Pandemic.
HO029 ETE Grants	15							
HO030 Inspection and Control of Highway Assets	25							Work to be scheduled later in 2020-21.
HO024 Regeneration	5							Audit not included in original Audit Plan.
HO026 Local Transport Capital Funding Grant	5							Audit not included in original Audit Plan.

Key – Current Status

Status	Description
	Audit unlikely to be completed in 2020-21
	Audit scheduled and work due to be completed
	Audit completed

Figures in blue identify planned days not included in original Audit Plan

Agenda Item No.5(b)

DERBYSHIRE COUNTY COUNCIL

AUDIT COMMITTEE MEETING

8 December 2020

Report of the Assistant Director of Finance (Audit)

ANNUAL REVIEW OF THE COUNTY COUNCIL'S REGULATORY FRAMEWORK

1. Purpose of Report

The Audit Committee has been designated by the Council as the committee charged with ensuring the on-going effectiveness of the Authority's overall governance arrangements.

This report updates Members on the continued effectiveness of the Council's Constitution, Financial Regulations and Standing Orders relating to Contracts, Anti Fraud and Anti Corruption Strategy, Fraud Response Plan, Whistleblowing Policy and Codes of Conduct for Members and Employees.

2. Information & Analysis

The Council's Constitution, Financial Regulations and Standing Orders relating to Contracts, Anti Fraud and Anti Corruption Strategy, Fraud Response Plan, Whistleblowing Policy and Codes of Conduct for Members and Employees form a key part of the overall governance framework of the Authority.

Members have previously decided that officers should provide an annual report on:-

- the continued relevance of these documents;
- the extent of any noted non-compliance with the requirements detailed which had been disclosed during the year;
- the need for any potential review or amendment of their contents; and
- those measures taken to ensure that the requirements contained within these regulations were made known to staff.

The Governance Group is chaired by the Managing Executive Director of Commissioning, Communities and Policy and is comprised of the Director of Finance & ICT, Director of Legal and Democratic Services, Director of Organisation Development and Policy, Assistant Director of Finance (Audit) and a Service/Assistant Director from each Department. The Group has two main purposes:-

- to promote and enhance a robust governance and assurance framework which supports the global functions of Derbyshire County Council and the continuous development of the Council's Annual Governance Statement;
- to support the work of the Council's Audit Committee and the Governance, Ethics and Standards Committee.

In addition the Head of Paid Service (HoPS) holds meetings which involve the Director of Finance & ICT, Director of Legal and Democratic Services, Director of Organisation Development and Policy, and Assistant Director of Finance (Audit). These meetings, which are timed to coincide with those of the Governance Group, consider agenda items for the Group and support the HoPS in her role as the chair.

The previous Director of Legal and Democratic Services undertook a significant review and refresh of the Constitution which was approved by Council on 15 May 2019. Similarly Financial Regulations and Standing Orders relating to Contracts were reviewed, refreshed and approved by Council on 6 February 2019.

The Anti Fraud and Anti Corruption Strategy and Fraud Response Plan have been reviewed. The review of the Whistleblowing Policy is currently underway and Codes of Conduct for Members and Employees require review, which will be undertaken as part of the work scheduled for the Governance Group. The Code of Conduct for Members will be reviewed in response to the Model Code and Local Government Association Guidance in the New Year; the Code of Conduct for Employees was last reviewed in 2015.

Any revisions to the Code of Conduct for Members is the responsibility of Council, oversight of the Whistleblowing Policy is the responsibility of the Governance, Ethics and Standards Committee, whilst the Code of Conduct for Employees is the responsibility of the Appointments and Conditions of Service Committee.

These key documents underpin the Council's governance framework and compliance will continue to be assessed by Audit Services as part of our work.

3. Considerations

In preparing this report the relevance of the following factors has been considered: financial, legal, prevention of crime and disorder, equality and diversity, human resources, environmental, health, property and transport considerations.

4. Background Papers

A file held by the Assistant Director of Finance (Audit).

5. Officer's Recommendation

That the Committee note the current status of, and arrangements for the review of those key policies underpinning the Council's governance framework

Carl Hardman
Assistant Director of Finance (Audit)

Agenda Item No.6

DERBYSHIRE COUNTY COUNCIL

AUDIT COMMITTEE

8 December 2020

Report of the Director of Finance & ICT and Assistant Director of Finance (Audit)

REDMOND REVIEW

1 Purpose of the Report

To provide Audit Committee with an overview of the report on the Independent Review into the Oversight of Local Audit and the Transparency of Local Authority Financial Reporting, known as the 'Redmond Review'.

2 Information and Analysis

In June 2019 Sir Tony Redmond was asked by the then Secretary of State for the Ministry of Housing, Communities and Local Government (MHCLG) (Rt Hon. James Brokenshire MP) to undertake an independent review of the effectiveness of local audit and the transparency of local authority financial reporting – The Redmond Review. In April 2020 a new Code of Audit Practice came into force and consultation started shortly afterwards on its application and guidance for 2020-21 external audits. The Redmond Review (Review) was published in early September 2020 and includes reference to the Audit Code, the consultation on which also closed in early September 2020.

The Review also considered how local authorities are accountable to service users and taxpayers, how auditors are accountable for the quality of their work and how easy is it for those same individuals to understand how their local authority has performed and what assurance they can take from external audit work. It encompassed not only principal local authorities but also Police and Crime Commissioners, Fire and Rescue Authorities and Parish Councils.

The report on the Review followed with a consultation inviting views, information and evidence on, in particular:

- definitions of audit and its users;
- the expectation gap;
- audit and wider assurance;
- the governance framework;
- audit product and quality;

- auditor reporting;
- how local authorities respond to audit findings; and
- the financial reporting framework.

The call for views was aimed at anyone with a direct or indirect interest in local authority audit and financial reporting. A response was submitted by the Derbyshire Finance Officers Association (DFOA). DFOA is comprised of the Chief Finance Officers from the eight district and borough councils, city and county councils and the fire authority of the county of Derbyshire.

The Review received 156 responses to the call for views and carried out more than 100 interviews. Serious concerns were expressed regarding the state of the local audit market and the ultimate effectiveness of the work undertaken by audit firms. The Review report highlights that this is not to say that the audits are carried out unprofessionally but that there remains a question of whether such audit reports deliver full assurance on the financial sustainability and value for money of every authority subject to audit. A particular feature of the evidence submitted related to concern about the balance of price and quality in the structure of audit contracts.

A regular occurrence in the responses to the call for views suggested that the current fee structure does not enable auditors to fulfil the role in an entirely satisfactory way. To address this concern, the Review recommends that an increase in fees is considered. With 40% of audits failing to meet the required deadline for reporting in 2018-19, the Review reports that this signals a serious weakness in the ability of auditors to comply with their contractual obligations and recommends that the current deadline should be reviewed. A revised date of 30 September gathered considerable support amongst respondents who expressed concern about this current problem. However, the Review report concludes that this only in part addresses the perceived quality problem.

The Review report notes that an underlying feature of the existing framework is the absence of a body to coordinate all stages of the audit process and that although there is some scope to effect alterations to the individual roles, appropriately fulfilled within the existing framework, this would not achieve the overriding objective of providing a coherent local audit function which offers assurance to stakeholders and the public, in terms of performance and accountability of the local authority and the auditor.

Consequently, a key recommendation of the Review is to create a new regulatory body responsible for procurement, contract management, regulation and oversight of local audit. It is recognised that the new body will liaise with the Financial Reporting Council (FRC) with regard to its role in setting auditing standards. The engagement of audit firms to perform the local audit role would be accompanied by a new price/quality regime to ensure that audits were performed by auditors who possessed the skills, expertise and experience necessary to fulfil the audit of local authorities. These auditors would be held accountable for performance by the new regulator, underpinned by the updated code of local audit practice. A further recommendation is to formalise the engagement between local audit and Inspectorates to share findings which might have relevance to the bodies concerned.

The Regulator would be supported by a Liaison Committee comprising key stakeholders and chaired by the Ministry of Housing, Communities and Local Government (MHCLG). The new regulatory body would be small and focused and would not represent a body which has the same or similar features as the Audit Commission.

The Review recognises that local audit is subject to less critical findings in respect of audit procurement and quality relating to smaller authorities. However, the recommendations include a review by Smaller Authorities' Audit Appointments (SAAA) of current arrangements relating to the proportionality of small authority audits, together with the process for managing vexatious complaints, where issues have been raised by those bodies which have experienced such challenges.

Governance in respect of the consideration and management of audit reports by authorities has also been examined in considerable detail. Based on evidence presented, the Review concludes that there is merit in authorities examining the composition of Audit Committees, including the appointment of at least one independent member, in order to ensure that the required knowledge and expertise are always present when considering reports, together with the requirement that at least an annual audit report be submitted to Full Council. This would demonstrate transparency and accountability from a public perspective, which the Review reports is currently lacking in many authorities.

The Review questions whether external audit could make more use of the knowledge and expertise of internal audit in developing sufficient understanding of the local authority. Internal auditors are likely to be closer to the business than external audit and, in many authorities, a proportion of their work focuses on governance and service delivery matters.

The Review notes that the issue of transparency is of equal relevance to the current presentation and publication of the annual accounts. Given that the feedback from practitioners and other key stakeholders revealed that current statutory accounts prepared by local authorities are considered to be impenetrable to the public, the Review recommends that a simplified statement of service information and costs is prepared by each local authority, in such a way as to enable comparison with the annual budget and council tax set for the year. This would enable Council taxpayers and service users to judge the performance of the local authority for each year of account. The new statement would be prepared in addition to the statutory accounts, which could be simplified. The Review also recommends that all means of communicating such information should be explored to achieve access to all communities.

In summary, the outcome of the Review is designed to deliver a new framework for effective local audit and an annual financial statement, which enables all stakeholders to hold local authorities to account for their performance, together with a robust and effective audit reporting regime. The Review report notes that aside from the additional costs arising from a fee increase, the resource implications of the new regulatory body would amount to approximately £5m per annum after taking into account the amount related to staff subject to transfer under TUPE arrangements.

A complete list of the Recommendations from the Review is included at Appendix One to this report, alongside comments - where relevant - on the Council's position.

Implementation of the Review recommendations would, in part, require regulatory or legislative change but the Review report notes that many of the issues identified require urgent attention, given the current concerns about local audit demonstrated in the Review.

The Council has commenced a dialogue with its external auditors to discuss the findings of the Review.

3 Considerations

In preparing this report the relevance of the following factors has been considered: financial, legal, prevention of crime and disorder, equality and diversity, human resources, environmental, health, property, transport and social value considerations.

4 Background Papers

Papers held electronically by Technical Section, Finance & ICT Division, Room 137.

5 Officers' Recommendation

That Audit Committee notes this overview of the Redmond Review and the recommendations arising from it, as set out in the associated report.

PETER HANDFORD	CARL HARDMAN
Director of Finance & ICT	Assistant Director of Finance (Audit)

APPENDIX ONE

Redmond Review - Recommendations

The recommendations of the Redmond Review are as follows, alongside comments - where relevant - on the Council's position:

External Audit Regulation

1. A new body, the Office of Local Audit and Regulation (OLAR), be created to manage, oversee and regulate local audit with the following key responsibilities:
   - procurement of local audit contracts;
   - producing annual reports summarising the state of local audit;
   - management of local audit contracts;
   - monitoring and review of local audit performance;
   - determining the code of local audit practice; and
   - regulating the local audit sector.

2. The current roles and responsibilities relating to local audit discharged by the:
   - Public Sector Audit Appointments (PSAA);
   - Institute of Chartered Accountants in England and Wales (ICAEW);
   - FRC/ARGA; and
   - The Comptroller and Auditor General (C&AG)

   to be transferred to the OLAR.

3. A Liaison Committee be established comprising key stakeholders and chaired by MHCLG, to receive reports from the new regulator on the development of local audit.

4. The governance arrangements within local authorities be reviewed by local councils with the purpose of:
   - an annual report being submitted to Full Council by the external auditor;
   - consideration being given to the appointment of at least one independent member, suitably qualified, to the Audit Committee; and
   - formalising the facility for the CEO, Monitoring Officer and Chief Financial Officer (CFO) to meet with the Key Audit Partner at least annually.

   The results of the annual audit are reported each year to Full Council. It has been agreed with Mazars that in future they will attend that meeting to present their report in person. In the past consideration has been given to the involvement of an independent member on the Audit Committee, perhaps now is the time to consider the option again, perhaps utilising a joint appointment with another public body but without compromising the role of elected representatives. At present the auditor meets frequently with the key statutory offices in the council, formalising this process will be a sensible move.

5. All auditors engaged in local audit be provided with the requisite skills and training to audit a local authority irrespective of seniority.

6. The current fee structure for local audit be revised to ensure that adequate resources are deployed to meet the full extent of local audit requirements.

   Whilst this may mean an increase in costs it is time to reverse the recent decreases in fee levels as it has resulted in an unstable market for audit services and an audit that has, on occasion, not been fit for purpose across some parts of the local government sector.

7. That quality be consistent with the highest standards of audit within the revised fee structure. In cases where there are serious or persistent breaches of expected quality standards, OLAR has the scope to apply proportionate sanctions.

8. Statute be revised so that audit firms with the requisite capacity, skills and experience are not excluded from bidding for local audit work.

9. External Audit recognises that Internal Audit work can be a key support in appropriate circumstances where consistent with the Code of Audit Practice.

   External Audit reliance on the work of Internal Audit has diminished over the years and now is an appropriate time to rebuild that relationship, to assess whether collaboration can assist External Audit in obtaining the assurance they require in respect of the accuracy and completeness of the statement of accounts. The Council has an established External and Internal Audit Protocol which provides a firm basis for further development of this relationship.

10. The deadline for publishing audited local authority accounts be revisited with a view to extending it to 30 September from 31 July each year.

    Whilst such a change is understandable due to the capacity issues in External Audit firms, it is regrettable that such a move is necessary and we would hope that when some element of stability has returned to the market then consideration may be given to a return to a July date.

11. The revised deadline for publication of audited local authority accounts be considered in consultation with NHSI(E) and DHSC, given that audit firms use the same auditors on both Local Government and Health final accounts work.

12. The external auditor be required to present an Annual Audit Report to the first Full Council meeting after 30 September each year, irrespective of whether the accounts have been certified; OLAR to decide the framework for this report.

13. The changes implemented in the 2020 Audit Code of Practice are endorsed; OLAR to undertake a post implementation review to assess whether these changes have led to more effective external audit consideration of financial resilience and value for money matters.

Smaller Authorities Audit Regulation

14. SAAA considers whether the current level of external audit work commissioned for Parish Councils, Parish Meetings and Internal Drainage Boards (IDBs) and Other Smaller Authorities is proportionate to the nature and size of such organisations.

15. SAAA and OLAR examine the current arrangements for increasing audit activities and fees if a body’s turnover exceeds £6.5m.

16. SAAA reviews the current arrangements, with auditors, for managing the resource implications for persistent and vexatious complaints against Parish Councils.

Financial Resilience of local authorities

17. MHCLG reviews its current framework for seeking assurance that financial sustainability in each local authority in England is maintained.

    This is welcomed in view of the recent financial failures in local authorities.

18. Key concerns relating to service and financial viability be shared between Local Auditors and Inspectorates including Ofsted, Care Quality Commission and HMICFRS prior to completion of the external auditor’s Annual Report.

Transparency of Financial Reporting

19. A standardised statement of service information and costs be prepared by each authority and be compared with the budget agreed to support the council tax/precept/levy and presented alongside the statutory accounts.

    If such a statement can be made to simplify reporting into an easily understandable explanation of the Council’s financial position, then it is to be welcomed.

APPENDIX ONE

20. The standardised statement should be subject to external audit.

21. The optimum means of communicating such information to council taxpayers/service users be considered by each local authority to ensure access for all sections of the communities.

22. CIPFA/LASAAC be required to review the statutory accounts, in the light of the new requirement to prepare the standardised statement, to determine whether there is scope to simplify the presentation of local authority accounts by removing disclosures that may no longer be considered to be necessary.

    Such a move has been required for a long time and it is hoped real simplification can be achieved.

23. JPAG be required to review the Annual Governance and Accountability Return (AGAR) prepared by smaller authorities to see if it can be made more transparent to readers. In doing so the following principles should be considered:
    - Whether "Section 2 – the Accounting Statements" should be moved to the first page of the AGAR so that it is more prominent to readers;
    - Whether budgetary information along with the variance between outturn and budget should be included in the Accounting Statements; and
    - Whether the explanation of variances provided by the authority to the auditor should be disclosed in the AGAR as part of the Accounting Statements.

Agenda Item No.7

DERBYSHIRE COUNTY COUNCIL

AUDIT COMMITTEE

8 December 2020

Report of the Director of Finance & ICT and the Director of Legal Services

ANTI-MONEY LAUNDERING POLICY

1 Purpose of the Report

To advise Audit Committee of the latest review and update of the Council's Anti-Money Laundering Policy.

2 Information and Analysis

The consequence of any public authority or its employees becoming involved in money laundering, without policies and procedures in place to help prevent it, may be very serious. It may result in criminal prosecutions, if organisations and individuals are not fulfilling their duty under the law. It would reflect poorly not only on the Council but potentially on the public sector as a whole.

It is, therefore, prudent and responsible practice for the Council to put in place and to keep up to date a policy, which includes appropriate and proportionate anti-money laundering safeguards and reporting arrangements. Such arrangements are designed to detect and avoid involvement in the crimes described in the legislation and regulations.

The requirement to ensure that appropriate arrangements are in place is contained within the Council's Financial Regulations.

The Council's Anti-Money Laundering Policy (the "Policy") was most recently presented to the Audit Committee at its meeting on 10 December 2019, following a review of the Policy in November 2019, when the following changes were made:

- Reference to UK legislation and regulations on money laundering was changed to refer to The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, as amended by the Money Laundering and Terrorist Financing (Miscellaneous Amendments) Regulations 2018, which came into force on 10 January 2019. No changes were required to the Council's Anti-Money Laundering Policy, other than to update the legislation reference.

- Inclusion of a new requirement for Money Laundering Reporting Officers to log instances where they have been consulted and they have concluded that acceptance of the cash is appropriate.

- The post of one deputy Money Laundering Reporting Officer has been changed, after recruitment to the new post of Assistant Director of Finance (Financial Management) and removal of the post of Finance Manager (Financial Management & Exchequer).

Following a further review of the Policy in October 2020, the following changes have been made:

- Reference to UK legislation and regulations on money laundering has been updated to refer to The Money Laundering and Terrorist Financing (Amendment) Regulations 2019, which came into force on 10 January 2020 and The Money Laundering and Terrorist Financing (Amendment) (EU Exit) Regulations 2020, which come into force in part on 6 April 2021, 10 March 2022 or Implementation Period completion day (31 December 2020), the ending of the 11 month period from 31 January 2020 during which the UK continues to be subject to EU rules, and otherwise on 6 October 2020 (as 21 days after the day on which they were laid). No changes were required to the Council's Anti-Money Laundering Policy, other than to update the legislation reference.

- Reduction in the high value receipts cash limit, from £2,500 as a matter of course and £10,000 by exception, to £2,500 for each transaction in all cases (decision previously made and included on invoices).

The Policy, which takes account of the Council's exposure to money laundering, along with guidance notes and supporting documentation, is attached in the Appendix to this report.

3 Considerations

In preparing this report the relevance of the following factors has been considered: financial, legal, prevention of crime and disorder, equality and diversity, human resources, environmental, health, property, transport and social value considerations.

4 Background Papers

Papers held electronically by Technical Section, Finance & ICT Division, Room 137.

5 Officers' Recommendation

That Audit Committee notes that a review and update of the Anti-Money Laundering Policy has taken place.

PETER HANDFORD	SIMON HOBBS
Director of Finance & ICT	Director of Legal and Democratic Services

Derbyshire County Council

Anti-Money Laundering Policy

Version History			
Version	**Date**	**Detail**	**Author**
1.0	31 03 2010	Council's first Anti-Money Laundering Policy noted and approved by Members of Audit Committee on 31 Mar 2010.	E Scriven
2.0	17 10 2011	Members of Audit Committee noted and approved update at meeting 17 Oct 2011.	E Scriven
3.0	29 01 2013	Members of Audit Committee advised of latest review at meeting 29 Jan 2013.	E Scriven
4.0	07 10 2014	Reviewed by Members of Audit Committee at meeting 7 Oct 2014.	E Scriven
5.0	06 10 2015	Members of Audit Committee advised of latest review at meeting 6 Oct 2015.	E Scriven
6.0	04 08 2016	Policy reviewed for presentation to Audit Committee Members at meeting 4 Oct 2016 - updated for changes to UK legislation and regulations amendments on money laundering; to include references to the National Crime Agency (NCA), which replaced the Serious Crime Agency (SOCA) and took over its responsibilities for investigating money laundering; update job titles of deputy MLROs; version control and information classification added.	E Scriven
7.0	05 07 2017	Policy reviewed for presentation to Audit Committee Members at meeting 22 Nov 2017 – updated for new legislation Money Laundering Regulations 2017, effective 26 June 2017 and other changes to the post of one deputy MLRO after retirement and removal of the post of the previous holder; change of job title of MLRO to include ICT; old DCC logo removed.	E Scriven
8.0	01 06 2018- 14 11 2018	Policy reviewed. Change to nominated deputy MLRO following departure of previous holder.	S Holmes
9.0	22 11 2018	Tracked changes from Legal	Simon Macdonald-Preston
10.0	18 11 2019	Policy reviewed. Changes to posts of nominated deputy MLROs. Update to refer to updated Legislation *(no change required to Policy except to reference new legislation).* New requirement for Money Laundering Reporting Officers to log instances where they have been consulted and they have concluded that acceptance of the cash is appropriate.	E Scriven
11.0	08 10 2020	Policy Review. Update to refer to updated Legislation *(no change required to Policy except to reference new legislation)* and to include update to reduce cash limit from £10,000 by exception to £2,500 in all cases (decision previously made and included on invoices).	E Scriven

This document has been prepared using the following ISO27001:2013 standard controls as reference:	
ISO Control	**Description**
A.8.2	Information classification
A.7.2.2	Information security awareness, education and training
A.18.1.1	Identification of applicable legislation and contractual requirements
A.18.1.3	Protection of records
A.18.1.4	Privacy and protection of personally identifiable information

Introduction

This policy establishes a framework within which the requirements of the Terrorism Act 2000 (as amended by the Anti-Terrorism, Crime and Security Act 2001, the Terrorism Act 2006 and the Terrorism Act 2000 and Proceeds of Crime Act 2002 (Amendment) Regulations 2007), the Proceeds of Crime Act 2002 (as amended by the Crime and Courts Act 2013 and the Serious Crime Act 2015) and The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, as amended by the Money Laundering and Terrorist Financing (Miscellaneous Amendments) Regulations 2018, The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 and The Money Laundering and Terrorist Financing (Amendment) (EU Exit) Regulations 2020, the elements of which came into force on 6 October 2020, as applicable to public authorities, will be adhered to by the Council (the “Legislation”).

It sets out appropriate and proportionate anti-money laundering safeguards and reporting arrangements, designed to detect and avoid involvement in the crimes described in the Legislation. It is the Council’s responsibility to take all reasonable steps to minimise the likelihood of money laundering occurring.

Failure to adhere to the requirements of the Legislation may result in criminal prosecutions, if the Council and its officers and members are not fulfilling their duty under the law.

Scope

This policy applies to all officers and members (the “employees”) and aims to maintain the high standards of conduct which currently exist within the Council, by preventing criminal activity through money laundering. The policy sets out the procedures which must be followed to enable the Council to meet its legal obligations under the Legislation.

It is designed to help employees familiarise themselves with the legal and regulatory requirements relating to money laundering, as they affect both the Council and employees personally.

Whilst the policy particularly applies to employees involved with monetary transactions, it is everyone’s responsibility to be vigilant.

Purpose

The legislative requirements concerning anti-money laundering procedures are extensive and complex. This policy has been written so as to enable the Council to meet the Legislation in a way which is proportionate to the low risk to the Council of contravening the law.

Any employee could potentially be caught by the money laundering provisions if they suspect money laundering and either become involved with it in some way or do nothing about it. Whilst the risk to the Council of contravening the Legislation is low, it is extremely important that all employees are familiar with their legal responsibilities.

The objectives of this policy are to:

- ensure that all employees are aware of the Legislation and money laundering offences within it, their responsibilities regarding the Legislation and the consequences of non-compliance;
- document the Council's client identification procedures;
- establish the Council's internal reporting procedures;
- define the Council's expectations in respect of employee awareness and targeted training;
- establish the Council's requirements for the appointment of an officer responsible for anti-money laundering; and
- document certain procedures of internal control and communication for activities which are restricted or regulated.

Legislation and Offences

The Legislation, as applicable to public authorities, will be adhered to by the Council.

Under the Legislation, money laundering is interpreted very widely and includes possessing, or in any way dealing with, or concealing, the proceeds of any crime. In summary, the main money laundering offences are:

- concealing, disguising, converting, transferring or removing criminal property from the UK;
- being concerned in an arrangement which a person knows or suspects or facilitates the acquisition, retention, use or control of criminal property;
- acquiring, using or possessing criminal property; and
- doing something that might prejudice an investigation, for example, falsifying a document.

It is an offence of money laundering to become concerned in an arrangement relating to the retention or control of property likely to be used for the purposes of criminal activity or resulting from acts of criminal activity. All individuals and businesses in the UK, including employees and the Council, have an obligation to report knowledge, reasonable grounds for belief or suspicion about the proceeds from, or finance likely to be used for, criminal activity or its laundering, where it relates to information that comes to them in the course of their business or employment.

Employee Responsibilities

Whilst money laundering may most commonly be associated with organised crime, employees of the Council could be exposed to it in the ongoing pursuit of their everyday activities. Guidance for employees on their possible exposure to money laundering, along with examples of warning signs of money laundering, is attached at Appendix A ("Money Laundering - Warning Signs") to this policy.

Employees should follow this policy in respect of all crimes, however small. The regime under which money laundering is monitored operates on an "all crimes" basis and sets no lower limit below which suspected crimes should not be internally reported.

It is essential that employees rigorously apply the internal procedures set out in this policy to prevent money laundering.

Non-Compliance

Failure by an employee to comply with the procedures set out in this policy may lead to disciplinary action being taken against them, in accordance with the Council's Disciplinary and Dismissal Procedure Policy.

Offences may be tried at a Magistrate's Court or in the Crown Court, depending on the severity of the suspected offence. Trials at the former can attract fines of up to £5,000, up to six months in prison, or both. In a Crown Court, fines are unlimited and sentences up to fourteen years in prison may be handed out.

Client Identification Procedures

Although it may not be a legal requirement to put in place formal procedures for evidencing the identity of those the Council does business with, in practice, prudence dictates that employees are alert to potentially suspicious circumstances.

Examples include situations where funds flow through the Council from a source with which it is unfamiliar. There is a greater risk if the parties concerned are not physically present or may be acting for absent third parties.

In particular, if the Council is forming a new business relationship and/or is considering undertaking a significant one-off transaction, it is required that identification procedures are set up and maintained in respect of the parties involved. If the client acts, or appears to act, for another person, reasonable measures must be taken for the purposes of identifying that person. These may already be part of the Council's procedures in some areas.

In this situation, the client should provide satisfactory evidence of their identity either personally, through passport/photo driving license plus one other document with their name and address, for instance a utility bill (not a mobile bill), mortgage/building society/bank documents, credit card documents, a pension/benefit book; or their corporate identity, which can be through company formation or business rates documents. This evidence should then be retained. If satisfactory evidence is not obtained, the relationship or the transaction must not proceed.

Internal Reporting Procedures

Staff concerns should be reported to the Council's nominated anti-money laundering officer ("the Officer"), or in his or her absence, their deputies. All suspicious transactions, irrespective of their values, should be reported to the Officer.

Employees should first have an initial discussion with the Officer, which should be recorded on an internal form if the Officer decides that the matter is serious enough to warrant this. The Officer will then decide whether an external report is needed. The forms are attached at Appendix C to this policy.

If it is concluded that the matter is not suspicious, then the Officer should complete a log which records instances where they have been consulted and they have concluded that acceptance of the cash is appropriate.

All forms and logs will be retained for five years from the date on which the matter is satisfactorily concluded.

Once an employee has reported their suspicions to the Officer, they have fully satisfied their own statutory obligation.

The Council will monitor the types of transactions and circumstances that give rise to suspicious transaction reports, with a view to updating internal instructions and guidelines from time to time.

At no time and under no circumstances should an employee voice any suspicions to the persons suspected of money laundering. This is known as "tipping off". Whilst this is not an offence for a public authority which does not operate in the regulated sector (which is avoided by ensuring that undertaking investment activities for a third party and structuring agreements for certain activities, if undertaken for third parties, are restricted), it is best practice. No reference should be made on a client file to the Officer having been contacted, or a report having been made to the Officer. Should the client exercise their right to see the file, then such a note would obviously tip them off as to the report having been made. The Officer should keep the appropriate records in a confidential manner.

Employee Awareness and Training

It is not necessary for all staff to have a detailed knowledge of what constitutes criminal offences under the Legislation. Those who are most likely to encounter money laundering should read this policy, as it documents what procedures are in place to help prevent money laundering and informs them of their personal responsibilities and possible liabilities as individuals. Suggested notes for managers to distribute to these and other employees are attached at Appendix B ("Anti-Money Laundering – Notes for Employees").

The Council does not have any areas of activity that are considered to be especially vulnerable to money laundering. This is supported by the fact that local authorities are not included as a "relevant person" in The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, as amended by the Money Laundering and Terrorist Financing (Miscellaneous Amendments) Regulations 2018 and are therefore not covered by those regulations.

Any managers who believe they have identified any especially vulnerable areas should first consult with the Officer. If it is then agreed that this is the case, then the manager of the employees involved should request the Officer to arrange to deliver more targeted training to the employees.

Appointment of an Officer Responsible for Anti-Money Laundering

Whilst the Council is not obliged to have a formally appointed Money Laundering Reporting Officer ("MLRO") under the Proceeds of Crime Act, it is good practice for an officer to be nominated as being responsible for the Council's anti-money laundering activities. The Council should therefore always have a nominated anti-money laundering officer ("the Officer"), along with two nominated deputies, who are authorised to act in their absence.

These anti-money laundering appointees should already hold a senior position at the Council so that they can access relevant information (even if it is sensitive) and have the authority to make the decision not to externally report, without having to refer to anyone else in the Council. This policy, therefore, requires that the Officer and deputies should occupy the following senior positions at the Council:

Role	**Name**	**Position**
Officer	Peter Handford	Director of Finance & ICT
Deputies	Paul Stone	Assistant Director of Finance (Financial Management)
	Dawn Kinley	Head of Pension Fund

The Council's appointed Officer and deputies should:

- maintain the Council's policies and procedures in respect of money laundering;
- receive and manage the concerns of employees about money laundering and their suspicion of it;
- document internal money laundering reports in conjunction with the employee concerned, where warranted;
- make internal enquiries to follow up concerns; and
- make external reports to NCA (see below), where necessary.

The Officer and deputies must follow the current requirements of the National Crime Agency ("NCA"), which has taken over the responsibilities of the Serious Organised Crime Agency ("SOCA") for investigating money laundering and terrorist financing, in enforcing the legislation. However, the Officer and deputies should not allow the role to consume a disproportionately large amount of time and resources, relative to the risks.

Restricted Activities

This policy requires certain activities to be regulated or restricted as follows:

a) Undertaking Investment Activities for a Third Party

In making investment arrangements, the Council should not act as a principal or agent in, or an arranger of, investment activities for a third party, without prior authority from the Officer, as such activities might be interpreted as being a regulated activity and expose the Council to additional money laundering regulations.

This excludes the investments of trust and charitable funds and the placing of cash deposits for other local authorities, as such activities, in the Chartered Institute of Public Finance and Accountancy's (CIPFA) view, would not be interpreted as being "by way of business".

b) Receiving High Value Cash Receipts

For the purpose of preventing money laundering:

- The Council, in the normal operation of its services, accepts payments from individuals and organisations, for example in relation to property rental and sundry debtors. For all transactions under £2,500, no action is required, unless the employee has reasonable grounds to suspect money laundering activities, proceeds of crime or is simply suspicious, at which stage the matter should be reported to the Officer.

- Cash receipts of £2,500 or more should not be accepted. "Cash" includes notes, coins or travellers' cheques in any currency. It is not appropriate for payment of a balance owed to the Council to be sub-divided into smaller cash receipts to circumvent this limit, whatever the purpose of the payment. Any attempts to do this should be reported to the Officer as suspicious activity.

c) Refunds

A significant overpayment of an amount owed, which results in a repayment, should be properly investigated and authorised as not suspicious, before repayment is made.

d) Structuring of Agreements

Advice from the Officer should be sought in structuring agreements relating to the following activities, if undertaken on behalf of third parties, as such activities might be interpreted as being a regulated activity and expose the Council to additional money laundering regulations:

- advice about tax affairs;

- accountancy services;
- audit services;
- legal services which involve participation in a financial or real property transaction; and
- services which involve the formation, operation or management of a company.

CIPFA's Treasury Management Code

Treasury management activities and the legal and best practice requirements relating to them (including money laundering), are subject to the provisions of CIPFA's Treasury Management: Code of Practice ("the TM Code"). The TM Code is legally enforceable in local authorities.

Conclusion

The legislative requirements concerning anti-money laundering procedures are lengthy and complex. This policy and the guidance notes and supporting documentation in the Appendices have been written to enable the Council to meet the legal requirements in a way that is proportionate to the Council's risk of contravening the legislation.

Anti-Money Laundering

Money Laundering - Warning Signs

Those involved in the handling of criminal property look for ways to secure and safeguard the proceeds of their criminal activities. Although other ways exist, cash is the mainstay of criminal transactions, being the most reliable and flexible, and having little or no audit trail.

In the UK, the most popular method of laundering money is thought to be the purchase of property, followed by investment in front companies or high cash turnover businesses (frequently legitimate businesses), or funding a lifestyle.

The following examples, which employees could encounter at the Council, may indicate that money laundering is taking place:

- Transactions or trade that appear to make no commercial or economic sense from the perspective of the other party. A money launderer's objective is to disguise the origin of criminal funds and not necessarily to make a profit. A launderer may therefore enter into transactions at a financial loss if it will assist in disguising the source of the funds and allow the funds to enter the financial system.

- Large volume/large cash transactions. All large cash payments should be subject to extra care and should cause questions to be asked about the source. This will particularly be the case where the cash paid exceeds the amount necessary to settle a transaction and the persons concerned request a non-cash refund of the excess. This will include double payments. The Council's Anti-Money Laundering Policy includes procedures which must be followed when encountering high value cash receipts. The cash receipts limit is £2,500; cash payments may not be sub-divided to circumvent this limit. Cash payments over £2,500 must not be accepted.

- Payments received from third parties. Money launderers will often look to legitimate business activity in order to assist in "cleaning" criminal funds and making payments on behalf of a legitimate company can be attractive to both parties. For the legitimate company it can be a useful source of funding and for the launderer the funds can be repaid through a banking system.

Examples of warning signs which could point to money laundering are:

- use of cash where other means of payment are normal;
- unusual transactions or ways of conducting business, including where third-party intermediaries become involved in a transaction;
- unwillingness to answer questions / secretiveness generally;
- difficulties in establishing the identity of a party, or where the identity is not disclosed;
- use of overseas companies;
- evasiveness as to the source or destiny of funds; and
- overpayment of property rental income where refunds are needed.

The money laundering regime adopts an "all crimes" approach. It should be noted that the money laundering offences described in the Council's policy may apply to a very wide range of more everyday activities. Examples include:

- being complicit in crimes involving the falsification of claims;
- benefiting from non-compliance with the conditions attaching to a grant;
- retaining customer overpayments on a ledger; and
- facilitating employment on which tax is not paid.

Anti-Money Laundering

Notes for Employees

Derbyshire County Council's and Your Own Personal Responsibilities

Purpose

These notes are important. They are designed to help you familiarise yourself with the legal and regulatory requirements relating to money laundering, as they affect both the Council and you personally.

What is Money Laundering?

Money laundering is the term used for several offences involving the proceeds of crime or terrorist funds. The following constitute the act of money laundering:

- concealing, disguising, converting, transferring, or removing criminal property from the United Kingdom;
- becoming concerned in an arrangement in which someone, knowingly or suspecting, facilitates the acquisition, retention, use or control of criminal property by or on behalf of another person;
- acquiring, using or possessing criminal property; and
- doing something that might prejudice an investigation, for example, falsifying a document.

Whilst the risk to the Council of contravening the legislation is perceived to be low, you may be used unknowingly in laundering money from criminal activities.

Although the term "money laundering" is generally used when describing the activities of organised crime – for which the legislation and regulations were first and foremost introduced – to most people who are likely to come across or be affected by it, it involves a suspicion that someone they know, or know of, is benefiting financially from dishonest activities.

The money laundering regime adopts an "all crimes" approach. The offences may apply to a very wide range of more everyday activities within the Council. This could include, for example, being complicit in crimes involving the falsification of claims, benefiting from non-compliance with the conditions attaching to a grant, retaining customer overpayments on a ledger, or facilitating employment on which tax is not paid.

What Laws Exist to Control Money Laundering?

In recent years, new laws have been passed which significantly shift the burden of identifying acts of money laundering away from government agencies and more towards organisations and their employees. They prescribe potentially very heavy penalties, including imprisonment, for those who are convicted of breaking the law. These laws are important. A list of the laws and relevant papers appears at the end of these notes.

What is the Council's Policy on Money Laundering?

The Council aims to maintain its high standards of conduct, by preventing criminal activity through money laundering.

The Council's policy is to do all that it can to prevent, wherever possible, the Council and its officers and members being exposed to money laundering, to identify the potential areas where it may occur, and to comply with all legal and regulatory requirements, especially with regard to the reporting of actual or suspected cases. We cannot stress too strongly, however, that it is everyone's responsibility to be vigilant.

Peter Handford, whose contact details appear in the box later in this note, has been nominated as being the Council's Officer Responsible for Anti-Money Laundering ("the Officer").

What are the Main Money Laundering Offences?

There are three principal offences – concealing, arranging and acquisition/use/ possession.

Concealing is where someone knows, or suspects, a case of money laundering but conceals or disguises its existence. **Arranging** is where someone involves themselves in an arrangement to assist in money laundering. **Acquisition/use/ possession** are where someone seeks to benefit from money laundering by acquiring, using or possessing the property concerned.

There are also two "third party" offences - failure to disclose one of the three principal offences, and "tipping off". **Tipping off** is where someone informs a person or people who are, or are suspected of being, involved in money laundering, in such a way as to reduce the likelihood of their being investigated, or prejudicing an investigation. Provided the Council does not involve itself in certain regulated activities, then these two offences do not apply to it. However, the Council's policy is still to apply best practice and therefore all suspicions should be reported to the Officer and no tipping off should occur.

All the main money laundering offences may be committed by the Council or its staff and members (the "employees").

What are the Implications for the Council and its Employees?

The Council has accepted the responsibility to ensure that those of its employees who are the most likely to be exposed to money laundering can make themselves fully aware of the law and where necessary, are suitably trained. The Council has also implemented procedures for reporting suspicious transactions and if necessary, making an appropriate report to the National Crime Agency.

The consequences for employees of committing an offence are potentially very serious. Whilst it is considered most unlikely that an employee would commit one of the three principal offences, the failure to disclose a suspicion of a case of money laundering is a serious offence in itself, and there are only limited grounds in law for not reporting a suspicion.

Whilst stressing the importance of reporting your suspicions, however, you should understand that failure to do so is only an offence if your suspicion relates, in the event, to an actual crime.

What are the Penalties?

Money laundering offences may be tried at a Magistrate's Court or in the Crown Court, depending on the severity of the suspected offence. Trials at the former can attract fines of up to £5,000, up to six months in prison, or both. In a Crown Court, fines are unlimited and sentences up to fourteen years in prison may be handed out.

Failure by an employee to comply with the procedures set out in this policy may lead to disciplinary action being taken against them. Any disciplinary action will be dealt with in accordance with the Council's Disciplinary and Dismissal Procedure Policy.

What are the Warning Signs?

Examples of warning signs which you could encounter and may point to money laundering are attached at Appendix A ("Warning Signs") to these notes. You should ensure that you familiarise yourself with these examples.

What Should I do if I Suspect a Case of Money Laundering?

You should report the case **immediately** to Peter Handford (the Council's Officer Responsible for Anti-Money Laundering, "the Officer"), in a discussion, by phone or e-mail, and a form may be determined to be required following this discussion.

Peter can be contacted as follows:

Peter Handford Director of Finance & ICT Derbyshire County Council County Hall MATLOCK Derbyshire DE4 3AH Telephone: 01629 538 700 E-mail: peter.handford@derbyshire.gov.uk

In the absence of the Officer, Paul Stone and Dawn Kinley (or the officers in these posts, as set out in the Policy, at the relevant time) are authorised to deputise for him.

He will decide whether the information or transaction is suspicious and whether to make an external report based on all other relevant evidence (information) available to the Council concerning the person or business to which the initial report relates.

If the Officer concludes that the matter is not suspicious, then a log will be completed, which records instances where consultation has taken place and it has been concluded that acceptance of the cash is appropriate.

There is no clear definition of what constitutes suspicion – common sense will be needed. If you are considered likely to be exposed to particularly suspicious situations, which are especially vulnerable to money laundering, you will be made aware of these by your senior officer and, where appropriate, training will be provided.

Should you have any concerns whatsoever regarding any transactions then you should contact the Officer or one of his deputies.

Summary

Robust money laundering procedures are essential if the Council and its employees are to comply with our responsibilities and legal obligations. It falls to you as an employee, as well as to the Council itself, to follow these procedures rigorously.

Legislation, Regulations and Guidance Relating to Money Laundering

The Proceeds of Crime Act 2002 (as amended by the Crime and Courts Act 2013 and the Serious Crime Act 2015)

The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, as amended by The Money Laundering and Terrorist Financing (Miscellaneous Amendments) Regulations 2018, The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 and the elements of The Money Laundering and Terrorist Financing (Amendment) (EU Exit) Regulations 2020 which came into force on 6 October 2020

Explanatory Memorandum to the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017

The Terrorism Act 2000 (as amended by the Anti-Terrorism, Crime and Security Act 2001, the Terrorism Act 2006 and the Terrorism Act 2000 and Proceeds of Crime Act 2002 (Amendment) Regulations 2007)

Combating Financial Crime – CIPFA 2009

Proceeds of Crime (Anti-Money Laundering) – Practical Guidance for Public Service Organisations – CIPFA 2005

Reviewed and updated October 2020
(Original February 2010; updated August 2011; reviewed December 2012; reviewed September 2014; reviewed June 2015, reviewed and updated August 2016, reviewed and updated July 2017, reviewed November 2018, reviewed November 2019)

This page is intentionally left blank.

APPENDIX C

CONTROLLED

Internal Suspicion of Money Laundering Activity Form

STRICTLY CONFIDENTIAL

Report to: Officer Responsible for Anti-Money Laundering (“the Officer”)
Regarding: Suspicion of Money Laundering Activity

To: ………………………………………………………………………
(Derbyshire County Council (Deputy) Officer Responsible for Anti-Money Laundering)

From: ………………………………………………………………………

Department: ………………………………………………………………………

Job title: ………………………………………………………………………

Details of Suspected Offence

Name(s) and address(es) of persons involved: *[If a company/public body please include details of nature of business]*   *[Please continue on to a separate sheet if necessary]*

Nature, value and timing of activity involved: *[Please include full details eg what, when, where, how]*   *[Please continue on to a separate sheet if necessary]*

Nature of suspicions regarding such activity:
[Please continue on to a separate sheet if necessary]

Have you discussed your suspicions with anyone else?

Yes/No *(please select the relevant option)*

If yes, please specify below, explaining why such discussion was necessary:

[Please continue on to a separate sheet if necessary]

Has any investigation been undertaken (as far as you are aware)?

Yes/No *(please select the relevant option)*

If yes, please include details below:

[Please continue on to a separate sheet if necessary]

Have you consulted any supervisory body guidance on money laundering (eg the Law Society?

Yes/No *(please select the relevant option)*

If yes, please specify below:

[Please continue on to a separate sheet if necessary]

Do you feel you have a reasonable excuse for not disclosing the matter to the NCA (eg are you a lawyer and wish to claim legal professional privilege)?

Yes/No *(please select the relevant option)*

If yes, please set out full details below:

[Please continue on to a separate sheet if necessary]

Are you involved in a transaction which might be a prohibited act under sections 327-329 of the Act which requires appropriate consent?

Yes/No *(please select the relevant option)*

If yes, please enclose details in the box below:

[Please continue on to a separate sheet if necessary]

Please set out below any other information you believe is relevant:

[Please continue on to a separate sheet if necessary]

DECLARATION:

Signed: ……………………………………………………………………….

Dated: ……………………………………………………………………….

Please do not discuss the content of this report with anyone you believe to be involved in the suspected money laundering activity described. To do so may constitute a tipping off offence, which carries a maximum penalty of 5 years' imprisonment.

THE FOLLOWING PART OF THIS FORM IS FOR COMPLETION BY THE OFFICER

Date report received: ………………………………………………..

Date receipt of report acknowledged: ………………………………………………..

CONSIDERATION OF DISCLOSURE:

Action Plan:

OUTCOME OF CONSIDERATION OF DISCLOSURE:

Are there reasonable grounds for suspecting money laundering activity:

If there are reasonable grounds for suspicion, will a report be made to NCA?

Yes/No *(please select the relevant option)*

If yes, please confirm date of report to NCA: ………………………………………
and complete the box below:

Details of liaison with NCA regarding the report:

Notice Period: ………………………. To ……………………….

Moratorium Period: …………………… To ……………………….

Is consent required from NCA to any ongoing or imminent transactions which would otherwise be prohibited acts?

Yes/No *(please select the relevant option)*

If yes, please enter full details in the box below:

Date consent received from NCA: …………………………………………………….

Date consent given by you to employee: ……………………………………

If there are reasonable grounds to suspect money laundering but you do not intend to report the matter to NCA, please set out below the reason(s) for non-disclosure:

[Please set out reasons for non-disclosure.]

Date consent given by you to employee for any prohibited act transactions to proceed:

………………………………………………………………….

Other relevant information:

Signed: ……………………………………………………………………….

Dated: ……………………………………………………………………….

THIS REPORT IS TO BE RETAINED FOR AT LEAST FIVE YEARS