

Minutes of the meeting of Audit and governance committee held at Committee Room 1, Shire Hall, St. Peter's Square, Hereford, HR1 2HX on Tuesday 8 May 2018 at 2.00 pm

Present: Councillor PD Newman OBE (Chairman)
Councillor ACR Chappell (Vice-Chairman)

Councillors: EPJ Harvey, RJ Phillips, AJW Powers and J Stone

Officers: Les Knight, Andrew Lovegrove, Alistair Neill, Stephen Vickers and Claire Ward

284. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor CR Butler

285. NAMED SUBSTITUTES (IF ANY)

There were no named substitutes

286. DECLARATIONS OF INTEREST

There were no declarations of interest.

287. MINUTES (Pages 9 - 12)

RESOLVED:

That the minutes of the meeting held on 21 March 2018 be confirmed as a correct record and signed by the chairman.

288. QUESTIONS FROM MEMBERS OF THE PUBLIC

Questions received and responses given are attached as appendix 1 to the minutes.

289. QUESTIONS FROM COUNCILLORS

Questions received and responses given are attached as appendix 2 to the minutes.

290. CAPITAL PROJECT MANAGEMENT AND CONTROL INTERNAL AUDIT PROGRESS REPORT

The chief finance officer presented the report.

A member of the committee noted that there was still an outstanding issue in relation to the fact that the committee had requested that the corporate peer challenge was a focused peer review into the economy, communities and corporate (ECC) directorate

and asked for confirmation as to when the last review into ECC took place. The chief executive clarified that management board had agreed that a corporate peer challenge would be undertaken as this was considered to be the most robust and constructive reviews which the LGA can undertake. It was further noted that government were now recommending that councils' commission corporate peer challenges and Herefordshire was one of the two thirds of councils which had commissioned one. The LGA do not currently offer a review of the ECC as councils have different structures in place to deliver place based and corporate services. The recommendations from the LGA were focused on corporate functions. There are reviews for children's services and adults' services as those services were statutory and there were frameworks in place to undertake reviews. Some services within ECC had been peer reviewed by LGA, e.g. libraries and museums and communications.

The LGA peer team had been made aware of the issues relating to the management of the Blueschool House project and had not found any systematic or cultural issues within ECC; it would not be a good use of public funds to focus on one area where two investigations had already taken place.

The chief executive reported that the outcome of the corporate peer challenge, together with a recommendation on the approach to be used to respond to the LGA recommendations would be presented to Cabinet on 28 June 2018.

The committee requested that as part of the report due to be presented to the meeting on 16 September, the following points were included:

- Assurances that officers were now following policies, procedures and protocols and that contracts were following the correct governance routes.
- Evidence that the culture change is being embedded in relation to the recommendations. It was also reiterated that the culture change needed to be embedded more quickly.
- Progress against the actions in relation to the SWAP recommendations.
- The report tied all the elements of Blueschool House together in the report and included an update on the report to Cabinet on the corporate peer challenge.

The chief executive was invited to the meeting on 19 September.

RESOLVED

That the report be noted.

291. PROGRESS REPORT ON 2017/18 INTERNAL AUDIT PLAN

SWAP presented the report and highlighted the following:

- Eight audits completed since the last report
- Three audits had received priority 4 findings.

Social care workforce performance

The interim director for adults and wellbeing reported that the audit covered a small portion of the adults and wellbeing directorate staff. It was noted that the ability to benchmark had proved difficult and had caused delays in completion. The priority 4 finding focused on the inconsistency in locality managers ensuring that staff were appropriately supported and skilled. These actions have been undertaken and will be ongoing.

Following a query from a member of the committee, it was explained that whilst each locality team had included an average number of substantive pieces of work completed by staff, there were differences in opinion as to what this meant. Some managers had believed that it was a benchmarking figure; others thought it was a target. The directorate did not want to set targets as there would be a variety of reasons as to why it would not be met which included the degree of complexity involved; sickness; holiday absence, etc. It was also confirmed that there was an ongoing training programme for all managers, including the locality managers, within the directorate.

In answer to a query from a member of the committee, the director for adults and wellbeing confirmed that there were a variety of methods utilised for completing assessments which was proportionate, appropriate and considered on a case by case basis.

Data quality – decision making reports and corporate budget performance reports

The head of corporate governance explained that the audit had been requested as there had been issues raised about the consistency of data used and the comprehensiveness of key decision reports.

Following a query from a member of the committee, it was confirmed that the decision making software (mod.gov) was designed to provide a structure to decision making and provides version control. It was noted that prior to the implementation of mod.gov, reports were circulated via email for comment which was high risk as it meant that comments could be overlooked by report writers.

The guidance given to report writers and reviewers had been revised following the audit findings which would lead to improved consistency. Further revisions would be made to guidance in relation to the finance section.

The head of corporate governance explained that the decision to use the mod.gov system was based on the ability for an end to end process for agenda management, i.e. from the issue being submitted to the forward plan through to decision. Work was being undertaken with the software manufacturer to develop better version control. If an additional system was used, then additional steps would be required and there would also be different risks involved.

It was noted that whilst the priority 4 recommendation had been focused on the system, there were priority 3 recommendations which focused on practice. Actions on these recommendations were being undertaken.

Cllr ACR Chappell left at the meeting at 15:18.

Part time timetables

The head of additional needs explained that the audit had been undertaken to ensure that children were not being excluded unofficially. Schools can operate part time timetables for pupils but there were some shortcomings in their rigour.

The head of additional needs confirmed that all the actions had been completed and that the social inclusion officer would now be monitoring the information provided by schools.

Following a query from a member of the committee, it was noted that the small holdings phase 2 audit scope had been agreed and would be commencing the following week. It was anticipated that the audit would be concluded by the time the statement of accounts was finalised and if there were any priority 4 findings, then they would be reported to the meeting scheduled for 30 July 2018.

It was noted that 44 audits had been completed during 2017/18 and that there was generally a sound system of control. There had been 37 priority 4 findings and management had responded positively to the recommendations.

RESOLVED

That the report be noted.

292. 2018/19 EXTERNAL AUDIT PLAN AND FEE

The 2018/19 external audit plan and audit fee was presented. It was noted that the fee levels were set by the Public Section Audit Appointments Ltd (PSAA).

RESOLVED

That the:

- (a) 2018/19 external audit plan be noted; and**
- (b) 2018/19 audit fee be approved.**

293. UPDATE FROM EXTERNAL AUDITOR

The update from the external auditors was presented. It was noted that the audit was proceeding and the external auditors were working well with officers. Details of the interim work were set out on page 64 of the agenda pack.

Grant Thornton were requesting approval of the additional fees in connection with the previous year's audit. It was noted that the additional fees had been discussed with officers and also shared with the PSAA. A member of the committee requested that given the budgetary pressures faced by the council that the monitoring officer look at the contractual arrangements and report back to the next meeting before the committee approved the additional fees.

It was noted that the issue with regard to the Hoople accounts had been the subject of discussion between officers and Grant Thornton. The chief finance officer confirmed that as the council owned 85% of Hoople and in order to be transparent and open, group accounts would be prepared which would include Hoople and the pension liability.

A member of the committee requested confirmation of the role of the audit and governance committee in relation to oversight of Hoople. It was agreed that a report from the chief finance officer and monitoring officer would be added to the work programme which would clarify this point.

Following a query from a member of the committee, it was confirmed that Worcestershire County Council had given an assurance that information in relation to the energy from waste loan would be provided in a more timely manner this year. It was noted that the annual report in relation to the energy from waste loan was scheduled for September 2018. It was requested that information about the predicted waste streams and information about the proposed new waste plant just off the M5 be included as part of the annual report.

RESOLVED

That the update from the external auditor be noted.

Councillor RJ Phillips left the meeting at 15:53.

The meeting adjourned at 15:53 and re-commenced at 16:00

294. ANNUAL GOVERNANCE STATEMENT 2017/18

The head of corporate governance presented the report and highlighted:

- The annual governance statement was a statutory requirement.
- The code of corporate governance which had been approved in May 2017 complied with the requirements of CIPFA guidance and the recent review of constitution had not highlighted any issues.
- Assurance statements from managers and statutory officers had been introduced and were part of the background papers to the report.
- The statement was primarily based on the arrangements for 2017/18 and sets out how the effectiveness had been reviewed.
- Areas of improvement identified and the actions identified.

The following points were raised in connection with the statement:

- Principle A (Behaving with integrity, demonstrating strong commitment to ethical values and respect the rule of law) – it was noted that further on the agenda there was a proposal to continue to withhold the names of councillors who are found to be in breach of the code of conduct.
- Principle B (ensuring openness and comprehensive stakeholder engagement) – it was noted that consultation does take place but appeared view was expressed that consultees views were not sufficiently taken into account by the executive and that objective advice was not always given.
- There appeared to be little investment in training. If the council was to become a commissioning organisation, then skilled commissioners and expert legal advice and contract monitoring would be required. It was confirmed that training plans were being put in place for members and officers.
- Principle F (managing risks and performance through robust internal control and strong public financial management) – it was acknowledged that work had been undertaken on the corporate risk register but that members would like to see directorate risk registers. It was confirmed that if members wished to see the directorate risk registers, then they may request sight of them.
- Principle F – with regard to GDPR and councillors, it was confirmed that a briefing note would be going out to all councillors in relation to GDPR and data protection. The information governance team would also be offering to attend group meetings in order to discuss the issue.
- There was mention with regard to the council responsibilities in connection with the NMiTE funding, but no mention of the development partnership. It was confirmed that once the contract with Keepmoat had been signed, any governance risks would form part of the annual governance statement. The 2017/18 annual governance statement would be updated as necessary if the contract was signed by July 2018.

A vote was undertaken in relation to accepting the annual statement

In favour of accepting:	3 (chairman's casting vote was used)
In favour of rejecting:	2

RESOLVED

That the draft annual governance statement be approved for publication with the draft statement of accounts 2017/18.

295. 2018 CONSTITUTION REVIEW

The chairman of the committee presented the report and highlighted that at the final meeting, the members of the working group had agreed the proposed changes without any dissenting voices.

A member of the working group and committee noted that they had not been able to be present at the meeting and they would not have agreed with some of the proposed amendments to the constitution. The concerns raised were:

- Elected members should declare membership of any body or organisation listed in schedule 2 rather than being a position of management or control of those organisations. The current wording was not understood by members of the public and did not cover how “closed” organisations operated. Elected members should be transparent on this point.
- The continuing absence of the publication of monitoring officer resolutions when members were in breach of the code of conduct. It was confirmed that group leaders were informed as a matter of practice where unitary councillors were in breach of the code of conduct but that this was not specified in the arrangements for dealing with code of conduct complaints. It was agreed that this would be clarified under the monitoring officer resolutions section of the arrangements document.

At the request of a member of the committee, it was agreed that:

- in relation to the appointment of a director of public health, there was cross-referencing at 4.9.19 to make it clear that the shortlisting for this post was joint with the secretary of state.
- A sentence deletion be undone on page 1 of the arrangements for dealing with standards complaints in relation to the process being confidential.

A member of the committee proposed an amendment on the councillors’ code of conduct (Part 5, Section 2) at paragraph 5.2.14, Schedule 2 Interests (first box) so that it reads “any body of which the member is a member (this does not include where the member is appointed or nominated by council)”: The chairman made it clear that he would oppose any proposal which would substantively change the agreed recommendations of the cross party working group and requested a vote.

A vote was conducted as follows:

In favour of the amendment: 2

Against the amendment: 3 (chairman’s casting vote was used)

Following a query from a member of the committee, it was confirmed that where there were recommended actions in relation to monitoring officer resolutions, this would form part of the annual report on code of conduct complaints.

A member of the committee proposed an amendment so that elected Members names were published if they were found to be in breach of the code of conduct under monitoring officer resolution.

A vote was conducted as follows:

In favour of the amendment: 2

Against the amendment: 3 (chairman's casting vote was used)

A named vote was conducted in relation to each recommendation in the report:

- a) having regard to the work undertaken by the constitution working group, the revised constitution as set out at appendices 2 to 9, be recommended to full Council for adoption, with implementation with effect from annual council in May 2018;

For: Councillors Newman; Stone
Against: Councillors Harvey; Powers
Chairman's casting vote used

- (b) authority be delegated to the solicitor to the council to make technical amendments (grammatical, formatting, and consistency) necessary to finalise the revised constitution;

For: Councillors Harvey, Powers, Stone, Newman
Against: None

- (c) the revised whistleblowing policy at appendix 11 be adopted with immediate effect;

For: Councillors Harvey; Powers; Stone; Newman
Against: None

- (d) the revised standards complaint procedure is adopted with implementation to take effect on new complaints received from annual council in May 2018.

For: Councillors Stone; Newman
Against: Councillors Harvey; Powers
Chairman's casting vote used

The working group were thanked for their work.

RESOLVED

That

- (a) having regard to the work undertaken by the constitution working group, the revised constitution as set out at appendices 2 to 9, be recommended to full Council for adoption, with implementation with effect from annual council in May 2018;**
- (b) authority be delegated to the solicitor to the council to make technical amendments (grammatical, formatting, and consistency) necessary to finalise the revised constitution;**
- (c) the revised whistleblowing policy at appendix 11 be adopted with immediate effect; and**
- (d) the revised standards complaint procedure is adopted with implementation to take effect on new complaints received from annual council in May 2018.**

296. WORK PROGRAMME UPDATE

The committee's updated work programme was presented. It was agreed that a report on Hoople would be added to the July agenda. .

RESOLVED

That subject to the amendment noted, the work programme be agreed.

The meeting ended at 5.01 pm

Chairman

APPENDIX 1

**PUBLIC QUESTIONS AND ANSWERS TO
AUDIT AND GOVERNANCE COMMITTEE
8 MAY 2018**

Question 1

Mr R Stow, Rowleston

Appendix 1 "Working Document" states that Councillors voted 5 to 4 to recommend that Councillors should not be named when they have been found by "monitoring officer resolution" to have breached the Code of Conduct. The likely public perception will be "Councillors vote to cover up misconduct".

How is this secrecy regarding conduct complaints which are upheld compatible with the Nolan principles of openness and accountability?

Answer

The constitution review working group considered the matter of the code of conduct in considerable detail and the recommendations for changes to the constitution as set out in appendix 1 were agreed by all members of the working group present at its final meeting. The working group has been assured that its proposals are compliant with the Nolan principles of openness and accountability.

Supplementary Question

In the interest of promoting accountability, who were the five Councillors who voted for secrecy, and who were the four Councillors who voted for openness?

Answer

We have no record of that. Thank you for your observations. We are always very grateful for considered advice and guidance of an independent person but ultimately it is for elected members to set and agree the judgements and balances, subject of course to complying with the relevant statutes and regulations.

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