

Minutes of the meeting of Audit and governance committee held at Committee Room 1, Shire Hall, St. Peter's Square, Hereford, HR1 2HX on Wednesday 19 September 2018 at 2.00 pm

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

Councillors: E Chowns, EPJ Harvey, RJ Phillips, DB Wilcox and SD Williams

Officers: Richard Ball, John Coleman, Kate Coughtrie, Jacqui Gooding (SWAP), Kevin Lloyd, Andrew Lovegrove, Nick Mather (Hoople Limited), Alistair Neill, Zoe Thomas (Grant Thornton), Claire Ward,

312. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor J Stone and Councillor CR Butler.

313. NAMED SUBSTITUTES (IF ANY)

In accordance with paragraph 4.7.171 of the council's constitution, Councillor DB Wilcox and SD Williams attended the meeting as substitute members for Councillors J Stone and CR Butler.

314. DECLARATIONS OF INTEREST

There were no declarations of interest.

315. MINUTES

It was agreed that minute 298 be amended to show that Councillor FM Norman had acted as a substitute for Councillor EE Chowns.

RESOLVED:

That subject to the above amendment, the minutes of the meeting held on 30 July 2018 be confirmed as a correct record and signed by the chairman.

316. QUESTIONS FROM MEMBERS OF THE PUBLIC

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

317. QUESTIONS FROM COUNCILLORS

There were no questions from councillors.

318. ANNUAL EXTERNAL AUDIT LETTER - 2017/18

The chairman used his discretion to move the external audit progress report to the first item.

Following a query from a member of the committee, Grant Thornton stated that under the Local Audit and Accountability Act 2014, details of the outstanding issue cannot be disclosed. It was confirmed that this is the third year that the certificate remained opened. The S151 officer who is the council officer with responsibility for this issue, indicated that it was complicated and that there was a reliance on other parties and agencies. The S151 officer was not in a position to give an end date but that it may be completed by the end of this financial year but there was no guarantee. The committee stressed that this issue should be concluded as soon as possible and preferably within this financial year.

It was noted that the certificates would be issued as soon as the matter had been resolved.

It was proposed that the S151 officer report back as part of one of the standard items and then the committee would have the option to escalate as a matter of urgency. A named vote was undertaken as follows:

For: 4 (Councillors DB Wilcox, SD Williams, RJ Phillips, PD Newman, OBE)
Against: 3 (Councillors EPJ Harvey, EE Chowns, ACR Chappell)
Abstentions: 0

The proposal was carried.

Following a query from a member of the committee, the S151 officer confirmed that the council's website had been updated to reflect that the audit certificate had not been issued by Grant Thornton and agreed to circulate a link to all committee members to the relevant section of the website.

In response to a query from a member of the committee, Grant Thornton confirmed that capital was a significant component of the audit. This formed part of the audit plan which was presented to the committee on an annual basis.

RESOLVED

That the report be noted.

319. PROGRESS REPORT ON 2018/19 INTERNAL AUDIT PLAN

The chairman used his discretion to move the progress report on 2018/19 internal audit plan to the second item.

The progress report on the 2018/19 internal audit plan was presented and the following was highlighted:

- nine audits had been completed.
- six audits were in progress.
- two audits had been deferred to quarter 4.

- two audits were assessed as partial assurance.
- there were no significant corporate risks identified and target dates had been set for the implementation of actions. An update on the actions would be presented as part of the six monthly internal audit action tracking report.

Following queries from members of the committee, it was confirmed:

- that in relation to the schools' audits, this related to 3 primary schools and 1 secondary. Officers were aware of the identity of the schools.
- a themed report was produced for the schools audits which was then circulated to all Herefordshire schools.
- all the university recommendations had an assigned lead officer.
- The audits had been cross-referenced to the risk register.

It was noted that the council was the accountable body for the DfE funding so care needed to be taken in connection with the roles of the organisations. The council was not responsible for running the university but that assurance was sought. The SWAP audit had found weaknesses and there was regular engagement with the university. The university had its own internal and external auditors but the council will continue to use SWAP to obtain assurance. It was further noted that all the university policies were in existence at the time of the audit but were in draft form for approval so all policies should now be finalised.

RESOLVED

That the report be noted.

320. CAPITAL PROJECT MANAGEMENT AND CONTROL INTERNAL AUDIT UPDATE – CLOSURE REPORT

The S151 officer and chief executive presented the report.

The committee expressed their concern and disappointment with the lack of progress as only 2 of the 13 recommendations from the original SWAP audit in 2017 had been completed.

The chief executive explained that as soon as the issue of the overspend had been raised, a SWAP special investigation had been requested, an internal control improvement board had been established, a Local Government Association (LGA) corporate peer challenge had been arranged. It was felt that this was the greatest scale of response. The failures in the system had been identified and that the approach was to move the solutions forward.

The committee appreciated that work was being undertaken to progress the recommendations, however there was a lack of progress on 11 out of 13 and this was concerning to the committee. The following points were used as examples:

- Agreeing to compensation events without the necessary paperwork being completed.

- The chief executive providing only verbal agreement for the project control system to go live with no formal record this action.
- The testers of the project control system only being undertaken by directorate business users in recent months and that before this it had been done by the designer and the builder of the software.

With regard to the project management system, it was noted that there was a project management plan in place. The project management system had been developed and more than 50 projects had been loaded onto the system. There had been some glitches in the system so the roll out was currently paused to ensure that the right system was being implemented.

The chief executive assured the committee that this was an area which had the full attention of the senior management team to ensure that there was an effective and strong project management system in place.

A member of the committee reiterated the disappointment with the report and asked what reassurance could the committee give members of the public that the systems and processes are in place. The issue was that there was a culture of being able to ignore rules and the committee needed the confidence to be able to say that there are proper processes in place to prevent this from re-occurring in the future.

It was agreed that SWAP would re-audit against the original recommendations and report back to the committee. The S151 officer indicated that the actions should be completed by the end of the calendar year. It was agreed that the full re-audit report would form part of the regular SWAP report and would not be a summary of the audit findings. The S151 officer and SWAP to liaise as to ensure that the re-audit is prioritised in the work plan for early in quarter 4.

The committee requested the following:

- more detail when a recommendation was marked in progress as to level of progress being made.
- assurance that the gaps on page 34 of the agenda pack had been addressed and there are no longer gaps

RESOLVED

That the members working group is stood down and that this item is reverted to the full committee's attention and a report brought to a committee meeting at the earliest opportunity.

The business intelligence officer presented the report and highlighted the following:

- 6 new risks added since the last time the committee had received the register
- The directorate risk registers had been reviewed in line with the performance, risk and opportunity management (PROM) framework.

The following queries were raised and the business intelligence office offered to raise them with the identified leads.

- IT platforms – was the organisational risk being properly reflected in the mitigated column?
- The mitigated / unmitigated risks in connection with Integration (One Herefordshire) – assurance that there is robustness that it is a 9 after controls.
- Good decision making – given that culture and learning is a continuing issue whether the score of 2 is robust. The solicitor to the council as the risk owner explained that it was a 2 due to the implementation of the new constitution and the use of mod.gov for report writer. However, it was agreed that this score would be reviewed in light of the comments made.
- System resilience and urgent care - an explanation of why this risk had been removed from the corporate risk register. The committee also requested that as a general principle where risks were being removed from the corporate risk register that an explanation be provided as part of the report.
- Development regeneration programme – an explanation of why overall this was a 6 given that this was the biggest item in the capital programme
- Capital programme – an explanation of the scoring in connection with this risk.
- NMITE University – an explanation of the phrasing used.

In response to a request from a member of the committee, the business intelligence officer agreed to look at providing a scoring matrix approach to assist with understanding the registers.

The S151 officer confirmed that there was a relationship between the risk register and the budget. The budget holder manages the risks but if it changes or cannot be controlled then there is the opportunity to address the issue through reserves which would be via a report to cabinet and then council. It was also noted that finance officers also have links to the risks via directorate management team meetings and management board.

The business intelligence officer confirmed that the risk of ineffective communication with residents was an existing risk on a service register.

The business intelligence officer agreed to check whether the risk of failing to implement the code of conduct was on a risk register.

It was noted that there was an opportunity via the council's website to make identify risks which should be considered. Any potential risks which were identified by a member of the public or members were sent to the relevant service area for consideration.

It was agreed that the corporate and directorate risk registers would be reviewed by the committee on a six monthly basis rather than a quarterly basis.

RESOLVED

That the report be noted.

322. COMMUNITY GOVERNANCE REVIEWS.

The democratic services manager presented the report.

The committee thanked the democratic services manager for the work undertaken

RESOLVED

That

- A. It be recommended to Council that the solicitor to the council be authorised to make orders to give effect to the following with changes taking effect from 1st April 2019 ('the effective date'):**
 - I. That the parish boundary between the Bishopstone group parish and the Stretton Sugwas parish be moved between Stoney Street and Credenhill ward to enable the following properties (Bradworthy; Pear Tree Cottage; Elandwin; the Bounds; Longhope; Old Weir Farm Cottages; Sugwas Pool Cottage; Miramar; Anchorage; Heathmere, and St. Margarets Bunglallow) to be moved from the Bishopstone district group parish to Stretton Sugwas parish, and that this proposal does not require other changes to the existing governance arrangements for the parishes affected;**
 - II. That consequent upon this change being made that the Council recommend to the Local Government Boundary Commission for England (LGBCE) that the boundaries of the Stoney Street and Credenhill ward be changed to ensure coterminosity with the new parish boundary;**
 - III. The number of seats on Brockhampton group parish be reduced from 15 to 10 to better reflect the number of electors; the ratio of parish council seats will be 5 for the Linton Parish group member (a reduction of 1 seat); 4 for the Norton parish group member (a reduction of 2 seats) and 1 for the Brockhampton parish group member (a reduction of 2 seats), and that the electoral arrangements will remain unchanged in all other respects.**

- IV. The existing parish councils of Kilpeck, Kenderchurch, St. Devereux, Treville and Wormbridge that make up the existing Kilpeck group parish council shall all be dissolved; the existing parishes of Kilpeck, Kenderchurch, St. Devereux, Treville and Wormbridge that make up the existing Kilpeck group parish council shall all be abolished; and to form a new parish as shown on the map in appendix C and that the new parish shall be represented by a Parish Council;); the name of that new parish council shall be 'Kilpeck Parish Council, and that the electoral arrangements will remain unchanged in all other respects**
- V. The number of seats on Peterchurch parish council be increased from 8 to 9 to accommodate current and future population growth, and that the electoral arrangements will remain unchanged in all other respects**
- VI. That the parish boundary in the Moreton on Lugg parish and the parish of Wellington be moved between Queenswood and Sutton Walls to enable two properties, namely Aylus Cottages, to move from the parish of Moreton on Lugg into the parish of Wellington (Marked A on the map contained in Appendix E and G) and that this proposal does not require other changes to the existing governance arrangements for the parishes affected;**
- VII. That consequent upon this change being made that the Council recommend to the Local Government Boundary Commission for England (LGBCE) that the boundaries of the Queenswood and Sutton Walls ward be changed to ensure cot6erminosity with the new parish boundary;**
- VIII. The parish boundary between Wellington and Hope Under Dinmore is adjusted to enable three properties, namely the Old Fruit Farm, Bathfield and Queens Wood House to move from their current parish, Wellington, into the parish of Hope Under Dinmore (Marked B on the map contained in Appendix G); and that this proposal does not require other changes to the existing governance arrangements for the parishes affected;**
- IX. No changes be made to the Bredenbury district group parish council; and**
- X. No changes be made to Longtown group parish council.**
- B. That the solicitor to the council be authorised to draft the orders for council consideration, as per the above recommendations.**

323. ENERGY FROM WASTE LOAN UPDATE

The S151 officer presented the report and confirmed that the loan was performing as it should.

RESOLVED

That the report be noted.

324. GOVERNANCE ARRANGEMENTS FOR HOOPLE

The solicitor to the council presented the report and explained that the Acting Director, Economy and Place and board member of Hoople and the Chief Operating Officer of Hoople were present to answer any queries members may have.

Following a question from a member of the committee, it was explained that the board consisted of a council officer, a Member of Herefordshire Council and a representative of Wye Valley NHS Trust. Due to the small size of the board, a decision had been taken that it would be difficult to have a sub committees. As a result of this, the board schedules its meetings to ensure that all issues are discussed which included risk and audit.

It was agreed that as Hoople were now included as part of the group accounts of council that the committee would receive an annual report on Hoople as part of the annual governance statement.

With regard to the Teckal status of Hoople, it was explained that this was important to the company as it enables trading with public sector organisations. If Hoople lost its Teckal status then the council would need to procure its back office functions. It was noted that 84% of Hoople's income was derived from the two majority shareholders (Herefordshire Council and Wye Valley NHS Trust).

RESOLVED

That the report be noted.

325. WORK PROGRAMME UPDATE

Since the July meeting, it was noted that the contract procedure rules and finance procedure rules had been deferred to the November meeting at the request of the report writer and with the approval of the chairperson.

A member of the committee requested that the independent person be invited to the November meeting to answer any queries in connection with the annual code of conduct report.

It was agreed that the tracking of the external audit recommendations would be included within the six monthly report on the internal tracking of internal audit actions. This was to provide assurance that the recommendations were being progressed.

RESOLVED

That subject to the above, the work programme be agreed.

326. INDEPENDENT PERSON FOR STANDARDS

Before the discussion commenced, chairperson indicated that the committee should be able to deal with this item without making references to the personal information provided to the committee. However, if the personal information was discussed, then the committee would need to move into closed session.

Councillors DB Wilcox and RJ Phillips indicated that they knew the applicants but that there was no need to make a declaration of interest as there was no close personal association.

The monitoring officer presented the report and highlighted.

- There was currently only one independent person.
- Three applications had been received and interviews had taken place.
- The committee was being asked to make a decision as to any recommendation to Council on 12 October 2018.
- One expression of interest had been received from the Worcestershire pool of independent persons.

A member of committee expressed a view that by not accepting the applicants that it may be perceived to be unfair and that they would be proposing that all three were offered the role of independent person.

The committee members who formed part of the interview panel expressed the following concerns:

- The vacancies had only been advertised digitally. The vacancies should have been advertised in The Hereford Times, Ross Gazette, the Worcester Evening News as it was felt that there were individuals who would be interested but did not see the advertisement.
- That a member of the committee would be recommending acceptance based on the exempt information provided. The view of the interview panel had been reached after careful consideration and refuted that there had been any unfairness. The panel members did individually score each applicant but had not proceeded to consider rankings and criteria for making recommendations after the interviews due to the concern about the advertising.
- The applicants had not come forward as a direct result of the advertisement but had come forward due to awareness of the vacancy raised by a member of the council.
- The scoring of the individuals indicated that there had been none of them had scored the maximum points. The applicants appeared not to have undertaken much research into the role of the independent person and the requirements of the Localism Act 2011.

The following views were expressed by members of the committee:

- Individuals have a right to be judged on their attributes and not background.
- They were grateful for volunteers for the role but on this recruitment the scores were not overwhelmingly positive. There was no information about thresholds for selection contained within the report and without that criteria it would not be possible to make a recommendation.
- The role should continue to be advertised as Herefordshire deserved good independent persons.
- Joining the Worcestershire pool of independent persons would not be fair to Herefordshire residents as the pool was not local.
- It was unfortunate that there were a lack of people in Herefordshire volunteering for the role.

The solicitor to the council confirmed that the vacancy had been advertised but that the panel felt that the manner in which it had been advertised was deficient.

It was agreed that there would be no recommendation to Council on 12 October and that the role would be re-advertised so that a wider pool could be considered. The three interviewed applicants would remain undetermined and would receive favourable consideration when recommendations are considered.

It was requested that a report come back to the committee in November 2018.

RESOLVED

That the report be noted.

The meeting ended at 5.49 pm

Chairman

APPENDIX 1

**PUBLIC QUESTIONS AND ANSWERS TO
AUDIT AND GOVERNANCE COMMITTEE
19 SEPTEMBER 2018**

Question 1

Mr R Stow, Rowleston

Herefordshire Council has a duty in s 27(1) of the Localism Act 2011 to “promote and maintain high standards of conduct by members and co-opted members of the authority”.

This statutory duty, the Nolan Principle of accountability, and the need to maintain public trust in councillors and local democracy, mean that sanctions properly imposed on a Councillor who has breached the code of conduct must be promptly enforced.

Herefordshire Council’s failure to enforce such sanctions will create public cynicism and distrust in the Council, and the perception that Herefordshire Councillors are completely unaccountable for their actions and behaviour.

Why has Herefordshire Council ignored repeated advice from their Independent Person for ten months, and failed to take any action to promptly enforce sanctions imposed on Councillors for proven misconduct?

Response

The council does not currently have any monitoring officer recommendations that have not been complied with.

Question 2

Mrs E Morawiecka, Breinton

At both the General Scrutiny and the Cabinet meetings on the Hereford Transport package, the only experts available to respond to questions and provide further information on the matter were employees of WSP and Balfour Beatty, none of whom had to declare any interests to these committees.

Both WSP & Balfour Beatty stood to gain additional contracts for at least a further £2.54million of work on the development of the Hereford “bypass” if a new route was to be selected, rather than be deferred or rejected.

Would the audit and governance committee please explain why there are no rules requiring declarations of interests, particularly pecuniary interests, for experts invited by the Council to speak at any council committees?

Response

The legal and constitutional requirements for declarations of interest at meetings do not apply to external attendees attending either to ask a question or to answer technical queries raised by the decision-makers.

The council has established contract procedure rules to set clear rules for the purchase of works, goods, services, consultancy, grants and concessions for the council and which are intended to promote good purchasing practice, public accountability and to deter bribery and corruption, in which the probity and transparency of the council's procurement process will be beyond reproach or challenge. The Audit and Governance Committee maintains an overview of the effectiveness of these procedure rules to ensure their continued effectiveness.

Supplementary Question

One of the recommendations agreed at Cabinet on 27 June in connection with the Hereford transport package was that the director for economy, communities and corporate be authorised to take all necessary steps to progress detailed design and, consultation including commissioning external professional advisers as required to inform future decisions on the Hereford transport package to a maximum cost of £2.45m. To ensure that any evidence given at the cabinet and scrutiny meetings was unbiased and completely independent, would the audit and governance committee confirm that the two companies, WPS and BB, who provided expert witnesses did not stand to gain directly from any contracts that formed part of the extra £2.45m spend approved by the cabinet and that any works described in the recommendation have subsequently gone out for competitive tender?

Answer

In accordance with the principles of good decision-making within the constitution, Cabinet decision making must pay regard to the professional advice from the council's officers. On certain highly specialised areas it is usual for officers to seek additional professional advice from consultants. The council's procurement and contractual terms ensure that contractors uphold the standards expected of those in public service. The information presented by BBLP and their consultants WSP at the cabinet meeting on 27 July was an unbiased presentation of the results of a technical assessment of possible bypass routes. Our contractors undertook this assessment in accordance with national guidance and standards and they provided an unbiased account of the work done, the recommended route and the reasons for this to both scrutiny and cabinet meetings. They also presented the feedback from the consultation earlier this year. This work concluded a preferred route and the basis for this recommendation was presented to cabinet and scrutiny in public meetings and the information presented is available on the council's website.

The £2.45m budget approved by cabinet is to develop the detailed design of this red route for further consultation and consideration by cabinet following consultation. In accordance with the council's contracts procedure rules, this design work will be commissioned through the public realm service delivery contract which was awarded to BBLP in 2013 following a competitive tendering process. The terms of that contract provide pricing mechanisms that drive continuous improvement, and through this and our robust contract management activity, we seek to ensure that sums payable continue to represent value for money when compared to the market.