

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 28 November 2018 at 2.00 pm

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

Councillors: E Chowns, EPJ Harvey, AW Johnson and J Stone

Officers: Andrew Lovegrove, Anthony Sawyer, Natalia Silver and Claire Ward

327. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor RJ Phillips and Councillor CR Butler.

328. NAMED SUBSTITUTES (IF ANY)

Councillor AW Johnson substituted for Councillor RJ Phillips.

329. DECLARATIONS OF INTEREST

There were no declarations of interests.

Councillor AW Johnson stated that he was mentioned in item 7 and the monitoring officer confirmed that it was not a schedule 1, schedule 2 or other interest.

330. MINUTES (Pages 9 - 12)

Following a request for clarification, the monitoring officer agreed to look at the minute taking standard and check that the naming of councillors under the independent person recruitment item was consistent with the standard.

It was agreed that the word "favourable" in the minute in connection with the recruitment of independent persons would be replaced by "equal".

Councillor EJP Harvey requested that her view that the minutes were not accurate be recorded.

RESOLVED

That subject to the above amendment, the minutes of the meeting held on 19 September 2018 be confirmed as a correct record and signed by the chairperson.

331. QUESTIONS FROM MEMBERS OF THE PUBLIC

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

332. QUESTIONS FROM COUNCILLORS

There were no questions from members.

333. ANNUAL REPORT ON CODE OF CONDUCT

The monitoring officer presented the report and explained that Mr Richard Stow, Independent Person, and Councillor Richard Gething, nominated HALC representative on the Standards Panel were available to assist the committee with any queries they may have.

Following a query from a member of the committee, the monitoring officer explained that she had granted two dispensations to one member of the council upon a written request. The councillor concerned was Councillor TL Bowes and both dispensations were in relation to the committee meetings held in respect of the by-pass. Councillor Bowes has a Schedule 1 as she has land affected as a result of the identified red route for the by-pass. Details of the dispensation appeared in the minutes of the relevant meetings. In both incidents, Councillor Bowes did not attend the meeting but did provide a written statement which represented the views of her ward.

The independent person expressed concern the monitoring officer was making these decisions as it was allowing a councillor to opt out of the code of conduct which was a serious matter. In his view the decisions should be a matter for the committee as an agenda item in order to be open and transparent.

The monitoring officer explained that there were four types of dispensation under the Localism Act 2011. The audit and governance committee had delegation for two and the monitoring officer had delegation for the following two:

- considers that granting the dispensation is in the interests of persons living in the authority's area,
- if it is an authority to which Part 1A of the Local Government Act 2000 applies and is operating executive arrangements, considers that without the dispensation each member of the authority's executive would be prohibited by section 31(4) from participating in any particular business to be transacted by the authority's executive

The monitoring officer confirmed that no requests for dispensations under the second bulletin point had been received.

A member of the committee outlined the process used for reviewing the constitution and that this issue could be dealt with at that point. The next review is due to take place in 2020.

A member of the committee thanked the independent person for his work.

It was requested that the details of the number of complaints against parish councils be re-included in the next report. The monitoring officer read out the details:

Parish Council	Number of complaints by parish council
Walford Parish Council	9
Marden Parish Council	8
Cradley Parish Council	6
Border Group Parish Council	5

Ledbury Town Council	4
Leominster Town Council	3
Belmont Rural Parish Council	2
Llangarron Parish Council	2
Almeley Parish Council	1
Bartestree with Lugwardine Parish Council	1
Dinedor Parish Council	1
Garway Parish Council	1
Hereford City Council	1
How Caple, Sollers Hope and Yatton Parish Council	1
Ocle Pychard Group Parish Council	1
Pencombe and Little Cowerne	1
Sutton St Nicholas	1
Tarrington Parish Council	1

As part of future reports, it was requested that:

- the data presentation was in charts
- the dates of monitoring officer resolution and compliance were also added.

Following a query from a member of the committee, it was noted that standards decision notices were published in two places on the Herefordshire Council website, one under Get Involved for monitoring officer resolution and the other under the Standards Panel Committee page. It was agreed that there would be a link from the Get Involved section to the committee page.

A member of the committee expressed the following concerns over the standards panel appeal processes contained at appendix 1 and 2:

- They had been constructed without the same oversight as the rest of the arrangements for dealing with code of conduct complaints.
- That there was some inherent unfairness which was out of omission and not commission.
- The hearing of one appeal in public and one in private.
- That the sampling had been undertaken in private without an attempt to see if it could have been held in public.

A discussion on the most appropriate way to review the processes took place as one member of the committee considered that it should be in full committee and others through a member-officer working group. It was agreed that a small working group would be established to look at the appeals processes. It was also agreed that the independent person and the HALC nominated representative would also be invited. The insights of the chairperson for the standards panels held on 16 October would also be useful.

Following a query from a member of the committee, the monitoring officer explained that she had run two code of conduct sessions with the Society for Local Council Clerks (SLCC) and if invited is happy to discuss the code of conduct with parish or town councils.

The monitoring officer agreed to look at making code of conduct information more visible on the council's website and would also send it out to all Herefordshire Council members via ward member update and to all parish councils.

It was noted that there were very few sanctions available but that publishing details of breaches of the code was the best available at the moment.

A member of the committee requested that more detail be provided on the Standards Panel decision notice.

It was noted that if there was a failure to comply with the recommendation contained with the decision notice that this would lead to another code of conduct complaint. It was recognised that as a principal authority, Herefordshire could only make recommendations to a parish council and that compliance would be that the parish council had considered them. The monitoring officer confirmed that all recommendations are monitored but agreed that this could be more explicit within the arrangements for dealing with standards complaints. It was agreed that it would be made more explicit that non-compliance would mean a referral to the Standards Panel.

Following a query from a member of the committee, it was confirmed that the standards panel held on 13 November 2018 which undertook the sampling did consider whether the process had been followed and whether the decision was correct. It was noted that the standards panel held on 13 November 2018 had made recommendations to the audit and governance committee.

A member of the committee noted that the group leaders' protocol had not been signed up to by the current group leaders. As this protocol sat outside of the standards arrangements and constitution because it was a political document, it would be a matter for group leaders to consider. It was agreed to refer this to group leaders.

Following a query from a member of the committee, the monitoring officer confirmed that she would see it as part of her role to offer code of conduct training, irrespective of what was offered by the HALC.

RESOLVED

That:

(a) the annual report on code of conduct complaints had been reviewed and a working group established to review the standards panel appeal processes; and

(b) the recommendations from the standards panel advising this committee, following their annual sampling exercise, are adopted.

334. ANNUAL REVIEW OF THE COUNCIL'S INFORMATION ACCESS AND INFORMATION GOVERNANCE REQUIREMENTS

The customer services, information and records manager presented the report and highlighted:

- There were increasing numbers of requests.
- There had been additional work in preparation for GDPR which had included staff training.

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

- RIPA requests have to be made to the Magistrates Court but that in future the report would say if requests had been granted.
- There were low numbers of community trigger events.

- The information governance team do provide input into the audit recommendations where appropriate.
- Following a small restructure additional resources were made to address the increase in requests, along with working with directorates to identify information which could be published on the council's website.

RESOLVED

That the report be noted

335. RECRUITMENT OF INDEPENDENT PERSONS PROGRESS UPDATE

The monitoring officer presented the report.

There were seven applicants and the monitoring officer requested agreement as to the next steps.

Following clarification, a member of the committee suggested that all applicants were interviewed.

It was confirmed that:

- Currently there was no remuneration for independent persons, and was advertised on this basis.
- Independent persons were insured and indemnified for any views which they expressed. This indemnification was retrospective to the introduction of the Localism Act 2011.

It was agreed that as part of the next report on the recruitment of independent persons, there would be information on what other councils do with respect to remuneration of independent persons.

It was agreed that all applicants would be interviewed and that the previous candidates would be re-interviewed. The monitoring officer would prepare and circulate draft questions for comments to all committee members and the independent person.

The following members of the committee volunteered to sit on the interview panel:

Councillor ACR Chappell
Councillor EPJ Harvey
Councillor PD Newman, OBE

It was noted that the interview date would be 12 December and that a report would be presented to the January committee meeting.

RESOLVED

That the report be noted

336. PROGRESS REPORT ON 2018/19 INTERNAL AUDIT PLAN

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

- Six audits had been completed.
- Five audits were in draft.
- Two audits had partial assurance and there were priority 2 recommendations, both of which related to the ICT audits.
- There had been two changes to the internal audit plan since the last meeting which were the addition of the further review on the recommendations of Blueschool House and a review of the Section 20 order process which had been requested by Children and Young People Scrutiny Committee. Both these audits would be reported to the March committee.
- In order to accommodate the two additional audits, two audits had been deferred to 2019/20, quarter 1, which were property maintenance (schools) and children's centres.
- Since the publication of the agenda for the meeting, 3 audits were in draft and 8 audits had been completed. Details of these audits would be included in the progress report scheduled for January 2019.
- Two audits had been deferred which were the corporate peer review and effectiveness of programme boards for major system change / projects.

Following a request from a member of the committee, the difference between a follow up and a partial audit was explained. If an audit has a partial finding, then there is a follow up audit to check that the priority findings are being actioned. The actions from an internal audit report are tracked and reported to the committee every six months.

With regard to the priority 2 findings on the ICT audits, the assistant director corporate support confirmed that progress was being made on the actions had now been completed.

Members of the committee expressed concern over the project oversight on the Southern Link Road (SLR) and requested that this be added to the internal audit plan. The chief finance officer explained that the budgets for capital projects were presented to council every year and that the current budget for the SLR is £35m. The next report on capital projects was due to be presented to Council in February 2019. As part of this report there will be a number of packages and there will be a greater level of detail.

The 2010 detailed budget for the SLR which had been submitted to the recent planning inquiry was part of a large amount of data and documents which had been produced for the inquiry and there was a need to ensure that the figures were not taken out of context.

The committee noted that whilst there was no evidence of something going wrong with the project, they required assurance that there was oversight on a major project and that there was no overspend. The issue with Blueschool House had been that officers felt that the project was always going to spend more than authorised but because it was within the overall accommodation strategy they had the authority to proceed. The committee wanted assurance that this would not happen in this case.

A member of the committee suggested that the SLR could be looked at as an opportunity to check the progress of implementing of procedural changes for running projects and whether it was being managed in line with the programme.

The chief finance officer indicated that he would need to discuss with SWAP if relevant as a large amount of information is in the public domain.

The committee recommended that the SLR should as a matter of priority be examined in the context of the Blueschool House recommendations in time for the January report.

RESOLVED

That

- (a) the report be noted; and**
- (b) that the Southern Link Road project should as a matter of priority be examined in the context of the Blueschool House recommendation in time for the January report**

At 16:54, the committee agreed to suspend standing orders and continue the meeting until 5:30 pm

337. 2017/18 ADDITIONAL EXTERNAL AUDIT FEE

The chief finance officer presented the report.

It was noted that the additional fee request should not happen again as there had been learning and solutions had been put in place. The issue was that the council had a low revenue budget which was one of the smallest budgets of all unitary authorities. The council also had a significant amount of assets.

The committee welcomed Gail Turner-Radcliffe, Grant Thornton, as the new audit manager and thanked Zoe Thomas (the outgoing audit manager) for her work.

Grant Thornton confirmed that when invited to do so they would share any knowledge and insight from other councils and share with the committee. Grant Thornton would not seek to influence the debate but would be happy to be brought into any discussions on items on the agenda.

RESOLVED

That an additional fee of £6,686 to Grant Thornton for additional work carried out to complete the 2017/18 statement of accounts external audit be approved.

338. UPDATE TO FINANCIAL PROCEDURE RULES AND CONTRACT PROCEDURE RULES

The chief finance officer presented the report.

It was explained that the financial procedure rules had been revised following the learning from Blueschool House. The previous financial procedure rules did not contain enough detail on how to deal with capital matters. The revised financial procedure rules were now clearer and set out the limits for members of staff.

There was one minor change to the contract procedure rules.

Following queries from a member of the committee the S151 officer confirmed:

- he would clarify where there are blanks in the summary table on page 79 of the agenda pack, if the information is reported elsewhere, e.g. the debt write off, the

deputy S151 officer presents an annual report to cabinet and also provides reports to the government with respect to housing benefit.

- The requirement was for 3 quotes and there was no requirement to use the e-tendering portal for specialist contracts. The reason for this was because not every supplier / provider was on the portal and there was a need to achieve best value for money.
- All the sign-offs are built into the software system which approves spend. It was also confirmed that project sponsor training had commenced and the contract procedure rules and financial procedure rules were covered within the training.

A member of the committee requested that the summary table be set out a little more clearly.

RESOLVED

That

- (a) the financial procedure rules attached at appendix 1 be approved; and**
- (b) the contract procedure rules attached at appendix 3 be approved**

339. WORK PROGRAMME UPDATE

Following a query from a member of the committee, it was confirmed that the update on the delay in signing off the council's accounts would form part of the external auditors annual plan report due at the January 2019 meeting.

RESOLVED

That the work programme be agreed.

The meeting closed at 17:20

The meeting ended at 17:20

Chairman

**PUBLIC QUESTIONS AND ANSWERS TO AUDIT AND GOVERNANCE COMMITTEE
28 November 2018**

Question 1

Ms D Toynbee, Hereford

During the recent public inquiry into the Southern Link Road it was clear that Herefordshire Council has already incurred a significant overspend on this capital project, on professional fees alone. Please explain who has the authority to approve payment of an overspend of over £3 million, against a budget of £780,924 + uplift, on professional fees?

Response

The council's constitution and financial procedure rules do not authorise anyone to approve payments without an approved budget being in place; if expenditure is likely to exceed an approved budget further approval should be secured in advance.

I have sought clarification from the Chief Finance Officer regarding the figures quoted in the question who has confirmed that there is no overspend against the approved budget of £35m for the South Wye Transport Package, and advises that the £780,924 number quoted in this question appears to have been extracted from the Hereford Relief Road Study of Options 2010 report (4.14). This was an estimated cost at that time for preparation and supervision of the southern link road based on a percentage of the estimated construction cost of the road at that time. It should be noted that these costs were based on an indicative road corridor in advance of detailed design of the scheme and to reflect this significant allowances for optimism bias and risk are allowed for in the scheme budget giving an overall estimate for the SLR of £29,729,000 within a budget of £35m for the SWTP as set out in the Strategic Outline Business Case for the scheme. The budget breakdown will be updated and set out in the full final business in due course when submitted to the Department for Transport.

Question 2

Mrs E Morawiecka, Breinton

At the recent public inquiry into the Southern Link Road CPOs/SROs questions were raised about the costs incurred on this capital project. The inquiry was told that of the £4,977,931.67 spent to 31st March 2018, £4,786,544.24 had been spent on professional fees. The budget that is apparently being used by the management team is a 2010 base budget for a capital cost of £19,843,810 from the original Amey Multi modal study for the Hereford Relief Road, uplifted for inflation.

This 2010 budget allowed for £780,924 + uplift for professional fees. Would the Council please explain why the SWAP "Blueschool House" recommendations for capital projects do not appear to have been applied to the Southern Link Road project, particularly those around tracking spend against a robust budget?

Response

The detail of the question is not within the remit of the committee and therefore the S151 officer has been asked to provide a written response to the issue; however the committee has requested further assurance on the implementation of the internal audit recommendations relating to capital project management which will be reported to a future meeting.

Written response

There is a robust approved budget for the SWTP of £35m which has been developed based on the 2014 Strategic Outline Business Case (SOBC) for the scheme. The SOBC sets out an estimated cost of £35m for the SWTP with a budget of £29,729,000 for the SLR.

The SOBC costs for the Southern Link Road are based on costs developed for the road set out in the Hereford Relief Road Study of Options 2010 report (Table 4.14) with an uplift of just under 50% (49.8%) to £29,729,000. This budget for the SLR was based on 2010 costs with an optimism basis added of £5,857,743 and an uplift of £9,885,190 totalling £15,742,933. It is not practicable to compare current design fee to the original £780,924 base value from the 2010 report as the scheme budget set out in the SOBC recognises that this was based on the high level estimated construction costs at the time which would be further developed as the detailed design of the scheme progressed. The combined uplift and optimism basis of £15,742,933 added to the 2010 figures reflected this and was the basis on which the budget of £35m for the SWTP was approved and against which costs are monitored.

Spend and forecast monitoring of projects is regularly undertaken and is set out in project decision reports. This most recent decision report for the SWTP contained a summary of this information and set out the latest forecast to end 2018/2019 and how this will be funded as well as spend to the end of 2017/2018.

Further detail of spend to date and forecast spend will be set out in future project decision reports and in the full final business case which will be submitted to the Department for Transport in 2019.

Supplementary question

The first recommendation of SWAP's final report into Blueschool House is the council should ensure there is a clear audit trail to show how budget figure is derived and what the budget is based on. The twelfth recommendation is that there should be robust budget monitoring and clear changes to a project as it progress so that there is a clear audit trail to support the financial commitment. The report highlighted that not to do so represented a major risk. The 2010 budget with a 42% uplift is the only budget available for the Southern Link Road and was presented as such to the planning inquiry and planning inspector and is the budget against which officers are authorising millions of pounds of public money. At 31 March 2018 professional fees were £3m ahead of budget or based on 613% uplift. if this level of uplift is applied to the full Southern Link transport project cost, the final cost will be £212.75m. At what point does the council review its risk register for individual capital projects have that no budget control and appear to risk the financial viability of Herefordshire Council as a whole. I wonder you have enough time between now and the next meeting before you go bust.

Supplementary Response

A written response will be provided

Written response

Project risk is reviewed regularly during the delivery of individual projects. Spend and forecast monitoring of projects is regularly undertaken and set out in project decision reports to ensure the resource implication of any project decision is clear and auditable. Monitoring of the capital

programme also takes place which demonstrates spend to date and forecast spend against approved capital budgets for the whole programme of capital projects.

A detailed response was provided at the recent Southern Link Road (SLR) public inquiry regarding scheme costs and spend to date. This can be viewed by following the link below:

<http://bailey.persona-pi.com/Public-Inquiries/A4194-Herefordshire/e-aa-during-pi/hc-20.pdf>

This most recent decision report for the SWTP contained a summary of this information and set out the latest forecast to end 2018/2019 and how this will be funded as well as spend to the end of 2017/2018

This report can be viewed by following the link below:

<http://councillors.herefordshire.gov.uk/documents/s50061477/Report%20South%20Wye%20Transport%20Package%20-%20southern%20link%20road%20land%20acquisitions.pdf>

Further detail of spend to date and forecast spend will be set out in future project decision reports and the full final business case which will be submitted to the Department for Transport in 2019.

