

**Minutes of the meeting of Audit and governance committee held at The Council Chamber, The Shire Hall, St. Peter's Square, Hereford, HR1 2HX on Tuesday 30 July 2019 at 10.00 am**

**Present:** Councillor Nigel Shaw (chairperson)

**Councillors:** Dave Boulter, Peter Jinman, Diana Toynbee and Yolande Watson

**Officers:** Andrew Lovegrove, Natalia Silver, Claire Ward and Richard Watson

**368. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor Christy Bolderson and Councillor Bob Matthews.

**369. NAMED SUBSTITUTES (IF ANY)**

Councillor Roger Phillips attended the meeting as a substitute member for Cllr Christy Bolderson..

**370. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**371. MINUTES**

**RESOLVED:**

**That the minutes of the meeting held on 19 March 2019 be confirmed as a correct record and signed by the chairman.**

**372. QUESTIONS FROM MEMBERS OF THE PUBLIC (Pages 9 - 12)**

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

**373. QUESTIONS FROM COUNCILLORS**

There were no questions from councillors.

**374. PROGRESS REPORT ON 2018/19 INTERNAL AUDIT PLAN**

The chairman used his discretion and moved the progress report on the 2018/19 internal audit plan to the first item on the agenda.

The head of internal audit, South West Audit Partnership (SWAP), presented the reported and highlighted the following:

- This was the quarter 4 report for 2018/19.
- SWAP bring four progress reports to the committee each year.

- Details of any partial assurance audits are brought to the attention of the committee.
- Information about the number of completed, in progress and draft audit reports were contained on page 57 of the agenda pack.
- There were no high corporate risks identified.
- There were five priority findings and an overview of these findings were detailed on pages 58-59 of the agenda pack.
- The responsibility for any audit findings in connection with schools sat with the governing body of the relevant school.
- Page 66 of the agenda pack highlighted progress on follow up audits. Follow up audits were carried out where there were partial assurance findings.
- Any changes to the plan were agreed with the chief finance officer

During the discussion of the item, the following points were highlighted:

- Comparative information with regard to the progress in each quarter would be helpful, together with details of how it changes in the financial year. There was also a request for a comparison to previous years to see if there was improvement.
- The number of schools in the sample audit was 4 and a summary report was issued to all schools.
- In connection with the EU General Data Protection Regulations (GDPR) audit, it was acknowledged that there would be continuous improvement. Progress was being made on the recommendations.
- GDPR was a challenge for most councils and a lot of work had been done in order to implement the regulations. Good progress had been made and it was an ongoing process. Herefordshire was not unusual in having actions on-going.

## **RESOLVED**

**(a) performance against the approved plan was reviewed and any areas for improvement identified**

### **375. INTERNAL AUDIT ANNUAL REPORT AND OPINION 2018/19**

The head of internal audit, SWAP, presented the report and highlighted the following:

- the annual opinion was an overall opinion in light of the work undertaken.
- Pages 31 to 33 of the agenda pack set out an assessment of the annual opinion.
- 57 audits had been completed.
- 54% of audits completed were either substantial or reasonable.
- There were no issues of key financial controls.
- There was management acceptance of the findings.
- Details of removed or deferred audits were set out in the report.
- There had been no identified fraud during the year and there had been no fraud investigations in the year.
- There was a good relationship between SWAP and senior management. Senior management approach the team to seek advice on issues which showed an open approach to audits.
- Where there have been findings in connection with governance processes in connection with compliance, management is responsible for ensuring compliance with existing policies / processes in place. The council have recognised that this is an area for improvement.
- Having considered the balance of work, SWAP were able to offer a reasonable assurance.

During the discussion of the item, the following points were highlighted:

- The advisory audits were requested by the chief finance officer and did not have any actions because they were areas where there were already concerns. It was noted that the advisory audits were the ones of most interest for members of the public. It was confirmed that if there were any priority 1 or 2 recommendations from these audits, they would be reported to the committee. The chief finance officer was requested to consider in future including within the report the reasons why he had requested the advisory audits.
- The treasury management audit was advisory and it was to ensure that the controls identified had been put in place.
- That as part of any audit SWAP will ask if there is any additional work which could be undertaken, e.g. benchmarking and the outcome of the benchmarking exercise would be shared with all councils who engage SWAP. It was noted that it would be important that the benchmarking councils would need to be correct to ensure accurate information for Herefordshire.
- It was confirmed that in auditing terms, a reasonable assurance was a good reflection on the council.
- It was confirmed that the annual governance statement provided details of the systems and processes in place which would assist the committee with regard to assurance. The annual governance statement was a live document and did form part of suite of documents used to manage performance within the council. The solicitor to the council and chief finance officer agreed to look at the advice to report writers with regard to cross referencing in reports to other documents.

The advisory audits in connection with NMiTE were discussed by the committee. It was noted that the council had agreed to be the accountable body for NMiTE in connection with the annual Section 31 grant award. This was a government grant and it was normal process for an accountable body to oversee the process and report back to relevant government department with progress reports. It was part of the Section 151 Officer's (chief finance officer) role to check that the money had been spent appropriately. For NMiTE, the S151 officer had chosen to have regular SWAP audits as it was a fast growing organisation. These audits assisted with determining that the money was being spent appropriately and it was noted that the money was not council money. It was further noted that there had been progress by NMiTE but there was still work to do. The S151 officer had regular contact with the Department for Education (DfE) and NMiTE and as it was government grant funding it would be for the DfE to determine how NMiTE act. If there were issues, it would not necessarily be reported to the committee but there would be a notification to the DfE. However, if the issue was significant, then it would be reported to the committee.

**That:**

**The report be noted.**

### **376. EXTERNAL AUDIT FINDINGS REPORT - 2018/19 STATEMENT OF ACCOUNTS**

The chairman of the committee introduced the item by highlighting that a supplement had been published the previous day. The pressure on the external auditors and officers was appreciated but the committee would not like this to be seen as a precedent and requested that the external auditors and officers could consider how this report could be provided in reasonable advance of the meeting in future. In order to give the committee time to read the supplement, the meeting adjourned at 10.53 am and recommenced at 11.23 am.

The external auditors, Grant Thornton, presented the report and indicated that any page numbers referred to would be those in the supplement which had been published the previous day.

Grant Thornton requested that the first paragraph on page 13 of the supplement issued should be disregarded as it was a typographical error. The rest of the references in the audit findings report were accurate. Grant Thornton apologised for the error which had not been picked up as part of their quality assurance process.

Grant Thornton outlined the statutory role of the committee and that the level of reporting was necessary in order to comply with auditing standards.

Grant Thornton reported that they could not certify the completion of the audit. This was for the same reason as the last 2 years. Progress had been made on the issue but it cannot be resolved at this moment in time.

Grant Thornton could not issue the value for money opinion. This related to work which SWAP were undertaking and it was anticipated that this would be resolved by time of the September meeting and a revised audit findings report would be re-issued. It was confirmed that there was no statutory deadline for issuing the value for money opinion.

The materiality basis had changed from council expenditure to asset base which was to resolve the issues with materiality in previous years. Grant Thornton confirmed that there would have been no matters reported under the previous materiality levels so moving the materiality levels had not had an impact on the audit.

In discussion of the item, the following points were raised:

- The de minimis level of accruals had been moved which now meant that the accounts were more accurate;
- The valuation date of assets had moved so that it was closer to end of the financial years. This meant that the estimates at year end were more accurate.
- The council had amended the accounts to take in account the McCloud judgement. The McCloud judgement was in relation to pensions and liability and was as a result of the government losing a legal claim. It was noted that the McCloud judgement was subject to further legal challenge and reviews but nationally auditors had come to the conclusion that the liabilities should be reflected in the statement of accounts. It was noted that Herefordshire was a member of the Worcestershire Pension Scheme and not the Herefordshire and Worcestershire Pension Scheme.
- The Hoople pension issue was now reflected in the statement of accounts. The Hoople pension liability had always been the council's as a guarantee had been given when Hoople had been created. This provided clarity to the Hoople pension position and contribution rates. The liability had previously been reflected in the Hoople accounts.
- The auditors reported everything above triviality. The auditors look at everything above triviality and below materiality and if there are a series of transactions which resulted in a breach of the materiality level, then it is treated as material and reported to the committee.
- On page 26, the committee needed to be comfortable that the unadjusted items were below materiality.
- It was confirmed that there would be a lessons learned exercise in order to resolve the number of presentational issues reported. Every year, CIPFA issue guidance and the objective was to get a set of accounts which was as readable as possible for members of the public.

- It was noted that the waste loan was the council's largest loan under a private financial initiative (PFI) but that the council was also a lender to the arrangement.
- Hoople do have an independent external auditor. As it was a separate entity their auditors reported to their shareholders and would not report to the committee. The chief finance officer agreed to prepare a briefing note which set out the governance relationship for Hoople and why it was outside of the remit of the committee. The briefing note would also include details of the health employees and how their pension liabilities were dealt with.

SWAP and Grant Thornton were thanked for their work over the last financial year.

## **RESOLVED**

**That the report of the external auditor was considered.**

### **377. ANNUAL GOVERNANCE STATEMENT 2018/19**

The chief finance officer presented the report and highlighted:

- The annual governance statement (AGS) was a living document
- This was the final version for 2018/19.
- The draft had been published on the council's website and this version reflected changes since March 2019.
- The opinion on the AGS from the external auditor would be added to the statement now that it had been received.
- The ongoing governance review of health partnership boards did not have a date for completion and this would be communicated to the committee

## **RESOLVED**

**That the annual governance statement 2018/19 be approved.**

### **378. SIGNING OF THE 2018/19 STATEMENT OF ACCOUNTS**

The chief finance officer presented the report and highlighted the following:

The draft accounts had been published on the website for comments. The report attached a final set of statement of accounts, together with the letter of representation for committee approval.

The chief finance officer reported that in 2018/19 there are been a growth in ear marked and general reserves and that there were a number of councils who were not in this position. The committee offered congratulations to the finance team.

It was noted that Herefordshire was a small rural authority with an aging population. The council had made some difficult decisions and were in a more resilient position than other bigger councils.

The chief financial officer reported that the accounts were available on the website for inspection and it may be possible to check the number of "clicks" to find out how many people had viewed the draft statement of accounts. It was noted that these were technical documents and there was an ongoing debate about how to make the accounts more accessible.

## **RESOLVED**

**That:**

**(a) the 2018/19 statement of accounts be approved; and**

**(b) the letter of representation be signed by the chairman of the committee and the chief finance officer.**

**379. 2019/20 EXTERNAL AUDIT FEE**

The chief finance officer presented the report.

It was noted that the council had opted in to the Public Sector Audit Appointments process which had carried out a competitive tender process and Grant Thornton had been appointed as the council's external auditor.

**RESOLVED**

**That the external audit outline timetable and main audit fee of £96k for 2019/20 be approved.**

**380. NMITE ASSURANCE REVIEW**

The chief finance officer presented the report.

The background to the assurance report was that in 2017, DfE had decided to award a £15m grant to NMITE to build the university. The government had felt it appropriate to appoint an accountable body. The money came via a grant under S31 agreements. Just before Christmas 2017, the council had received a presentation from NMITE about how the money would be used and the council made the decision to act as the accountable body. Under S31 monies, there is an annual report back to the relevant government department which sets out how the money had been spent and any issues. The council was not responsible for the money. There had been one or 2 points raised with government and the majority of spend by NMITE had been effective in delivering the milestones in the creation of the new university. It was confirmed that as the accountable body, the council was monitoring that the university was doing what the government had said they wanted to be done.

A member of the committee stated that it fell on NMiTE to be innovative in the work they do with their accounts. Councils are very transparent about finances but that universities were not. NMiTE should be exemplar and that they could be ground breaking.

Following a query from a member of the committee, it was confirmed that the council do receive a £40k management fee for monitoring the milestones.

It was noted that due to the concerns raised in the SWAP letter, the committee were not assured and requested that a progress report come back to the committee meeting scheduled for September 2019. The committee felt that it would be beneficial to have full access to the appendices mentioned in SWAP letter and requested that the solicitor to the council ascertain whether the documents could be made available to the committee. The chief finance officer reported that there was a meeting on Thursday (1 August) for the chair of NMITE, SWAP and Thorne Widgery and clarity will be sought about how reassurance can be gained.

The committee also requested that the relevant scrutiny committee be asked to look at the arrangements for NMiTE to follow up on the report which had been received in 2017.

## **RESOLVED**

**That:**

- (a) Officers write and seek the views of the Department for Education about the recommendations contained within the report from SWAP and seek their guidance and direction about how they would like us to react as an accountable body and how they would like the council to report progress**
- (b) General scrutiny be requested to considering adding a review of the NMiTE partnership arrangements to their work programme**
- (c) The solicitor to the council request the exempt background papers for the committee to view to assist with assurance**

### **381. WORK PROGRAMME UPDATE**

It was agreed that an NMiTE progress update report would be added to the work programme for the September 2019 agenda.

It was noted that for September 2019 there were a large number of items and officers were asked to look at re-working the work programme to balance out items.

It was noted that the annual code of conduct review was due at the July meeting but there were still two complaints open after the year end and there would have been insufficient time for the standards panel to convene to undertake its annual sampling of complaints.

Officers were thanked for the training provided to date and it was hoped that there would be ongoing training for the committee.

Grant Thornton suggested that the committee may wish to participate in and receive a report on the Redfern Review.

## **RESOLVED**

**That in consultation with the chairman of the committee, officers amend the work programme to balance out the agenda items**

The meeting ended at 12.58

**Chairperson**





**PUBLIC QUESTIONS AND ANSWERS TO  
AUDIT AND GOVERNANCE COMMITTEE  
30 JULY 2019**

Question 1

Dr N Geeson, Hereford

In view of the SWAP internal auditors report with concerns on the NMiTE draw down funding, what risk is there that local taxpayers may have to refund money paid by the Department for Education to NMiTE, for which the Council acts as guarantor?

Response

There is no risk that local taxpayers will have to refund any money to the Department of Education because Herefordshire Council has not been asked to act as guarantor by the Department of Education.

Herefordshire Council acts as the accountable body in respect of the Department of Education's grants to NMiTE. Being the accountable body includes reporting to the Department of Education of any concerns that they should be aware of. SWAP have found no concerns in respect of the defrayment of the majority of the Department of Education's grant to NMiTE. There are a number of issues that it is has been deemed appropriate to bring to the attention of the Department of Education that are detailed in the report to the Department of Education.

Question 2

Mr R Stow, Rowlestone

The Government's Committee on Standards in Public Life (CSPL) carried out a comprehensive year-long review of local government ethical standards in 2018, evaluating the new framework introduced by the Localism Act 2011.

I was involved in this review in my role as the "Independent Person" for Herefordshire Council, participating in the CSPL roundtable seminar of monitoring officers, lawyers and independent persons in Birmingham in April 2018, and submitting a written response to the public consultation in May 2018.

The resulting CSPL Report was published on 30th January 2019, but this item was not included on the Audit & Governance agenda for 19th March and it is not on the agenda for 30th July.

When will the Audit & Governance Committee be briefed on the CSPL Report and the Council's compliance with its recommendations?

Response

As stated in the annual governance statement report, the committee will be briefed on the government's committee on standards in public life report and the degree to which the council's processes meet recommended best practice as part of the annual code of conduct

report. This report is scheduled to be discussed at the meeting to be held on 24 September 2019.

### Question 3

Mr Jacqui Tonge, Hereford

The previous administration gave written assurances to the public that over £3million received from the Marches LEP to fund work on the SWTP was a grant and not a loan. The South Herefordshire MP Jesse Norman has recently claimed that over £10million may have to be repaid by Herefordshire Council in respect of road projects related to the 'bypass'. Would the committee confirm that the previous accounts for Herefordshire Council have been correct and that the money from the Marches LEP received in respect of the SWTP is not a loan no repayment will be required under any circumstances?

Response

Payments have been made to the council from the Marches LEP in accordance with the terms of the grant agreement and we do not consider that the clawback clauses would apply.

### Question 4

Mrs J Richards, Hereford

As Hoople Ltd is an arms-length limited company, why has the pension liability been brought back into the liabilities of Herefordshire Council and the local taxpayer?

Response

Herefordshire Council is a majority shareholder in Hoople Ltd, at the creation of Hoople Ltd the council guaranteed the local government pension obligations for council staff that transferred to Hoople Ltd. Following legal advice and conversations with the council's auditors it was agreed that to improve the clarity of this arrangement the pension liability has been included in the total pension liabilities for the Council this is explained in note 21 of the annual accounts.

### Question 6

Mrs E Morawiecka, Breinton

At the last full council meeting a lot was said about declarations of interest to ensure local government is open & transparent. Do the auditors & committee believe it is good governance for private contractors to act as professional advisors speaking at length at council meetings, asking for assurance of new contracts for their cash flow for the next 12 months, recommending the council undertakes further work, etc. without these contractors ever having to declare an interest?

Response

The Council carried out a full open procurement process to appoint a contractor to deliver the council's public realm requirements. The contractor provides a range of services to the council including a range of professional advice. The contractor is paid for these services in accordance with the public realm contract and there is no interest to declare for delivering professional advice.

## Supplementary Question

Thank you for the answer. My question was mainly referring to major capital projects which are not part of the Public Realm Contract to which the answer refers. As it is paragraph 210.1 of the public realm contract with Balfour Beatty Living Places states it is intended that the delivery of major schemes will be dealt with separately from the provision of services and the annual plan will not be required to deal with the delivery of major schemes. In accordance with the public realm contract of 2013, please confirm that the millions of pounds worth of work on the South Wye Transport Package and Hereford Transport Package done to date by Balfour Beatty including speaking on major projects at council meetings was the result of at least one separate competitive tender and as WSP are not a signatory of the public realm contract was there a competitive tender process used to appoint them to undertake work on capital projects and speak at council meetings or was this work done pro bono?

## Response

A written response will be provided within 10 working days

## Written response

The work done to progress the South Wye Transport Package and the Hereford Transport Package to date have not been procured as a result of separate project specific tenders. The services of those design professionals employed by WSP who are speaking on major projects at council meetings, have been procured through the Public Realm Services Contract, which is a contract that has been competitively tendered under EU procurement rules.

The question refers to Clause 210.1 of the Public Realm Services Contract, which states 'It is intended that the delivery of Major Schemes will be dealt with separately from the provision of the Services and the Annual Plan will not be required to deal with the delivery of Major Schemes unless the Provider is providing Services in relation to them.'

'Major Schemes' is a defined term under this contract and this defined term should not be confused with the term 'major projects'. A major project may lead to a Major Scheme but the progress of many major projects, such as the above mentioned transport packages, may involve, for example, design services. Such services have been procured as part of the Public Realm Services Contract and as they ordinarily fall within the scope of that contract, they are not in themselves Major Schemes.

It is the case that WSP are not a signatory to the Public Realm Services Contract, that contract being between Herefordshire Council and Balfour Beatty Living Places Ltd. The contract does allow for subcontracting and where Balfour Beatty Living Places subcontracts any part of the services, they are responsible for provision as if they had not subcontracted. The provision of such sub-contract services to Balfour Beatty Living Places is the subject of a competitive procurement process run by them to establish their subcontract relationship with WSP.

The Public Realm Services Contract is available to view at [https://www.herefordshire.gov.uk/download/downloads/id/1309/public\\_realm\\_services\\_contract\\_2013.pdf](https://www.herefordshire.gov.uk/download/downloads/id/1309/public_realm_services_contract_2013.pdf)

