

Agenda

Audit and governance committee

Date: **Tuesday 24 September 2019**

Time: **10.00 am**

Place: **Council Chamber, Shire Hall, St. Peter's Square,
Hereford, HR1 2HX**

Notes: Please note the time, date and venue of the meeting.

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Agenda for the meeting of the Audit and governance committee

Membership

Chairperson **Councillor Nigel Shaw**
Vice-Chairperson **Councillor Christy Bolderson**

Councillor Dave Boulter
Councillor Peter Jinman
Councillor Bob Matthews
Councillor Diana Toynbee
Councillor Yolande Watson

Agenda

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THE PUBLIC RIGHTS TO INFORMATION AND ATTENDANCE AT MEETINGS		
1.	APOLOGIES FOR ABSENCE To receive apologies for absence.	
2.	NAMED SUBSTITUTES (IF ANY) To receive details of members nominated to attend the meeting in place of a member of the committee.	
3.	DECLARATIONS OF INTEREST To receive declarations of interests in respect of Schedule 1, Schedule 2 or Other Interests from members of the committee in respect of items on the agenda.	
4.	MINUTES To approve and sign the minutes of the meeting held on 30 July 2019.	9 - 20
5.	QUESTIONS FROM MEMBERS OF THE PUBLIC To receive questions from members of the public. <i>Deadline for receipt of questions is 5.00 pm on 18 September 2019 (3 clear working days from date of meeting).</i> <i>Accepted questions and answers will be published as a supplement prior to the meeting.</i>	
6.	QUESTIONS FROM COUNCILLORS To receive any questions from councillors. <i>Deadline for receipt of questions is 5.00 pm on 18 September 2019 (3 clear working days from date of meeting).</i> <i>Accepted questions and answers will be published as a supplement prior to the meeting.</i>	
7.	ANNUAL REPORT ON CODE OF CONDUCT To enable the committee to be assured that high standards of conduct continue to be promoted and maintained. To provide an overview of how the arrangements for dealing with complaints are working together with views from the latest standards panel sampling review.	21 - 54
8.	PROGRESS REPORT ON 2019/20 INTERNAL AUDIT PLAN To update members on the progress of internal audit work and to bring to their attention any key internal control issues arising from work recently completed.	55 - 90
9.	EXTERNAL AUDITORS REPORT To update the committee on the conclusion of the external audit work for 2018/19.	91 - 126

10.	2018/19 ADDITIONAL EXTERNAL AUDIT FEE	127 - 132
	For the committee to note the proposed additional external audit fee charge for work completed during the external audit of the 2018/19 statement of accounts and reaching a value for money conclusion.	
11.	NMITE PROGRESS REPORT	133 - 136
	To provide further assurance on the adequacy of the arrangements in regards of the risk framework on the measures the Council is taking as the accountable body for public money supporting the New Model in Technology & Engineering (NMiTE) and the milestone payments from the Department of Education (DfE).	
12.	ENERGY FROM WASTE (EFW) LOAN UPDATE	137 - 152
13.	WORK PROGRAMME UPDATE	153 - 158
	To provide an update on the work programme for the committee for 2019/20.	

The public's rights to information and attendance at meetings

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- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the council and all committees and sub-committees and written statements of decisions taken by the cabinet or individual cabinet members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
- Access to a public register stating the names, addresses and wards of all councillors with details of the membership of cabinet and of all committees and sub-committees.
- Have a reasonable number of copies of agenda and reports (relating to items to be considered in public) made available to the public attending meetings of the council, cabinet, committees and sub-committees.
- Have access to a list specifying those powers on which the council have delegated decision making to their officers identifying the officers concerned by title.
- Copy any of the documents mentioned above to which you have a right of access, subject to a reasonable charge (20p per sheet subject to a maximum of £5.00 per agenda plus a nominal fee of £1.50 for postage).
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The chairman or an attendee at the meeting must take the signing in sheet so it can be checked when everyone is at the assembly point.

Guide to Audit and Governance Committee

The Audit and Governance Committee is a non executive committee of the council. The committee consists of 7 non executive councillors and may include an independent person who is not a councillor.

Councillor Nigel Shaw (Chairman)	Conservative
Councillor Christy Bolderson (Vice Chairman)	Conservative
Councillor Dave Boulter	It's Our County
Councillor Peter Jinman	Herefordshire Independents
Councillor Bob Matthews	True Independents
Councillor Diana Toynbee	Green
Councillor Yolande Watson	Herefordshire Independents

The purpose of the audit and governance committee is to provide independent assurance on the adequacy of the risk management framework together with the internal control of the financial reporting and annual governance processes. The committee do this by:

- (a) ensuring the effective and fully compliant governance of the council and in particular to ensure that all aspects of the financial affairs of the council are properly and efficiently conducted;
- (b) reviewing and approve the council's annual governance statement, annual statements of account, the contract procedure rules and financial procedure rules;
- (c) scrutinise the effectiveness of, and management compliance with, the systems identified in the annual governance statement framework;
- (d) monitor the progress made by management in implementing improvements to elements of that framework identified by external or internal audit review; and.
- (e) reviewing the constitution and recommending any necessary amendments to Council as appropriate.
- (f) reviewing the corporate risk register

Who attends audit and governance committee meetings?

Coloured nameplates are used which indicate their role at the committee:

Pale pink	Members of the committee, including the chairman and vice chairman.
Orange	Officers of the council – attend to present reports and give technical advice to the committee
Green	External advisors - attend to present reports and give technical advice to the committee
White	Other councillors may also attend as observers but are only entitled to speak at the discretion of the chairman.

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, Roger Phillips, 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 re-commenced 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



Meeting:	Audit and governance committee
Meeting date:	Tuesday 24 September 2019
Title of report:	Annual report on code of conduct
Report by:	Solicitor to the council

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose and summary

To enable the committee to be assured that high standards of conduct continue to be promoted and maintained. To provide an overview of how the arrangements for dealing with complaints are working together with views from the latest standards panel sampling review.

Recommendation(s)

That:

- (a) the annual report on code of conduct complaints be reviewed and any areas for further work be identified for inclusion in the work programme;
- (b) the recommendations from the standards panel advising this committee, following their annual sampling exercise, are adopted; and
- (c) the committee endorse the recommended changes to the standards complaints process proposed by the monitoring officer in consideration of the review by the committee on standards in public life, set out in appendices 1 and 2 .

Alternative options

1. There are no alternative options, the constitution requires the committee to annually review overall figures and trends from code of conduct complaints. The report provides a factual summary of the work undertaken during the period 1 October 2018 to 30 April 2019. The period 1 May 2018 to 30 September 2018 having been reviewed by the committee at its meeting on 28 November 2018.

Key considerations

2. The monitoring officer is responsible for dealing with allegations that councillors have failed to comply with the members' code of conduct and for administering the local standards framework.
3. Herefordshire Council, and all parish, city and town councils in the county, have a statutory duty under the Localism Act 2011 to 'promote and maintain high standards of conduct by members and co-opted members of the authority'.
4. The committee is responsible for receiving an annual review by the monitoring officer.

Code of Conduct

5. In accordance with the provisions of the Localism Act 2011 the council has adopted a code of conduct, and this has also been made available to all parish councils in the county to inform the adoption of their own code. This report considers the code as adopted on 25 May 2018.

Independent Persons

6. The Act also requires that the council appoint "at least one independent person" whose views are sought and taken into account before it makes its decision on an allegation of a breach of the code of conduct.
7. During the period, eight independent persons were recruited and Council approved their appointment on 15 February 2019. Since their appointment, two independent persons has resigned for personal reasons.
8. The monitoring officer is grateful for the work and support from all of the independent persons.

Arrangements

9. A [revised standards procedure](#) to investigate code of conduct complaints was reviewed by this committee on 8 May 2018 . The changes listed below have achieved clarity and transparency on the operation of the council's arrangements.
 - Revised wording to the criteria for initial assessment,
 - Referral to the standards panel for determination where a councillor has not complied with a monitoring officer's recommendation.
 - The naming of parish councils in the code of conduct annual report.

Register of Interests

10. The council maintains a register of interests for members of Herefordshire Council and parish councillors, where provided; these declarations are published on the Herefordshire Council website ([parish councils](#) and [Herefordshire Council](#)).
11. Following the local elections on 2 May 2019, every Herefordshire Council member has completed a new declaration of interest form.
12. The majority of Herefordshire parish councils have now adopted the Herefordshire Council code of conduct and registers of interests have been received for signature and publication.
13. As from May 2017, the Herefordshire Council register of interests also includes the register for gifts and hospitality. Over the period covered by this report, registers have been updated in order to record offers of gifts and hospitality which have been accepted or declined.
14. Members are reminded on a quarterly basis to keep their register under review. The first reminder for this year is due at the end of September 2019.

Dispensations

15. Dispensations are able to be granted in circumstances set out in section 33 of the Localism Act 2011. A dispensation can enable a councillor where they have a schedule 1 or 2 interest to participate and or vote and or remain in the room where they have an interest in the matter being discussed.
16. The reasons why a dispensation could be granted is detailed in the Localism Act as set out below. The monitoring officer can grant dispensations (a) and (c) with the audit and Governance committee granting (b), (d) and (e), together with any appeals against a monitoring officer consideration on grounds (a) and (c).

“A relevant authority may grant a dispensation under this section only if, after having had regard to all relevant circumstances, the authority—

(a) considers that without the dispensation the number of persons prohibited by section 31(4) from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,

(b) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,

(c) considers that granting the dispensation is in the interests of persons living in the authority’s area,

(d) 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, or

(e)considers that it is otherwise appropriate to grant a dispensation.”

17. Since the local elections in May 2019, four dispensations have been granted by the monitoring officer under the Section 33 (2) (c) of the Localism Act as they were considered to be in the best interests of the persons living in the council's area. All four councillors live in the area affected by the Southern Link Road (SLR) and or Hereford Transport Package (HTP), because their land could be affected by decisions on these transport packages they would not be able to represent the views of the ward they represent without the dispensation. It must be right that the ward are represented.
18. The dispensations were granted to
 - Councillor David Hitchiner
 - Councillor Tracy Bowes
 - Councillor Graham Andrews
 - Councillor Christy Bolderson
19. Copies of the dispensations granted are attached to the councillor's register of interest forms and published on the council's website.
20. These were all granted to the members in their role as ward members so that they could represent the views of their ward. As well as representing his ward, Councillor Hitchiner was granted a dispensation to undertake his role as leader as in the monitoring officer's view, the elected leader of the council should be involved in a such a strategically important decision for this council. The dispensation enables Councillor Hitchiner therefore to represent the views of his ward and also to be involved in the decision as leader.
21. The implications of having a dispensation has been drafted as frequently asked questions and will be provided to each councillor who has a dispensation and will be generally available on the council's website

Protocol with the police

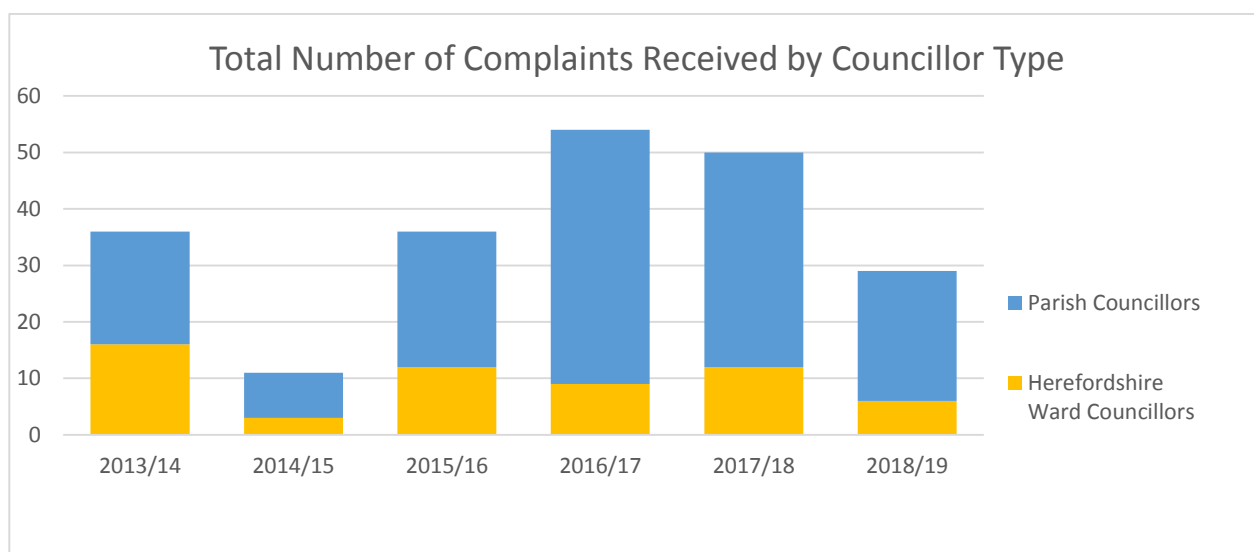
22. A protocol has now been agreed with West Mercia and is available on the council's website. This protocol explains how the council and police will deal with a code of conduct complaint if it is considered that a criminal offence may have occurred.

Code of conduct complaints

23. During the period 1 October 2018 to 30 April 2019 there were 15 standards complaints. Some of the standards complaints were in respect of multiple councillors and the total number of councillors subject to a complaint received in the period was 19.
24. Below are details of the number of complaints received since the introduction of the Localism Act 2011 and the breakdown of complaints between Herefordshire ward of which there are 53 councillors and parish councillors of which there are approximately 1300. As can be seen from the figures below which are based on the number of

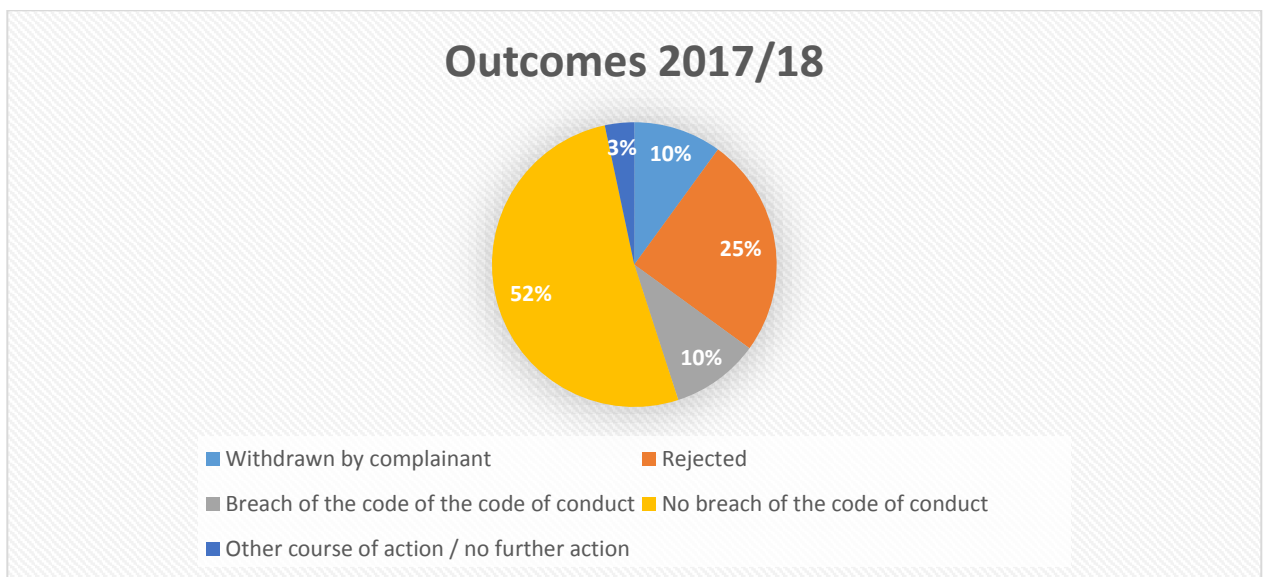
complaints received, the majority of complaints received continue to be against parish councillors who are the largest number of councillors in the area.

Year	Total no of complaints received	No of complaints against Herefordshire ward councillors	No of complaints against parish councillors
2013/14	36	16	20
2014/15	11	3	8
2015/16	36	12	24
2016/17	54	9	45
2017/18	50	12	38
2018/19 (1 May – 30 September 2018)	14	4	10
2018/19 (1 October to 30 April 2019)	15	2	13



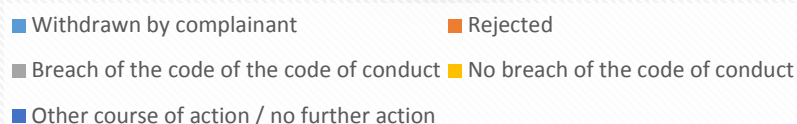
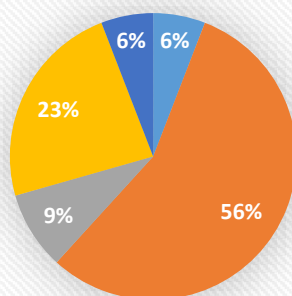
25. Of these complaints, the following outcomes are recorded:

Outcome	2017/18	2018/19 (year to date – 30 September 2018)	1 October 2018 to 30 April 2019
Withdrawn by complainant	6	1	1
Rejected	15	9	10
Breach of the code of the code of conduct	6	3	0
No breach of the code of conduct	31	2	6
Other course of course / no further action	2	0	2
Total number of complaints received against councillors	60	15	19



Further information on the subject of this report is available from
 Claire Ward, Tel: 01432 260657, email: Claire.Ward@herefordshire.gov.uk

Outcomes 2018/19



26. During the period, 1 October 2018 to 30 April 2019, there were no upheld complaints. Since 1 May 2019, there has been one upheld complaint and details can be found on the council's website.
27. On analysis of all complaints received, the overall complaint trend continues to relate to a lack of respect which includes behaviour at meetings, email correspondence and social media.
28. Of the complaints received during the period, 3 complaints were received from councillors complaining about other councillors and 12 complaints were made by members of the public.
29. There were two complaints received against Councillors at Herefordshire Council. The remaining complaints were against parish councillors. Details of the complaints by parish council are:

Parish Council	Number of complaints by parish council
Bartestree Parish Council	1
Belmont Rural Parish Council	1
Cradley Parish Council	2
Eardisley Parish Council	1
Ledbury Town Council	1
Linton Parish Council	1
Marden Parish Council	1
Mathon Parish Council	1
Much Cowarne Parish Council	1
Tarrington Parish Council	1
Walford Parish Council	1
Total (excludes withdrawn complaint)	12

30. This compares to last year where the complaint were:

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 Cowarne	1
Sutton St Nicholas	1
Tarrington Parish Council	1

31. The committee requested at its meeting on 28 November 2018 that details of which independent person was consulted be included as part of this report. Richard Stow was our only independent person during the period and was consulted on all the complaints during the period 1 October 2018 to 30 April 2019.

Compliance

32. Our arrangements detail that where there has been a breach of the code and recommendations that these are complied with. A councillor is asked to confirm that they have complied within 6 weeks of the decision being communicated to them. If they are unable to confirm this then the matter has not been resolved by the monitoring officer and the complaint will be referred to the standards panel for determination.
33. There were no breaches during the period which required compliance.
34. One complaint was dealt with under any other course of action and confirmation was provided that the recommendations had been complied with.

Training

35. All Herefordshire ward councillors have been trained by the monitoring officer on the code of conduct. Training has been provided to clerks who are members in the Society of local committee clerks (SLCC) and Ross Town Council. Training is scheduled with

Leominster Town Council and as part of Herefordshire Council's suite of training for parish councillors.

Local Government Ethical Standards

36. In January 2019 the committee on standards in public life published a report on local government ethical standards see:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/777315/6.4896_CO_CSPL_Command_Paper_on_Local_Government_Standards_v4_WEB.PDF
37. The report contains suggested best practice and formal recommendations. Whilst the government has yet to agree a response to the recommendations, as a matter of good practice a review of Herefordshire Council practice against the findings in the report has been undertaken as outlined at appendix 1 (re suggested best practice), and Appendix 2 (re formal recommendations).

Publications/Freedom of Information Requests

38. During the year there continues to be public interest in standards and Freedom of Information requests are received. The requests received relate to access to information which has been determined by a standards panel to be exempt and guidance has been produced by the monitoring officer to assist with this deliberation see appendix 4. Other requests relate to historic information.
39. We have published since 25 May 2018 all decision notices where the monitoring officer has found a breach of the code. These are available on the council's website. Complaints before that date have not been published..
40. The Information Commissioner required disclosure of former councillor complaint details in June 2019 and these have been provided to the requester but not published on the council's website. A further request was sought for the declaration of interest forms for the newly appointed independent persons. These are also not published on the council's website but were provided to the requester and is a matter already discussed with the IP's and is for further discussion at the next IP's conference with the monitoring officer in October 2019. There is an outstanding complaint with regard to publishing details of rejected complaints, this refusal by the council has been upheld by the information commissioner but is being appealed.
41. The arrangements are silent on the period of time that such complaints will be retained for. It is an operational matter but the committee should be aware that, from the date of this meeting, the council will only retain complaints and decision notices up until the complaint has been contained within the annual code of conduct report to this committee. Any complaints dealt with by the standards panel will be retained for six years and are then archived.

Standards Panel

42. As from 25 May 2018, there has been a right of appeal against monitoring officer resolution decisions. During the period, there were no appeals received or heard.
43. A standards panel was convened on 10 September 2019 in order to undertake a sample review of monitoring officer resolution decisions during the period 1 October 2018 to 30

April 2018. The period 1 May to 30 September was reviewed by the committee at its meeting on 28 November 2018.

44. The panel sampled 11 complaints. The panel found that they were satisfied with the level of assurance provided on the timeliness, consistency and sanctions.
45. The panel's did have some recommendations and these are contained in appendix 5.

Community impact

46. This report provides information about the council's performance in relation to the code of conduct.
47. Having an effective process for dealing with code of conduct complaints upholds principles A and G of the code of corporate governance by ensuring that councillors behave with integrity and that councillors are accountable for their actions. This should provide reassurance to the community that councillors are behaving in the best interests of their communities

Equality duty

48. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
49. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. As this is a decision on back office functions, we do not believe that it will have an impact on our equality duty.

Resource implications

50. There are no resource implications arising directly from this report which is for information.
51. The council has a statutory duty in the Local Government and Housing Act 1989 to provide the monitoring officer with sufficient resources to allow them to perform their duties.
52. The Independent Persons receive no allowances and are only reimbursed their travel expenses for meetings with the monitoring officer. The committee is due to receive a report at its meeting in March 2020 on allowances for independent persons.

Legal implications

53. There is no statute that specifically requires the monitoring officer to produce an annual report. However, the review evidences that the council complies with the duties required under the Localism Act 2011.

Risk management

54. There are no risks arising directly from the report which is for information. Maintaining high standards of conduct mitigates risks to the reputation of the council. How the arrangements are managed can be cause for complaint and are dealt with by the chief executive. The fact that only recommendations can be made exposes the council to risk of criticism, this is a result of the national framework which the committee in public life considered.

Consultees

55. All independent persons were consulted on this report and views provided by Ms S Archer, Mr G Hodson and Mr J Barrier have been incorporated into the report and appendices

Appendices

Appendix 1 – Self assessment against best practice recommendations from the Local Government Ethical Standards report

Appendix 2 – Self assessment against recommendations from the Local Government Ethical Standards report

Appendix 3 – Action plan for recommendations contained within appendices 1 and 2

Appendix 4 – Guidance on public/ private hearings

Appendix 5 - Standards Panel advice to the committee

Background papers

None.

Assessment against best practice

Best practice 1	Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition	<p>The Herefordshire Council code of conduct does include a prohibition on bully, harassment and intimidation as part of the Openness section under E, but there is no definition.</p> <p>Recommendation 1a – Arrangements should include definitions in line with ACAS guidance</p>
Best practice 2	Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors	<ol style="list-style-type: none"> 1. As part of the initial assessment of code of conduct complaints, the monitoring officer can reject complaints which are trivial or malicious. 2. If a monitoring officer resolution is not complied with a specified time limit, the monitoring officer cannot resolve the complaint and the complaint will be sent to be determined by the standards panel. This is provided for in the standards panel terms of reference and in the council's arrangements

Assessment against best practice

Best practice 3	Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities	The code of conduct was reviewed in 2017 and 2018 and is scheduled to be part of the biennial review of the Constitution. A report on the arrangements for this review is due to be presented to the committee on 19 November 2019 and will consider what consultation is appropriate.
Best practice 4	An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises	The code of conduct part of the council's constitution and in the section for making a complaint on the council's website.
Best practice 5	Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV	<p>Herefordshire Council councillors are required to declare gifts and hospitality on their declaration of interest forms. This ensure that the information remains as up to date as possible.</p> <p>Since the introduction of this requirement in 2017, there has been an increase in councillors declaring gifts or hospitality.</p> <p>Councillors are now reminded on a quarterly basis to review their declaration of interest form.</p>

Assessment against best practice

Best practice 6	Councils should publish a clear and straightforward public interest test against which allegations are filtered	There is currently a two stage filter as part of the arrangements for dealing with complaints. The information access team undertake a pre-qualification criteria. The monitoring officer then undertakes an initial assessment of all complaints against the criteria which is contained with the process. This includes the public interest test when a complaint is about an event a significant time ago or where the councillor has resigned.
Best practice 7	Local authorities should have access to at least two Independent Persons.	Herefordshire Council currently has 8 independent persons.
Best practice 8	An Independent Person (IP) should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial	<p>The current arrangements say that the IP may, in accordance with the Localism Act be consulted at the initial assessment stage where the monitoring officer is minded to dismiss a complaint as being without merit, vexatious, or trivial. The current practice is that although it says may IP's are consulted on all decisions under the initial assessment .</p> <p>The current arrangements do not refer to IP's being consulted on the decision to</p>

Assessment against best practice

		<p>undertake a formal investigation although thjs is what happens in practice.</p> <p>Recommendation 1b - change the arrangements from IP's may be consulted to will be</p> <p>Recommendation 1e – include that the decision on how to proceed will be made by the monitoring officer “after seeking the views of the IP’s”.</p>
<p>Best practice 9</p>	<p>Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied</p>	<p>Since May 2018, decision notices in respect of breaches of the code by councillors are published on the council’s website. The decision notice does contain a brief statement of facts, the provisions of the code engaged by the allegation, the reasoning of the decision maker and the sanction applied.</p> <p>At present, the view of the independent person is not reflected in the decision notice. This is due to the need to ensure the effective conduct of public affairs and to ensure free and frank advice.</p>

Assessment against best practice

Best practice 10	A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes	The council does have a code of conduct complaints process which is available on the council's website.
Best practice 11	Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.	This is a matter for parish councils. Recommendation 1c – Include this guidance in the arrangements
Best practice 12	Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work	This is provided.
Best practice 13	A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.	Our current practice is that the monitoring officer delegates to the deputy monitoring officer or another monitoring officer where conflict arises. This is not specified in our arrangements. Recommendation 1d – include in the arrangements
Best practice 14	Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with	The annual governance statement does include references to the separate bodies set up and the relationship. Group

Assessment against best practice

	those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.	accounts are also produced and included within the Council's Statement of Accounts. Nolan principles / publish agendas.
Best practice 15	Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.	This is on the agenda for the next group leaders meeting 4 November 2019

Recommendations from the standards on public life

No	Recommendation	Responsible Body	Comment / recommendation
1	The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government.	Local Government Association	For the LGA to produce
2	The government should ensure that candidates standing for or accepting public offices are not required publicly to disclose their home address. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to clarify that a councillor does not need to register their home address on an authority's register of interests.	Government	Requires a change of legislation.
3	Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly-accessible social media. Section 27(2) of the Localism Act 2011 should be amended to permit local authorities to presume so when deciding upon code of conduct breaches.	Government	Requires a change in legislation
4	Section 27(2) of the Localism Act 2011 should be amended to state that a local authority's code of conduct applies to a member when they claim to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority.	Government	The council's current code includes this description.

Recommendations from the standards on public life

No	Recommendation	Responsible Body	Comment / recommendation
5	The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to include: unpaid directorships; trusteeships; management roles in a charity or a body of a public nature; and membership of any organisations that seek to influence opinion or public policy.	Government	Since May 2018, Herefordshire Council's code of conduct includes Schedule 2 interests. This does not include unpaid directorships or trusteeships per see. Recommendation 2 – consider inclusion at next review of the code
6	Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record any gifts and hospitality received over a value of £50 or totalling £100 over a year from a single source. This requirement should be included in an updated model code of conduct.	Government	Herefordshire Council's declaration of gifts and hospitality above £20 is contained within each councillors register.

Recommendations from the standards on public life

7	Section 31 of the Localism Act 2011 should be repealed, and replaced with a requirement that councils include in their code of conduct that a councillor must not participate in a discussion or vote in a matter to be considered at a meeting if they have any interest, whether registered or not, "if a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your consideration or decision-making in relation to that matter".	Government	Requires a change in legislation
8	The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.	Government	Herefordshire Council Independent Persons are appointed for a four year term.
9	The Local Government Transparency Code should be updated to provide that the view of the Independent Person in relation to a decision on which they are consulted should be formally recorded in any decision notice or minutes.	Government	This is currently confidential, as an opinion on a person is that data subjects personal data, unless the matter is dealt with in a public standards hearing.
10	A local authority should only be able to suspend a councillor where the authority's Independent Person agrees both with the finding of a breach and that suspending the councillor would be a proportionate sanction.	Government	Requires a change in legislation as there are no powers to suspend a councillor at the moment

Recommendations from the standards on public life

11	Local authorities should provide legal indemnity to Independent Persons if their views or advice are disclosed. The government should require this through secondary legislation if needed.	Government / all local authorities	Herefordshire Council independent persons are indemnified and insured.
12	Local authorities should be given the discretionary power to establish a decision-making standards committee with voting independent members and voting members from dependent parishes, to decide on allegations and impose sanctions.	Government	Requires a change in legislation
13	Councillors should be given the right to appeal to the Local Government Ombudsman if their local authority imposes a period of suspension for breaching the code of conduct.	Government	Requires a change of legislation
14	The Local Government Ombudsman should be given the power to investigate and decide upon an allegation of a code of conduct breach by a councillor, and the appropriate sanction, on appeal by a councillor who has had a suspension imposed. The Ombudsman's decision should be binding on the local authority.	Government	Requires a change of legislation

Recommendations from the standards on public life

15	The Local Government Transparency Code should be updated to require councils to publish annually: the number of code of conduct complaints they receive; what the complaints broadly relate to (e.g. bullying; conflict of interest); the outcome of those complaints, including if they are rejected as trivial or vexatious; and any sanctions applied.	Government	Herefordshire Council does publish details of code of conduct complaints received annually.
			Recommendation 3 - broad details of the complaints and recommended sanctions are included in the annual report.
1 6	Local authorities should be given the power to suspend councillors, without allowances, for up to six months.	Government	Requires a change in legislation
17	The government should clarify if councils may lawfully bar councillors from council premises or withdraw facilities as sanctions. These powers should be put beyond doubt in legislation if necessary.	Government	Separate legislation can be used to remove councillors from premises. Withdrawal of facilities is an action that might be taken under the current arrangements

Recommendations from the standards on public life

18	The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.	Government	Requires a change in legislation
19	Parish council clerks should hold an appropriate qualification, such as those provided by the Society of Local Council Clerks.	Parish councils	For the parish councils to determine
20	Section 27(3) of the Localism Act 2011 should be amended to state that parish councils must adopt the code of conduct of their principal authority, with the necessary amendments, or the new model code.	Government	Requires a change in legislation, although the majority of Herefordshire parish councils have now adopted the 2018 version of the code of conduct
21	Section 28(11) of the Localism Act 2011 should be amended to state that any sanction imposed on a parish councillor following the finding of a breach is to be determined by the relevant principal authority.	Government	Requires a change in legislation
22	The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 should be amended to provide that disciplinary protections for statutory officers extend to all disciplinary action, not just dismissal.	Government	Requires a change in legislation

Recommendations from the standards on public life

23	The Local Government Transparency Code should be updated to provide that local authorities must ensure that their whistleblowing policy specifies a named contact for the external auditor alongside their contact details, which should be available on the authority's website.	Government	The current whistleblowing policy does not provide the contact details for external audit Recommendation 4 – to be included.
24	Councillors should be listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998.	Government	Requires a change in legislation
25	Councillors should be required to attend formal induction training by their political groups. National parties should add such a requirement to their model group rules.	Political groups National political parties	Herefordshire Council's induction programme does include mandatory standards training
26	Local Government Association corporate peer reviews should also include consideration of a local authority's processes for maintaining ethical standards.	Local Government Association	This is for the LGA to implement.

Action plan for recommendations for recommendations contained within appendices 1 and 2

	Action	By who	Due date
1	The arrangements for dealing with code of conduct to be amended to:		
	(a) include definition on bullying, harassment and intimidation in line with the ACAS guidance	Monitoring officer	31 October 2019
	(b) say that independent persons will be consulted on all complaints at initial assessment stage	Monitoring officer	31 October 2019
	(c) include guidance that complaints by a parish council clerk against a councillor should be made by the chair or parish council as a whole	Monitoring officer	31 October 2019
	(d) include the delegation to the deputy monitoring officer or different authority where there is a conflict with the monitoring officer dealing with a code of conduct complaint	Monitoring officer	31 October 2019
	(e) include that the decision on how to proceed will involve the views of the IP's".	Monitoring officer	31 October 2019
2	When the next constitution review takes place, consideration is given to amending the code of conduct for the inclusion of unpaid directorships or trusteeships being declared in schedule 2	Audit and Governance Committee	May 2020
3	Broad details of the behaviour complained of and recommended sanctions are included within the annual report by the monitoring officer	Monitoring officer	July 2020
4	A named contact for the external auditor together with contact details be included in the Whistleblowing Policy	Audit and Government Committee	24 September 2019

Guidance about Schedule 12 A - Local Government Act 1972

Introduction

Any standards committee set up in order to discharge functions under the Localism Act 2011 is an 'ordinary committee' of the authority. That means the same rules apply to it as apply to all other committees of the authority which do not have specific statutory rules applying to them.

As an 'ordinary committee' there are two particular rules which apply. The first is that the committee must reflect the political balance of the council as a whole unless the council as a body has resolved to waive that requirement (the so-called 'proportionality rules').

The second is that the committee is subject to local government access to information provisions. These are procedural rules set out in law which say that a committee must meet in public but that certain items can be taken in closed session if the information is covered by one or more category of 'exempt information'.

What is the starting point?

The initial position should always be in favour of disclosure of as much information as possible about the decisions the council takes, and only in limited circumstances should information be withheld, where there is a justification, in law, for doing so.

The categories of information which can be exempt under Schedule 12A of the Local Government Act 1972 "the 1972 Act." All of them require consideration of the public interest before deciding whether to withhold the information.

The categories are-

- 1 Information related to any individual;
- 2 Information which is likely to reveal the identity of an individual;
- 3 Information relating to the financial or business affairs of any particular person (including the authority holding that information)
- 4 Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relating matter arising between the authority or a Minister of the Crown and employees of, or office holders under the authority.
- 5 Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
- 6 Information which reveals that the authority proposes: (a) to give under any enactment a notice of by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment
- 7 Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

Who decides whether something is exempt or not?

The monitoring officer when publishing the report will decide whether information contained in the report is exempt or not.

If information has deemed to be 'exempt information' the committee must then consider and vote on whether the matter be dealt with in private and can decide in actual fact still to hold the meeting in public if they believe it is nevertheless in the public interest to do so.

How should we consider the exemptions?

Start from the position that you will disclose everything. If there is information that you think should be withheld, check if any of the categories apply. If they do apply, consider the public interest test.

What is the public interest test?

The public interest test provides that the council must release the information unless, "in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information".

This requires the council to make a judgement about the public interest. Where the balance between disclosure and withholding the information is seen as equal, the information must be released.

What is public interest?

There is no legal definition of what the public interest is but the following are some of the relevant considerations,

Arguments in favour of disclosure

- The public interest in disclosure is particularly strong where the information in question would assist public understanding of an issue that is subject to current national debate.
- The issue has generated public or parliamentary debate.
- Proper debate cannot take place without wide availability of all the relevant information.
- The issue affects a wide range of individuals or companies.
- The public interest in a local interest group having sufficient information to represent effectively local interests on an issue.
- Facts and analysis behind major policy decisions.
- Upholding the Nolan principle of openness
- Knowing reasons for decisions.
- Accountability for proceeds of sale of assets in public ownership.
- Openness and accountability for tender processes and prices.
- Public interest in public bodies obtaining value for money.
- Public health.
- Contingency plans in an emergency.
- Damage to the environment.
- Promoting accountability and transparency by public authorities for decisions taken by them.
- Allowing individuals to understand decisions made by public authorities affecting their lives and, in some cases, assisting individuals in challenging those decisions.
- Bringing to light information affecting public safety.
- Information already in the public domain

Arguments in favour of maintaining the exemption

- Likelihood of prejudice

- Impact of the prejudice
- Age of information

Weight to attach?

Once the committee has identified the relevant public interest arguments it must then carry out a balancing exercise to decide whether the public interest in maintaining the exemption outweighs the public interest in disclosure. It must assess the relative weight of these arguments, to decide where the balance of public interest lies. This is not an exact process.

Degree of disclosure

Even if the committee considers there genuinely is 'exempt information' does this mean that the whole meeting should be conducted in private and papers withheld? For example, if it relates to one particular witness (at a hearing) or touches on details of a contract, can that information be redacted or that particular part of the meeting be heard in closed session? Or, if the meeting is to review the general position relating to a set of specific matters, each of which is covered by exemption, is it possible to conduct the general discussion without disclosing the specifics?

Standards Panel advice to the audit and governance committee:

The Panel was satisfied that the sample of complaints considered had each been handled appropriately: in a timely manner, consistently and with appropriate outcomes.

The Panel's advice to the committee was:

1. That the guidance for making code of conduct complaints stress the need for the complainant to co-operate in providing requested information in a timely manner.
2. That guidance provided on the website, explaining the remit of the arrangements for code of conduct complaints, also includes signposting complainants to other relevant organisations for matters which the council is unable to consider because they are outside the scope of the code of conduct.
3. Such guidance should include, in particular, how to contact the internal or external auditor.
4. That the panel meet twice a year, to review a six-month sample of code of conduct complaints by, and reports to the audit and governance committee on an annual basis
5. That the sampling report includes information on the extent of compliance with recommendations made in each case reviewed.
6. That the process and criteria for undertaking the sample review be replicated at the next meeting.



Meeting:	Audit and governance committee
Meeting date:	Tuesday 24 September 2019
Title of report:	Progress report on 2019/20 internal audit plan
Report by:	Chief finance officer / head of internal audit

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose and summary

To update members on the progress of internal audit work and to bring to their attention any key internal control issues arising from work recently completed. To enable the committee to monitor performance of the internal audit team against the approved plan.

To assure the committee that action is being taken on risk related issues identified by internal audit. This is monitored by acceptance by management of audit recommendations and progress updates in implementing the agreed action plans. In addition, audit recommendations not accepted by management are reviewed and progress to an appropriate recommendation to cabinet if it is considered that the course of action proposed by management presents a risk in terms of the effectiveness of or compliance with the council's control environment.

Recommendation(s)

That:

- (a) performance against the approved plan be reviewed and any areas for improvement identified; and
- (b) consider the assurances provided and the recommendations which the report makes, commenting on its content as necessary.

Further information on the subject of this report is available from

Jacqui Gooding, email: Jacqui.Gooding@swapaudit.co.uk

Alternative options

1. There are no alternative recommendations; it is a function of the committee to consider these matters in fulfilling its assurance role.

Key considerations

2. The internal audit progress report is attached at appendix A. In the period covered by the report, seven priority 2 recommendations were made for the 2019-20 audit plan and three priority 2 findings were made for the 2018-19 plan. A summary of the significant findings is provided in the report.
3. The annual plan summary and a glossary of terms is also provided in the report.

Community impact

4. The council's code of corporate governance commits the council to managing risks and performance through robust internal control and strong public financial management and to implementing good practices in transparency, reporting, and audit to deliver effective accountability. By ensuring robust management responses to identified risks, the council will be better able to meet its corporate plan priority to secure better services, quality of life and value for money.

Equality duty

5. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
6. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. As this is a progress report, we do not believe that it will have an impact on our equality duty.

Resource implications

7. None arising from the recommendations; any additional recommendations made by the committee will be considered by the relevant manager or cabinet member and the financial implications of accepting those recommendations will be considered then.

Further information on the subject of this report is available from

Jacqui Gooding, email: Jacqui.Gooding@swapaudit.co.uk

Legal implications

8. None.

Risk management

9. There is a risk that the level of work required to give an opinion on the council's systems of internal control is not achieved. This is mitigated by the regular active management and monitoring of progress against the agreed internal audit plan.
10. Risks identified by internal audit are mitigated by actions proposed by management in response. Progress on implementation of agreed actions is reported to this committee every six months.

Consultees

11. None.

Appendices

Appendix A – SWAP Internal Audit plan progress report 2019-20 – quarter 1

Background papers

None identified.

Appendix A

Herefordshire Council

Report of Internal Audit Activity

Plan Progress 2019/20 September 2019

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The contacts at SWAP in connection with this report are:

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Our audit activity is split between:

- **Operational Audit**
- **School Themes**
- **Governance Audit**
- **Key Control Audit**
- **IT Audit**
- **Grants**
- **Other Reviews**



Role of Internal Audit

The Internal Audit service for Herefordshire Council is provided by SWAP Internal Audit Services (SWAP). SWAP is a Local Authority controlled Company. SWAP has adopted and works to the Standards of the Chartered Institute of Internal Auditors, further guided by interpretation provided by the Public Sector Internal Audit Standards (PSIAS), and the CIPFA Local Government Application Note. The Partnership is also guided by the Internal Audit Charter approved by the Audit and Governance Committee at its meeting on 19 March 2019.

Internal Audit provides an independent and objective opinion on the Authority's control environment by evaluating its effectiveness. Primarily the work includes:

- Operational Audit Reviews
- Cross Cutting Governance Audits
- Annual Review of Key Financial System Controls
- IT Audits
- Grants
- Other Special or Unplanned Review

Outturn to Date



Internal Audit Work Programme

The schedule provided at Appendix C contains a list of all audits as agreed in the Annual Audit Plan 2019/20. It is important that Members are aware of the status of all audits and that this information helps them place reliance on the work of Internal Audit and its ability to complete the plan as agreed.

Each completed assignment includes its respective “assurance opinion” rating together with the number and relative ranking of recommendations that have been raised with management. In such cases, the Committee can take assurance that improvement actions have been agreed with management to address these. The assurance opinion ratings have been determined in accordance with the Internal Audit “Audit Framework Definitions” as detailed in Appendix B of this document.

To assist the Committee in its important monitoring and scrutiny role, in those cases where weaknesses have been identified in service/function reviews that are considered to represent significant service findings (priority 1 or 2), a summary of the key audit findings is given as part of this report.

In circumstances where findings have been identified which are considered to represent significant corporate risks to the Council, due to their importance, these issues are separately summarised.

Internal Audit Plan Progress 2019/2020

Outturn to Date



Internal Audit Work Programme

This is the quarter 1 update for 2019-20. Six audits have been completed since my last update and there are two audits at Draft Report and six audits in progress. One audit has been deferred to quarter 3 at the request of the Client. An additional audit a Special Investigation has also been included in the quarter 1 workplan. One audit was assessed as Substantial, one as Reasonable assurance, three were Advisory audit reports and one is a Special Investigation.

There were five audits in progress from the 2018-19 plan three of which are complete, and two are at reporting stage. The delay for the two audits at reporting stage is due to the additional special investigation as the Senior Auditor had to complete the special investigation work.

The following audits have been completed since my last update:

Audit	Assurance
New Model in Technology and Engineering (NMiTE) Project (University) quarter 1 review	Advisory Report
Coroners/Registrars	Substantial
Troubled Families (Qrt 1 monthly review of claims)-	Advisory Report <i>(an advisory report is issued for each quarter – an audit opinion will be given at the conclusion of the quarter 4 audit)</i>
Disclosure and Barring Service	Reasonable
South Wye Transport Package Phase 1 - Governance	Advisory Report
Code of Conduct Complaint	Special Investigation
2018-19	
Effectiveness of programme Boards for major system changes/projects	Reasonable
Public Health Contracts	Follow Up
Brokers Service - formally Care Workforce Project – support to Domiciliary Care Agencies recruitment	Drafting Report

Outturn to Date

Internal Audit Plan Progress 2019/2020



Internal Audit Work Programme

2018-19 audits continued.

Audit	Assurance
Redundant Building Grant	Drafting Report
Contract Management	Partial

Significant Corporate Risks

Identified Significant Corporate Risks should be brought to the attention of the Audit and Governance Committee.



Significant Corporate Risks

We provide a definition of the 3 Risk Levels applied within audit reports. For those audits which have reached report stage through the year, I will report risks we have assessed as 'High'.

In this update there are no final reports included with 'High' corporate risks.

SWAP Performance - Summary of Partial Opinions

These are actions that we have identified as being high priority and that we believe should be brought to the attention of the Audit and Governance Committee.



Summary of Partial Assurances and Significant Service Findings (Priority 1 and 2)

I provide a summary of the significant service findings for audits where the findings have been assessed as priority 1 or 2. For each finding the detail of the finding, the recommendation, agreed action by management and the target date for completion of the agreed action is provided. The target date for implementation is agreed with the manager at the conclusion of the audit and is the date for completing the agreed action. For some actions this date may not be met and these agreed actions will be reported to this Committee with a revised target date as part of the Tracking of Audit Recommendations report which is presented to this Committee by the Directorate Services Team Leader.

For the 2019-20 audits completed one audit assessed as Reasonable had three priority 2 findings.

Disclosure and Barring Service – Reasonable

The audit reviewed the current DBS policy and procedures to ensure that they are in place and working well across the Council in support of the employment of only suitable individuals working with vulnerable people.

The recruitment service for the Council is provided by Hoople. Generally, risks were found to be well managed by the Hoople Recruitment DBS Team. However, some systems require the introduction or improvement of internal controls to ensure the achievement of objectives, namely, post records held in BusinessWorld require periodic review to assess the applicability and level of DBS check required and DBS checks for volunteers did not have a consistent approach across the Council as currently there is no central list held of volunteers.

There were three priority 2 findings:

Finding 1

Current post information regarding the requirement and level of DBS clearance is inaccurate in BusinessWorld.

Recommendation:

We recommend that data cleansing at post level in BusinessWorld should be periodically conducted for all key position areas, including children and adult services, which require DBS clearance levels to be accurate to ensure that post level information is maintained.

Agreed Action: A data cleansing exercise will be undertaken to ensure business world holds accurate DBS data against key positions and a process for maintaining this going forward will be developed.

Target date: 31 March 2020

SWAP Performance - Summary of Partial Opinions

These are actions that we have identified as being high priority and that we believe should be brought to the attention of the Audit Committee.



Summary of Partial Assurances and significant service findings (Priority 1 and 2)

Finding 2

Local line management records of volunteer DBS check details, including start and expiry dates, are not being recorded and reviewed on a regular basis to enable action to be taken promptly.

Recommendation:

We recommend that service line management responsible for volunteers in their area review their records for any posts that require DBS checks to be in place and they keep full and accurate records of the level of DBS check required as well as the start and expiry dates which will enable them to commence any DBS check renewal activity promptly using the Council's DBS renewal process.

Agreed Action:

An email will be sent out to all service line managers responsible for volunteers in their area reminding them of the requirement to maintain full records of volunteer DBS checks including start and expiry dates to enable them to commence any DBS check renewal activity promptly using the Council's DBS renewal process.

Target Date: 30 September 2019

Finding 3

Hoople Recruitment are not contracted to provide ongoing support for DBS volunteer renewals.

Recommendation:

We recommend that the Council review the need to compile and manage centrally a complete list of all volunteers and their posts to ensure that any requirement for DBS checks, start dates and expiry dates can be reviewed centrally and reminders sent out to line managers periodically or the council commissions Hoople to carry out this work on their behalf as is already done for employees across the Council by Hoople Recruitment.

Agreed Action:

It is the role of the service area to ensure that volunteering roles are assessed as to whether a DBS check is required and if so it is the responsibility of the service area to do this. We will remind all Line managers that it should be maintained at a local service level. It is not practicable for the Local Resource and Asset Officer to maintain a complete and current record of all Council volunteers.

We will discuss the requirement to add volunteer DBS renewal checks to the current Hoople contract with the AD for People.

Target Date: 30 September 2019

SWAP Performance - Summary of Partial Opinions

These are actions that we have identified as being high priority and that we believe should be brought to the attention of the Audit Committee.



Summary of Partial Assurances and Significant Service Findings (Priority 1 and 2)

There audit for 2018-19 which returned a Partial assurance had three priority 2 findings.

Contract Management – Partial

This audit review was included in the 2018/19 Internal Audit Plan, to provide assurances on the management of contracts meeting the Council’s requirements, and whether value for money is a consideration in the delivery of services to Herefordshire residents. The audit reviewed three contracts:

1. Building Maintenance and Cleansing Contract
2. Mainstream Passenger Transport Contract
3. Herefordshire Intensive Placement Support Service “HIPSS” Contract

Good contract monitoring practices were observed for the Building Maintenance and Cleansing and the “HIPSS” contracts the monitoring of value for money, continuous improvement and the assessment of the quality of service was considered priority. However, the controls of the passenger transport service contract proved to be poor and needs improvement.

The Contract Management Toolkit (CMT) is published on the intranet. However, at the time of the audit two senior officers confirmed that the published CMT did not meet their operational needs and had developed their own toolkit. In addition, the toolkit owner has left the Council and has not been replaced. This finding identifies that there is no standardised approach as required under the Guidance on Contract Procedure Rules May 2018. Action should be taken to progress and embed the CMT as soon as possible.

SWAP Performance - Summary of Partial Opinions

These are actions that we have identified as being high priority and that we believe should be brought to the attention of the Audit Committee.



Summary of Partial Assurances and Significant Service Findings (Priority 1 and 2)

Finding 1

The Council's Contract Management Toolkit ("CMT") referred to in the Contract Procedure Rules Guidance May 2018 has not been implemented.

Recommendation:

We recommend that the Assistant Director, Corporate Support undertakes the following:

- Recognises gaps in controls by considering the resourcing of the overarching contract management function, to set standards and confirm compliance with the process
- Instigate or use existing systems of performance measures prior to the implementation of the performance dashboard. Basic guidance in line with a contract management toolkit to support contract management should be provided.
- Training to be provided on the utilisation of the performance dashboard for contract management officers.
- The Contract Procedure Rule Guidance document should be updated to reflect the developments put in place through the Procurement and Commissioning Strategy 2018.
- Develop and implement a Contract Management Toolkit as recorded in the Procurement and Commissioning Strategy 2018.

Agreed Action:

Acknowledged there is a gap in controls and therefore risk in contracts management function and the need for further development of the Contract Management Toolkit along with reviewing similar guidance provided nationally. There will be a review of the Commercial Team's remit, function and resourcing. All other actions agreed.

Target Date: 30 April 2020

SWAP Performance - Summary of Partial Opinions

These are actions that we have identified as being high priority and that we believe should be brought to the attention of the Audit Committee.



Summary of Partial Assurances and Significant Service Findings (Priority 1 and 2)

Finding 2

The control framework for passenger transport services is not robust.

Recommendation:

We recommend that to improve the control framework that the Head of Transport and Access Services:

- Completes a risk assessment of the contracts to determine the highest priority to undertake contractual compliance checks and monitoring visits.
- Completes contractual compliance checks annually for all contracts and if this does not happen record the reason for non-completion.
- Confirms monitoring visits and or spot checks to be completed annually for all contracts. If excluded from a visit the reason should be recorded.
- Completes regular contract management meetings at the frequency appropriate to resolve performance issues and proportionate to the level of risk identified.

Agreed Action:

A programme of contract compliance checks is in place which comprises a schedule of checks with all contractors undertaking passenger transport contract work. All contractors will be subject to checks through the year. The compliance checks include:

- Route checks
- School / Centre visits
- Analysing of non-compliance issues and complaints
- Sampling of invoices
- Audit of documentation
- Customer satisfaction survey/sampling

A risk based approach is adopted which increases the frequency of checks for contractor holding greater number of contracts. In addition, focus will also be targeted on a reactive basis in response to reported issues either via service users, schools or as a result of spot checks which reveal compliance issues. Hence, the programme remains dynamic and can be targeted based on evidence of compliance issues if required.

Staff shortages during the period of the audit have been resolved and the programme of on-site monitoring has resumed. On site monitoring is not designed to specifically check every single contract (there are over 250 individual contracts) but to provide a random sample of contract compliance checks covering all active contractors

SWAP Performance - Summary of Partial Opinions

These are actions that we have identified as being high priority and that we believe should be brought to the attention of the Audit Committee.



Summary of Partial Assurances and Significant Service Findings (Priority 1 and 2)

through the course of the year. Targeted spot checks are carried out in respect of any specific concerns relating to a contractor and/or a specific contract.

Formal performance meetings are held in the event of specific performance issues and as a result of patterns of below standard performance.

Consideration is being given to introducing regular liaison meetings with contractors by DPS category groups to discuss performance and service issues more generally with a view to fostering a clearer focus on service quality and consistent standards.

Work will be completed by end of August to more clearly document how these monitoring activities are programmed, clarifying appropriate escalation and to set out how the monitoring information is coordinated to provide a clearer picture of performance issues. This will assist in highlighting gaps in the program so that early preventative and improvement action can be taken. Internal monitoring review meetings will be formally scheduled on a monthly basis informed by consolidated monitoring reports which summarises key information from the monitoring activities set out above.

Target Date: 31 August 2019

Finding 3

There was conflicted information regarding which licence/badge a driver under Passenger Transport contract should hold and the maintenance of licence records.

Recommendation:

We recommend that the Head of Transport and Access Services:

- Update the Council website to reflect the correct licence requirements
- Introduces a process so the taxi licence database and DBS records remain up to date.
- Assigns a dedicated officer(s) to maintain the Driver Declaration database with supporting guidance notes for populating the information.
- Existing contract driver records should be brought up to date and the individual linked to the contractor under which they operate. This should encompass all contracts in place between the service provider and Herefordshire Council.

SWAP Performance - Summary of Partial Opinions

These are actions that we have identified as being high priority and that we believe should be brought to the attention of the Audit Committee.



Summary of Partial Assurances and Significant Service Findings (Priority 1 and 2)

Agreed Action:

The website has been updated to clarify the licensing requirements for operating school transport contracts.

The passenger transport team administers the County Badge scheme. This scheme ensures that individuals working on school transport contracts have appropriate DBS checks and operates in addition to the taxi licensing system which incorporates its own DBS check. A database of individuals holding county badges is maintained and updated by a dedicated officer. A clear guidance note will be prepared which sets out the requirements in maintaining the database and to assist other officers required to interrogate the database in the event that the dedicated officer is absent.

Any concerns regarding the status of an individual's driver's taxi license can be checked in real time by consulting with the council's taxi licensing team. Enquiries will be made to clarify whether or not authorised team members would be able to access the taxi license database directly in order to assist with operational matters.

A database of drivers and passenger assistants working for contractors holding adult social care and school transport contracts is maintained by the passenger transport team to provide assurance that contractors can demonstrate that they retain sufficient staff resources to operate the contracts they hold with the council. For mainstream school contracts these records are updated upon the award of new contracts, through targeted monthly monitoring checks and a 6 monthly comprehensive check with all active contractors.

For mainstream school contracts no attempt is made to link this information to specific contracts noting that contractors are required for operational reasons to re-allocate work amongst their drivers on a regular basis. This is permitted as long as the drivers used on school contracts have the appropriate license and/or a county badge and that identification is carried during operation of the contract.

Verification that contractors are complying with their contract terms and conditions with regard to only using drivers and passenger assistants with up to date DBS checks is monitored through spot checks. These checks are undertaken on a random sampled basis and targeted in the event that concerns are identified.

Target date: 30 September 2019

SWAP Performance - Summary of Partial Opinions

These are actions that we have identified as being high priority and that we believe should be brought to the attention of the Audit Committee.



Summary of Partial Assurances and Significant Service Findings (Priority 1 and 2)

South Wye Transport Package Phase 1 – Governance – Advisory Report

Hereford's Southern Link Road (SLR) forms part of a package of measures identified in the South Wye Transport Package (SWTP). In accordance with a key decision dated 16th November 2017, a service provider was engaged to provide professional services to procure a contractor for the construction of the SLR. A Procurement Strategy Report was prepared in February 2018. The report recommended that the OJEU competitive restricted tender process would become the most suitable procurement route and that consideration should be given to Option C of the NEC3 Contract options. An officer decision by the Director of Economy, Communities and Corporate to proceed with the procurement of a contractor for the construction of the SLR was published on 22nd May 2018. In July 2018 an issue was highlighted and after discussions with officers from Legal, Finance and Procurement two options were given for consideration:

1. Continuing with the evaluation purely on the quality basis as stated in the docs i.e. use the quality scores alone to rank providers then select the top 5 or
2. Rerunning the PQQ process from scratch with some clauses included to state our required financial turnover ratios.

On the 3rd August 2018 following discussions with the Head of Infrastructure Delivery, the Acting Director of Economy and Place had decided to proceed with Option 1 and an email instruction was sent to the service provider to continue with the Invitation to Tender.

SWAP Performance - Summary of Partial Opinions

These are actions that we have identified as being high priority and that we believe should be brought to the attention of the Audit Committee.



Summary of Partial Assurances and Significant Service Findings (Priority 1 and 2)

The purpose of this audit was to review the Governance of the process for the Procurement of the contractor and to understand how the decision was made to continue with the Invitation to Tender between the period 25 May and 21 August 2018.

Significant weaknesses in project governance processes have been identified as part of this review and seven recommendations have been made to address these issues. Four recommendations are priority 2 findings.

- Significant operational decisions within a project are not formally documented and a meeting of key officers held and minuted – reliance is placed upon verbal discussions and email.
- The procurement issue identified in July 2018 was not escalated to Major Infrastructure Delivery Board and hence the minutes do not reference the procurement issues identified.
- Risk registers did not reflect the emerging risk relating to the procurement until November 2018 and was not identified as a top five risk until March 2019.
- Lack of a formal review of procurement documentation and set criteria processes when using a contractor for the procurement process
- Procurement meetings were not being formally attended or minuted, instead issues were discussed in person or via email
- Project Control Group minutes do not refer to key information pertaining to the procurement issues identified in July and August 2018. The first discussion at the Project Control Group about the procurement issue was not until 15 January 2019.

SWAP Performance - Summary of Partial Opinions

These are actions that we have identified as being high priority and that we believe should be brought to the attention of the Audit Committee.



Summary of Partial Assurances and Significant Service Findings (Priority 1 and 2)

- The decision to use the Public Realm contract for services to carry out the procurement of a main contractor for the SLR was documented in the key decision dated 16 November 2017. However, whilst these services are within scope of the contract and the contract had been subject to a full OJEU procurement process, the decision had not detailed the alternative options that had been considered to test whether this use of the Public Realm contract was likely to achieve the best outcome. It is therefore recommended that in future, alternative procurement options are always assessed.

Finding 1

Procurement meetings were not formally attended or minuted, instead issues were discussed in person or via email. There is no documented information in relation to the operational day to day progress of the procurement process. The Council cannot demonstrate that the processes were followed and that issues were being appropriately identified for escalation to Project Control Group.

Recommendation:

We recommend that during major procurement exercises where an allowance for regular meetings is made the Council ensures that these take place between relevant staff with notes/minutes recorded. Key issues identified at these regular procurement meetings should be escalated to the relevant Project Group / Board / Programme Board for information and discussion and where appropriate for a decision if required to be made and recorded.

Agreed Action:

Recommendation is accepted. Regular procurement meetings will be held and minuted. In addition, regular procurement reports will be provided to the Major Infrastructure Delivery Board to ensure that when decisions, including operational decisions, are required they are recorded. This requirement will be incorporated into the terms of reference for the Major Infrastructure Delivery Board and Project Control Groups.

Target Date: 29th November 2019

SWAP Performance - Summary of Partial Opinions

These are actions that we have identified as being high priority and that we believe should be brought to the attention of the Audit Committee.



Summary of Partial Assurances and Significant Service Findings (Priority 1 and 2)

Finding 2

Project Control Group minutes do not refer to the procurement risk until January 2019, although it was initially identified in July 2018.

Recommendation:

We recommend that for future projects the Council ensures Project Control Group and/or Major Infrastructure Delivery Board minutes fully reflect project discussions, issues that arise and decisions that are being made to fully demonstrate governance processes. Guidance should be provided to members of project teams and project and programme boards regarding the kind of issues that should be discussed and escalated to project team meetings and relevant Boards to ensure key matters are thoroughly discussed.

Agreed Action:

Recommendation is accepted. Project Control Group and Major Infrastructure Delivery Board agendas and terms of reference will be reviewed and updated to ensure they are consistent and cover key project matters. Guidance will be drafted and provided to all project team and board members about these agendas and process for escalation of key issues. Such guidance will also be shared corporately to ensure learning is applied across all project areas.

Target Date: 29th November 2019

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SWAP Performance - Summary of Partial Opinions

These are actions that we have identified as being high priority and that we believe should be brought to the attention of the Audit Committee.



Summary of Partial Assurances and Significant Service Findings (Priority 1 and 2)

Finding 3

Once the issue was identified there is no clear documented record setting out the basis to support how the decision to proceed with option 1 rather than option 2 was made. There is a risk that the Council cannot demonstrate good governance around the decision to continue with the tender process for the SLR.

Recommendation:

We recommend that the Council ensures guidance is available to officers in relation to the recording/documenting of operational decisions within a project. When significant issues are raised which could impact on the success of a project decisions are made with a meeting of key officers and appropriately recorded to ensure the rationale for making the decision is clearly documented.

Agreed Action:

Recommendation is accepted. Guidance will be drafted and provided to all project team members setting out how project operational decisions should be recorded. A meeting will be held and recorded to ensure the decision-making rationale is recorded. Such guidance will also be shared corporately to ensure learning is applied across all project areas.

Target Date: 29 November 2019

SWAP Performance - Summary of Partial Opinions

These are actions that we have identified as being high priority and that we believe should be brought to the attention of the Audit Committee.



Summary of Partial Assurances and Significant Service Findings (Priority 1 and 2)

Finding 4

Significant issues are not escalated in a timely manner. The expected outcome from the project may not be achieved and there is a risk of the project failing.

Recommendation:

We recommend that the Council reviews how significant issues identified during a Procurement process are escalated through project governance to the appropriate level so that a Council informed decision can be made. Guidance should be provided to assist key officers and project leads with identifying those issues that should be escalated.

Agreed Action:

Recommendation is accepted. Guidance will be drafted and provided to all project team and board members for the Major Infrastructure Board and Project Control Groups to assist officers to identify issues that should be escalated. Such guidance will also be shared corporately to ensure learning is applied across all project areas.

Target Date: 29th November 2019

Follow Up audits are completed where the auditor could only provide partial assurance.



Follow Up Audits

Follow Up Audits

Follow Up audits are completed where the auditor could only provide partial assurance. The follow-up audit is to provide assurance to the Director, Senior Management and the Audit and Governance Committee that the key risks have been mitigated to an acceptable level of risk. Evidence is obtained to demonstrate implementation and progress made in relation to all 2018-19 priority 1 and 2 recommendations. For the priority 3 recommendations progress reported is based on self-assessment by relevant officers.

No follow up audits have been completed for 2019-20 since my last update.

Internal Audit Plan Progress 2019/2020

Added Value

Extra feature(s) of an item of interest (product, service, person etc.) that go beyond the standard expectations and provide something more while adding little or nothing to its cost.



Added Value

Primarily, Internal Audit is an assurance function and will remain as such. However, as we complete our audit reviews and through our governance audit programmes across SWAP, we seek to bring information and best practice to managers to help support their systems of risk management and control. The SWAP definition of “added value” is “it refers to extra feature(s) of an item of interest (product, service, person etc.) that go beyond the standard expectations and provide something "more" while adding little or nothing to its cost”.

The followings audits have provided a cross comparison survey for the SWAP Partners:

Blue Badges - Benchmarking with other SWAP partners and other authorities in LACAN. A 10 question survey was distributed to all participants focussing specifically on a) how authorities have been implementing developments in the application and renewal processes, consistent with their digital agendas to deliver improved efficiencies and an improved customer experience; and b) how authorities plan to implement the changes required by new legislation to extend the eligibility criteria for Blue Badges to include hidden disabilities.

Police Authorities – several benchmarking exercises have been completed but cannot be shared outside of the Police Authorities.

Internal Audit Plan Progress 2019/2020

SWAP Performance - Summary of Audit Opinions



Summary of Audit Opinion

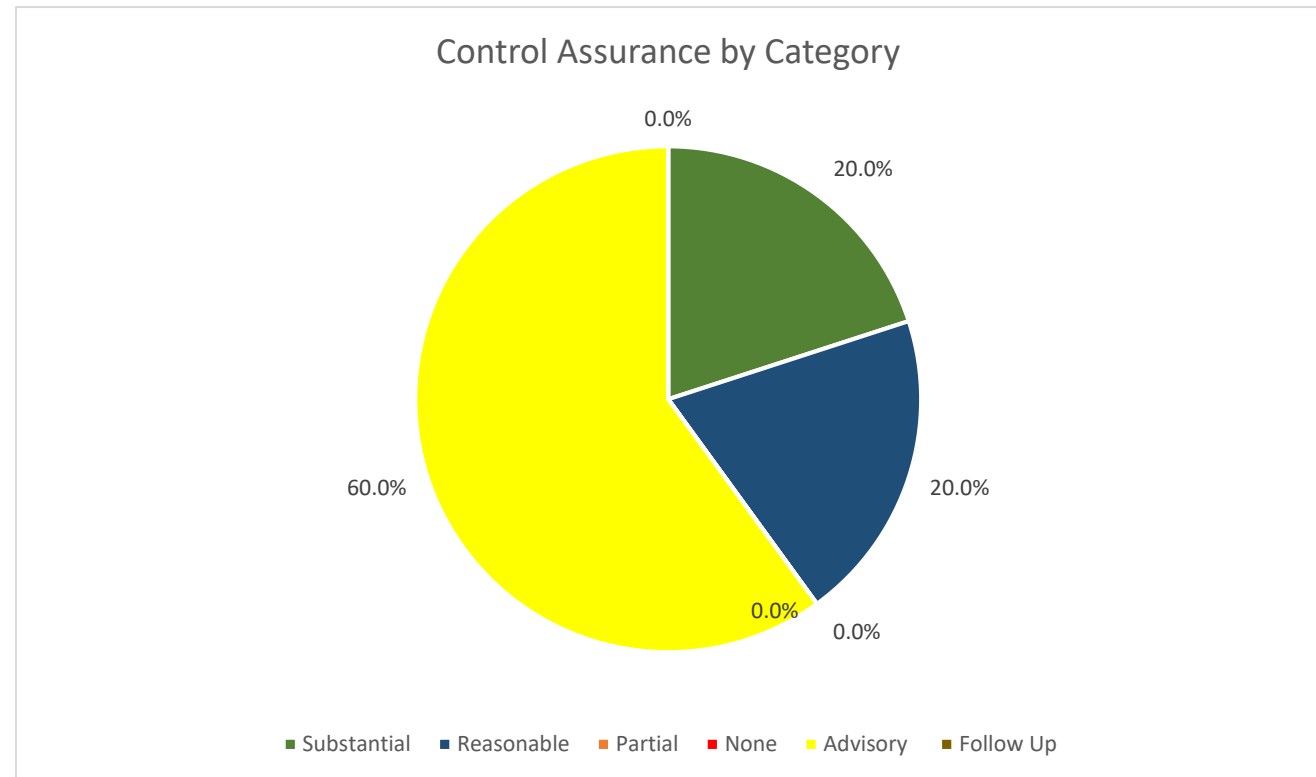
At the conclusion of audit assignment work each review is awarded a "Control Assurance Definition";

- Substantial
- Reasonable
- Partial
- None

We also undertake Advisory / Non-Opinion work on a consultancy basis where we have been asked to look at a specific area of potential concern.

Where we follow up on a previous adverse audit opinion the opinion is stated as follow up.

Of the reviews that have a final report, the opinions offered are summarised below.



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Internal Audit Plan Progress 2019/2020

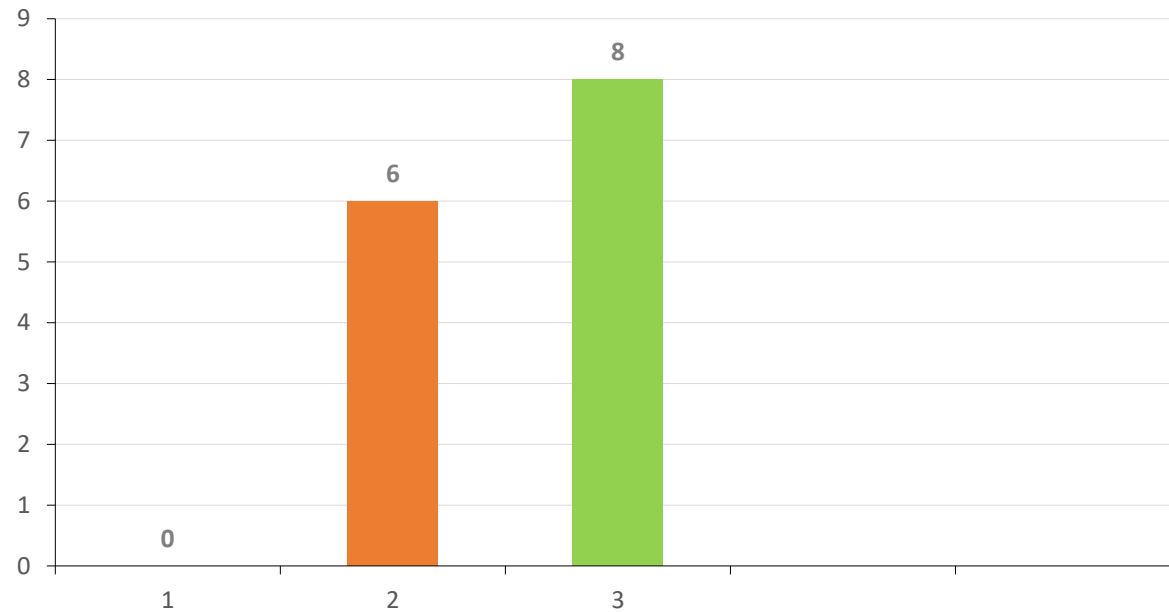
Summary of Audit Recommendations by Priority

We rank our recommendations on a scale of 1 to 3, with 3 being medium or administrative concerns to 1 being areas of fundamental concern requiring immediate corrective action.



Summary of Recommendations

Audit Recommendations by Priority



Internal Audit Plan Progress 2019/2020

We keep our audit plans under regular review to ensure that we are auditing the right things at the right time.



Approved Changes to the Audit Plan

Unplanned work, special reviews or projects carried out on a responsive basis are requested through the Chief Finance Officer (Section 151 Officer). As new and emerging risks are identified, any changes to the plan will be subject to the agreement of the Chief Finance Officer (Section 151 Officer) and reported to this Committee.

Two additional pieces of work have been requested by the Chief Finance Officer (Section 151 Officer); both are Special Investigations. The days to complete this work will need to come from the planned days in the audit plan. I will be discussing with the Chief Finance Officer (Section 151 Officer) some lower risk audits to remove from the plan or defer to 2020/21 and will update the Committee in my next progress report.



Conclusion

Six audits have been completed for 2019-20 since my last update and there are two audits at Draft Report and six audits in progress. One audit has been deferred to quarter 3 at the request of the Client. An additional audit a special investigation has also been included in the quarter 1 workplan and completed. One audit was assessed as Substantial, one as Reasonable assurance, three were Advisory reports and one is a Special Investigation. There have been no significant corporate risks identified however it should be noted that significant findings have been identified in project governance processes.

Recommendations have been made for improvement at service level and all findings have been accepted by management and a target date agreed for implementation.

At the close of each audit review a Customer Satisfaction Questionnaire is sent out to the Service Manager or nominated officer. The aim of the questionnaires is to gauge satisfaction against timeliness, quality and professionalism. A score of 95% would reflect the fact that the client agreed that the review was delivered to a good standard of quality, i.e. agreed with the statement in the questionnaire and satisfied with the audit process and report. For 2019-20 audits the feedback return is 100% for audits where feedback has been provided.

At the conclusion of audit assignment work each review is awarded a “Control Assurance Definition”;

- Substantial
- Reasonable
- Partial
- None
- Advisory



Audit Framework Definitions

Control Assurance Definitions

Substantial	The areas reviewed were found to be adequately controlled. Internal controls are in place and operating effectively and risks against the achievement of objectives are well managed.
Reasonable	Most of the areas reviewed were found to be adequately controlled. Generally, risks are well managed, but some systems require the introduction or improvement of internal controls to ensure the achievement of objectives.
Partial	In relation to the areas reviewed and the controls found to be in place, some key risks are not well managed, and systems require the introduction or improvement of internal controls to ensure the achievement of objectives.
None	The areas reviewed were found to be inadequately controlled. Risks are not well managed, and systems require the introduction or improvement of internal controls to ensure the achievement of objectives.

Advisory Report - In addition, to our opinion-based work we will provide consultancy services. The advice offered by Internal Audit in its consultancy role may include risk analysis and evaluation, developing potential solutions to problems and providing controls assurance. Consultancy services from Internal Audit offer management the added benefit of being delivered by people with a good understanding of the overall risk, control and governance concerns and priorities of the organisation.

Recommendations are prioritised from 1 to 3 on how important they are to the service/area audited. These are not necessarily how important they are to the organisation at a corporate level.



Audit Framework Definitions

Risk	Reporting Implications
	In addition to the corporate risk assessment it is important that management know how important the recommendation is to their service. There should be a clear distinction between how we evaluate the risks identified for the service but scored at a corporate level and the priority assigned to the recommendation. Each recommendation has been given a priority rating at service level with the following definitions:
Priority 1	Findings that are fundamental to the integrity of the service’s business processes and require the immediate attention of management.
Priority 2	Important findings that need to be resolved by management.
Priority 3	Finding that requires attention.

Each audit covers key risks. For each audit a risk assessment is undertaken whereby with management risks for the review are assessed at the Corporate inherent level (the risk of exposure with no controls in place) and then once the audit is complete the Auditors assessment of the risk exposure at Corporate level after the control environment has been tested. All assessments are made against the risk appetite agreed by the SWAP Management Board.

Definitions of Risk

Risk	Reporting Implications
	Reporting Implications
High	Issues that we consider need to be brought to the attention of both senior management and the Audit Committee.
Medium	Issues which should be addressed by management in their areas of responsibility.
Low	Issues of a minor nature or best practice where some improvement can be made.

Audit Type	Audit Area	Quarter	Status	Opinion	No of Rec	1 = Major ← 3 = Medium Recommendation		
						1	2	3
						Governance, Fraud & Corruption	New Model in Technology and Engineering (NMiTE) Project (University) quarter 1 review	1
Advisory	South Wye Transport Package Phase 1 – Governance	1	Completed	Advisory Report	7	0	4	3
Operational	Coroners/Registrars	1	Completed	Substantial	1	-	-	1
Operational	Transport / Highways policy setting	1	In Progress					
Operational	Environmental Health / Trading Standards	1	In progress					
Operational	Property Maintenance - Schools	1	Fieldwork complete					
Grant	Troubled Families (Qrt 1 monthly review of claims)	1	Completed	Advisory Report	0	0	0	0
Operational	Schools Exclusion Policy	1	Deferred to qrt 3					
Operational	Children’s centres (changed to Pupil Referral Unit)	1	Draft Report					
Operational	Facilities Management	1	In progress					
ICT	ICT Applications	1	Fieldwork complete					
Operational	Mandatory Training	1	Draft Report					
Operational	Disclosure and Barring Service	1	Completed	Reasonable	6	0	2	4
Special Investigation	Code of Conduct Complaint	1	Completed	Special Investigation				
Special Investigation	Loss of Monies	2	In Progress					
Governance, Fraud & Corruption	New Model in Technology and Engineering (NMiTE) Project (University) quarter 2 review	2	In Progress					

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Audit Type	Audit Area	Quarter	Status	Opinion	No of Rec	1 = Major ↔ 3 = Medium Recommendation		
						1	2	3
						Grant	Bus Subsidy grant	2
Operational	South Wye Transport package Phase 2	2	Not Started					
Grant	Troubled Families (Qrt 2 monthly review of claims)	2	In Progress					
Operational	Council Reserves	2	In Progress					
Grant	Local Transport Block Funding	2	In Progress					
Operational	EU Grant Funding	2	In Progress					
Governance, Fraud & Corruption	Cemeteries / Crematoriums	2	In Progress					
Operational	Development of Community Strategy	2	Not started					
Operational	Client finance System - Interface between all systems	2	Not Started					
Operational	Continuing Healthcare process	2	In Progress					
Operational	Quality Assurance Panel Process (change of audit to Local Enterprise Resources team)	2	Audit Initiation					
Operational	Independent review officer services	2	Audit Initiation					
Schools	Schools Financial Value Standard	2	Not Started					
ICT	Data Centres	2	Not started					
Operational	Project Delivery/project management	2	Not started					
Grant	Troubled Families (Qrt 3 monthly review of claims)	3	Not started					
Key Control	Council Tax follow up	3	In progress					

Audit Type	Audit Area	Quarter	Status	Opinion	No of Rec	1 = Major ↔ 3 = Medium Recommendation		
						1	2	3
						Key Control	Treasury Management	3
Key Control	Accounts Payable follow up	3	Not started					
Key Control	Main Accounting	3	Not started					
Key Control	Payroll follow up	3	Not started					
Key Control	Accounts Receivable follow up	3	Not started					
Key Control	Capital Accounting follow up	3	Not started					
Key Control	NNDR	3	In Progress					
Key Control	Housing and Council Tax Benefit	3	Not started					
Governance, Fraud & Corruption	New Model in Technology and Engineering (NMI TE) Project (University) quarter 3 review	3	Not started					
Governance, Fraud & Corruption	Contracts - Public Realm, Waste and Balfour Beatty (review of actions from vfm review)	3	Not started					
Operational	Income Charging	3	Not started					
Operational	Integrated Short Term Support and Care Pathway - Carers Assessment	3	Not started					
Operational	Workforce Development – Adults	3	Not started					
Schools	Prevention of Fraud in Schools audit – one school	3	Not started					
Governance, Fraud & Corruption	Compliance with Financial Regulations	3	Not started					
ICT	Incident Management to include Ransomware	3	Not started					
Operational	Service Planning	3	Not started					

Audit Type	Audit Area	Quarter	Status	Opinion	No of Rec	1 = Major ↔ 3 = Medium Recommendation		
						1	2	3
Governance, Fraud & Corruption	New Model in Technology and Engineering (NMiTE) Project (University) quarter 3 review	4	Not started					
Grant	Troubled Families (Qrt 4 monthly review of claims)	4	Not started					
Governance, Fraud & Corruption	Savings Targets	4	Not started					
Operational	RNIB Site for FE College	4	Not started					
Operational	Housing (Capital programme and spending)	4	Not started					
Operational	Development Regeneration Programme	4	Not started					
Operational	Integrated Short-Term Support and Care Pathway – Delayed Transfers of care (DToC) plan – process of hospital discharges, Front door redirected.	4	Not started					
Operational	Integrated Short-Term Support and Care Pathway phase 4 Housing Pathway	4	Not started					
Operational	Homepoint - Review of new provider	4	Not started					
Governance, Fraud & Corruption	Members Expenses	4	Not started					
Operational	Strategic Partnerships	4	Not started					
Follow UP	Health and Safety	4	In Progress					
Follow UP	Major Transport Schemes - financial reporting	4	In Progress		-	-	-	-
Follow UP	Special Educational Needs transport	4	Not Started					
Follow UP	Third Party Agreements (including Cloud)	4	In progress					
Follow UP	IT Access Controls –Mosaic and other systems used by AWB and CWB –	4	In Progress					

Audit Type	Audit Area	Quarter	Status	Opinion	No of Rec	1 = Major ↔ 3 = Medium Recommendation		
						1	2	3
						Follow Up	Follow Up Contingency	4
Operational	Effectiveness of programme Boards for major system changes/projects	2018-19	Complete	Reasonable				
Grant	Redundant Building Grant Funding	2018-19	Drafting report					
Follow Up	Public Health Contracts	2018-19	Complete	Follow Up	-	-	-	
Operational	Brokers Service - formally Care Workforce Project – support to Domiciliary Care Agencies recruitment	2018-19	Drafting report					
Operational	Contract Monitoring	2018-19	Complete	Partial	7	0	3	4



Meeting:	Audit and governance committee
Meeting date:	Tuesday 24 September 2019
Title of report:	External auditors report
Report by:	Chief finance officer

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose and summary

To update the committee on the conclusion of the external audit work for 2018/19.

The council's external auditor, Grant Thornton, has confirmed an unqualified audit opinion for value for money, concluding that the council has proper arrangements in place to secure economy, efficiency and effectiveness in its use of resources.

This is one of a number of reports which the committee receives in order that it may provide independent assurance on the adequacy of the risk management framework together with the internal control of the financial reporting and annual governance processes

Recommendation(s)

That:

- (a) the committee note the external audit findings report attached at appendix A; and**
- (b) the committee determine whether any issues raised in the report require inclusion in the committee's future workplan.**

Alternative options

1. There are no alternative options to receiving the report.
2. It is open to the committee to determine its future work programme to enable it to provide assurance on the adequacy of the council's risk management, financial reporting and annual governance processes. It is also open to the committee to comment on the scope and depth of external audit work and to ensure it gives value for money

Key considerations

3. The external audit report presented to the committee at its meeting on 30 July 2019 excluded the value for money (VfM) conclusion due to ongoing work. That work has now concluded and the external auditor has confirmed that the council has proper arrangements to secure economy, efficiency and effectiveness in its use of resources (see appendix 1).
4. Grant Thornton assessed a significant value for money risk in responding to concerns raised around the governance of the capital programme following a number of critical Internal Audit reviews. A separate issue has recently arisen that demonstrates ongoing weaknesses in the council's arrangements in capital procurement, reported separately by internal audit, in the progress report to the Council's Audit and Governance Committee in September 2019. The internal audit report identifies that the tendering process did not sufficiently consider financial turnover or financial stability of potential contractors. Grant Thornton recommend that the council should, as a priority, now review its governance arrangements over capital projects to ensure that information is being documented appropriately so that informed decision-making takes place. In this instance, the risk was identified at a sufficiently early stage, no contract had been awarded, for reasons unconnected with this issue, and there has been no financial loss to the council. Grant Thornton consider they have sufficient evidence to conclude that the risk is sufficiently mitigated and there is no impact on the VfM conclusion.
5. Grant Thornton are not in position to issue the certificate of completion of the 2015/16 audit due to an ongoing matter that is yet to be resolved, work to resolve this matter has continued since the last committee meeting, however this has not yet been concluded, and it is not currently possible to provide a timeline within which a conclusion will be reached.

Community impact

6. In accordance with the code of corporate governance to support effective accountability the council is committed to reporting on actions completed and outcomes achieved, and ensuring stakeholders are able to understand and respond as the council plans and carries out its activities in a transparent manner. External audit contributes to effective accountability.

Equality duty

7. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

Further information on the subject of this report is available from
Josie Rushgrove, Tel: 01432 261867, email: jrushgrove@herefordshire.gov.uk

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
8. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. As this report is for information, we do not believe that it will have an impact on our equality duty.

Resource implications

9. Additional external audit costs arising from the work necessary to inform the value for money opinion is reported separately to this meeting.

Legal implications

10. In accordance with section 20 of the Local Audit and Accountability Act 2014 (the Act) the external auditor must be satisfied (a) that the accounts comply with the requirements of the enactments that apply to them, (b) that proper practices have been observed in the preparation of the statement of accounts, and that the statement presents a true and fair view, and (c) that the authority has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.
11. On conclusion of the audit the auditor must enter on the statement of accounts (a) a certificate that the auditor has completed the audit in accordance with the Act, and (b) the auditor's opinion on the statement. Both these statements have been included in the external audit findings report.

Risk management

12. The council's management is responsible for the identification, assessment, management and monitoring of risk, and for developing, operating and monitoring the system of internal control. The external audit is not designed to test all internal controls or identify all areas of control weakness, however, if external audit identify any control weaknesses, these are reported. The external audit findings report attached at appendix A details the conclusions of the audit work.

Consultees

13. None

Appendices

Appendix A External audit findings report

Background papers

None identified



The updated Audit Findings for Herefordshire Council

Year ended 31 March 2019

12 September 2019



Contents



Your key Grant Thornton team members are:

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Section

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Appendices

- A. Action plan
- B. Follow up of prior year recommendations
- C. Audit adjustments
- D. Fees
- E. Audit Opinion July 2019
- F. Updated Audit Opinion September 2019
- G. Management Letter of Representation July 2019

The contents of this report relate only to those matters which came to our attention during the conduct of our normal audit procedures which are designed for the purpose of expressing our opinion on the financial statements. Our audit is not designed to test all internal controls or identify all areas of control weakness. However, where, as part of our testing, we identify control weaknesses, we will report these to you. In consequence, our work cannot be relied upon to disclose all defalcations or other irregularities, or to include all possible improvements in internal control that a more extensive special examination might identify. This report has been prepared solely for your benefit and should not be quoted in whole or in part without our prior written consent. We do not accept any responsibility for any loss occasioned to any third party acting, or refraining from acting on the basis of the content of this report, as this report was not prepared for, nor intended for, any other purpose.

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Headlines

This table summarises the key findings and other matters arising from the statutory audit of Herefordshire Council ('the Council') and the preparation of the group and Council's financial statements for the year ended 31 March 2019 for those charged with governance.

<p>Financial Statements</p>	<p>Under International Standards of Audit (UK) (ISAs) and the National Audit Office (NAO) Code of Audit Practice ('the Code'), we are required to report whether, in our opinion, the group and Council's financial statements:</p> <ul style="list-style-type: none"> • give a true and fair view of the financial position of the group and Council and the group and Council's income and expenditure for the year; and • have been properly prepared in accordance with the CIPFA/LASAAC code of practice on local authority accounting and prepared in accordance with the Local Audit and Accountability Act 2014. <p>We are also required to report whether other information published together with the audited financial statements (including the Annual Governance Statement (AGS) and Narrative Report), is materially inconsistent with the financial statements or our knowledge obtained in the audit or otherwise appears to be materially misstated.</p>	<p>Our audit work commenced on site during June and was concluded by 31 July 2019. Our full findings are summarised within this report. We have identified a number of adjustments to the financial statements. All audit adjustments are detailed in Appendix C. We have also raised recommendations for management as a result of our audit work in Appendix A. Our follow up of recommendations from the prior year's audit are detailed in Appendix B.</p> <p>We issued an unqualified opinion on the Council's financial statements on 31 July 2019, which was modified as we were unable to complete our VFM conclusion at the time (see Appendix E). We received a management representation letter from the Council to support our accounts opinion (see Appendix G).</p> <p>We concluded that the other information to be published with the financial statements is consistent with our knowledge of your organisation and the financial statements we have audited.</p>
<p>Value for Money arrangements</p>	<p>Under the National Audit Office (NAO) Code of Audit Practice ('the Code'), we are required to report if, in our opinion, the Council has made proper arrangements to secure economy, efficiency and effectiveness in its use of resources ('the value for money (VFM) conclusion').</p>	<p>We have completed our risk based review of the Council's value for money arrangements. We have concluded that Herefordshire Council has proper arrangements to secure economy, efficiency and effectiveness in its use of resources. We therefore anticipate issuing an unqualified value for money conclusion, as detailed in our updated audit opinion at Appendix F. Our findings are summarised on pages 16 to 18.</p>
<p>Statutory duties</p>	<p>The Local Audit and Accountability Act 2014 ('the Act') also requires us to:</p> <ul style="list-style-type: none"> • report to you if we have applied any of the additional powers and duties ascribed to us under the Act; and • To certify the closure of the audit. 	<p>We have not exercised any of our additional statutory powers or duties.</p> <p>We have completed the majority of work under the Code but are unable to issue our completion certificate until one particular confidential issue, arising from previous years has been brought to its conclusion.</p>

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Acknowledgements

We would like to take this opportunity to record our appreciation for the assistance provided by the finance team and other staff during our audit.

Summary

Overview of the scope of our audit

This Audit Findings Report presents the observations arising from the audit that are significant to the responsibility of those charged with governance to oversee the financial reporting process, as required by International Standard on Auditing (UK) 260 and the Code of Audit Practice ('the Code'). Its contents will be discussed with management and the Audit and Governance Committee.

As auditor we are responsible for performing the audit, in accordance with International Standards on Auditing (UK) and the Code, which is directed towards forming and expressing an opinion on the financial statements that have been prepared by management with the oversight of those charged with governance. The audit of the financial statements does not relieve management or those charged with governance of their responsibilities for the preparation of the financial statements.

Audit approach

Our audit approach was based on a thorough understanding of the group's business and is risk based, and in particular included:

- An evaluation of the group's internal controls environment, including its IT systems and controls;
- An evaluation of the components of the group based on a measure of materiality considering each as a percentage of the group's assets to assess the significance of the component and to determine the planned audit response. From this evaluation we determined that a targeted approach was required for Hoople; and
- Substantive testing on significant transactions and material account balances, including the procedures outlined in this report in relation to the key audit risks

We have not had to alter or change our audit plan, as communicated to you on 24 January 2019, or the subsequent audit update report on 19 March 2019. We did, however, need to respond to a national issue regarding pensions accounting, the McCloud judgement, that arose late in the year.

Conclusion

We completed our audit of your financial statements and issued a modified audit opinion on 31 July 2019, following the Audit and Governance Committee meeting on 30 July 2019, as detailed in Appendix E. We have now completed our VFM work and are proposing an unmodified updated audit opinion as detailed in Appendix F

Our approach to materiality

The concept of materiality is fundamental to the preparation of the financial statements and the audit process and applies not only to the monetary misstatements but also to disclosure requirements and adherence to acceptable accounting practice and applicable law.

Materiality calculations remain the same as reported in our audit plan. We detail in the table below our determination of materiality for Herefordshire Council.

	Group Amount (£)	Council Amount (£)	Qualitative factors considered
Materiality for the financial statements	10,200,000	10,000,000	We determined materiality for the Group as a whole to be £10,200,000 which is 1.4% of the Group's assets in 2017/18.
Performance materiality	7,140,000	7,000,000	We used a lower level of materiality to determine the extent of our testing. We set this at 70% of financial statement materiality.
Trivial matters	510,000	500,000	We determined the threshold at which we would communicate misstatements to the Audit and Governance Committee at £510,000, which is 5% of financial statement materiality.
Materiality for senior officer remuneration	100,000	100,000	We have set a lower level of materiality for senior officer remuneration disclosures because we believe these disclosures are of specific interest to the reader of the accounts.

Significant findings – audit risks

Risks identified in our Audit Plan	Commentary
<p>1 The revenue cycle includes fraudulent transactions</p> <p>Under ISA240 (UK) there is a presumed risk that revenue may be misstated due to the improper recognition of revenue.</p>	<p>Auditor commentary</p> <p>Having considered the risk factors set out in ISA240 and the nature of the revenue streams at the Council, we have determined that the risk of fraud arising from revenue recognition can be rebutted, because:</p> <ul style="list-style-type: none"> • There is little incentive to manipulate revenue recognition • Opportunities to manipulate revenue recognition are very limited • The culture and ethical frameworks of local authorities, including Herefordshire Council, mean that all forms of fraud are seen as unacceptable <p>Therefore we do not consider this to be a significant risk for Herefordshire Council. No matters have arisen from our audit procedures.</p>
<p>2 Management override of controls</p> <p>Under ISA (UK) 240 there is a non-rebuttable presumed risk that the risk of management override of controls is present in all entities. The Council faces external scrutiny of its spending, and this could potentially place management under undue pressure in terms of how they report performance. We identified management override of controls as a risk requiring special audit consideration.</p>	<p>Auditor commentary</p> <p>We have:</p> <ul style="list-style-type: none"> • Gained an understanding of the accounting estimates, judgements and decisions made by management • Tested journal entries • Reviewed accounting estimates, judgements and decisions made by management • Evaluated the rationale for any changes in accounting policies or significant unusual transactions. <p>Our work on journals, has identified that no there is no authorisation process in place over the journals posted. The systems put in place by the Council do restrict who can post journals, but there is no authorisation once these are posted. See action plan at Appendix A for recommendation.</p>

Significant findings – audit risks

Risks identified in our Audit Plan

3

Valuation of land and buildings

The Council revalues its land and buildings on a rolling five-yearly basis. This valuation represents a significant estimate by management in the financial statements due to the size of the numbers involved and the sensitivity of this estimate to changes in key assumptions. Additionally, management will need to ensure the carrying value in the Council and group financial statements is not materially different from the current value or the fair value (for surplus assets) at the financial statements date, where a rolling programme is used.

We therefore identified valuation of land and buildings, particularly revaluations and impairments, as a significant risk.

Commentary

Auditor commentary

We have:

- Reviewed management's processes and assumptions for the calculation of the estimate.
- Reviewed the competence, expertise and objectivity of any management experts used.
- Reviewed the instructions issue to valuation experts and the scope of their work.
- Reviewed the basis on which the valuation was carried out, challenging the key assumptions.
- Reviewed and challenged the information used by the valuer to ensure it was robust and consistent with our understanding.
- Tested revaluations made during the year to ensure they were input correctly into the Council's asset register.
- Tested a number of the valuations performed by the valuer to underlying data.
- Evaluated the assumptions made by management for those assets not revalued during the year and how management satisfied themselves that these were not materially different to current value.

There were no significant issues to report.

4

Valuation of pension fund net liability

The Council's pension fund net liability, as reflected in its balance sheet as the net defined benefit liability, represents a significant estimate in the financial statements and group accounts.

The pension fund net liability is considered a significant estimate due to the size of the numbers involved and the sensitivity of the estimate to changes in key assumptions.

We therefore identified valuation of the Council's pension fund net liability as a significant risk.

The Council is a statutory member of the Worcestershire Local Government Pension Scheme administered by Worcestershire County Council. Herefordshire Council remain responsible for the accuracy of disclosures within the accounts and this will include having a clear understanding of key assumptions within the estimate.

Auditor commentary

We have:

- Identified the controls put in place by management to ensure that the pension fund net liability is not materially misstated and assessed whether those controls were implemented as expected and whether they were sufficient to mitigate the risk of material misstatement.
- Evaluated the competence, expertise and objectivity of the actuary who carried out the Council's pension fund valuation.
- Tested the data submitted to the actuary.
- Performed analytical procedures regarding the Council's share of fund assets.
- Gained an understanding of the basis on which the IAS19 valuation was carried out, undertaking procedures to confirm the reasonableness of the actuarial assumptions made.
- Checked the consistency of the pension fund net liability disclosures in notes to the financial statements with the actuarial report from your actuary.
- Considered the implication's for the Council of the recent McCloud judgement - see significant findings.

There were no significant issues to report.

Other audit risks

Risks identified in our Audit Plan

Commentary

5

Employee remuneration

Payroll expenditure represents a significant percentage of the Council's operating expenses.

As the payroll expenditure comes from a significant number of individual transactions throughout the year, including transactions involving new-starters, grade changes and leavers, there is a risk that payroll expenditure in the accounts could be understated. We therefore identified occurrence of payroll expenses as a risk requiring particular audit attention.

Auditor commentary

We have undertaken the following work in relation to this risk:

- Evaluated the Council's accounting policy for recognition of payroll expenditure for appropriateness
- Documented our understanding of processes and key controls
- Undertaken walkthrough of key controls to assess whether those controls were in line with our documented understanding
- Obtained the year end payroll reconciliation and ensures that the amounts in the accounts reconcile to the ledger and through to payroll
- Agreed payroll related accruals (e.g. unpaid leave) to supporting documents and reviewed for reasonableness, and
- Performed substantive analytical procedure for M1 to M12, disaggregated by month.

There were no significant issues to report.

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Operating expenses

Non-pay expenses on other goods and services also represents a significant percentage (55%) of the Council's operating expenses. Management uses judgement to estimate accruals of non-invoiced costs.

We identified completeness of non-pay expenses as a risk requiring particular audit attention.

We have:

- Evaluated the Council's accounting policy for recognition of non-pay expenditure for appropriateness
- Gained an understanding of the Council's system for accounting for non-pay expenditure and evaluated the design of the associated controls
- Documented the accruals process and the controls management has put in place, challenging key underlying assumptions, the appropriateness of the source data used and the basis of calculations
- Obtained a listing from the cashbook of non pay payments made in April and tested to ensure that they have been charged to the correct year and to confirm accuracy, occurrence, classification and cut off.

There were no significant issues to report.



Significant findings - other issues

This section provides commentary on new issues and risks which were identified during the course of the audit that were not previously communicated in the Audit Plan and a summary of any significant control deficiencies identified during the year.

Issue	Commentary	Auditor view
<p data-bbox="69 520 107 555">1</p> <p data-bbox="147 512 685 536">Potential impact of the McCloud judgement</p> <p data-bbox="147 555 763 675">The Court of Appeal has ruled that there was age discrimination in the judges and firefighters pension schemes where transitional protections were given to scheme members.</p> <p data-bbox="147 694 763 813">The Government applied to the Supreme Court for permission to appeal this ruling, but this permission to appeal was unsuccessful. The case will now be remitted back to employment tribunal for remedy.</p> <p data-bbox="147 833 763 983">The legal ruling around age discrimination (McCloud - Court of Appeal) has implications not just for pension funds, but also for other pension schemes where they have implemented transitional arrangements on changing benefits.</p>	<p data-bbox="786 512 1435 600">Discussion is ongoing in the sector regarding the potential impact of the ruling on the financial statements of Local Government bodies.</p> <p data-bbox="786 619 1435 770">The Council has requested an estimate from its actuary of the potential impact of the McCloud ruling. The actuary's estimate was of a possible increase in pension liabilities of £2,836k, and an increase in service costs for the 2019/20 year of £574k.</p> <p data-bbox="786 790 1435 935">Management's view is that the impact of the ruling is not material for Herefordshire Council. The Council has now received the updated IAS19 Report from its actuary and is incorporating the revised actuarial valuation into its 2018-19 financial statements.</p>	<p data-bbox="1480 555 2141 675">We have assessed the approach used by the Council's actuary and the assumptions used and consider that the approach that has been taken to arrive at this estimate is reasonable.</p> <p data-bbox="1480 694 2141 845">Given the change in liability resulting from the McCloud judgement management has agreed to process the adjustments of £2.8 million based on the updated IAS19 report. We consider this an appropriate adjustment to the Council's financial statements.</p> <p data-bbox="1480 865 2141 935">We have included this as an adjusted item at Appendix A. We accepted the revised accounting treatment.</p>





Significant findings – key judgements and estimates

Financial statements

Accounting area	Summary of management's policy	Audit Comments	Assessment
Provisions for (NNDR appeals - £4.3m (£1.253m short-term, £3.968m long-term)	The Council are responsible for repaying a proportion of successful rateable value appeals. Management calculate the level of provision required based upon the latest information about outstanding rates appeals provided by the Valuation Office Agency (VOA) and previous success rates.	<ul style="list-style-type: none"> We have: Reviewed the appropriateness of the underlying information used to determine the estimate. Considered the reasonableness of increase/decrease in estimate. Confirmed the adequacy of disclosure of estimate in the financial statements. 	 (green)
Investment property valuation process	In accordance with IFRS 13 investment property should be measured at fair value at the reporting date.	<ul style="list-style-type: none"> Investment property per the financial statements note 10 totals £34.2m. In accordance with IFRS 13 investment property should be measured at fair value at the reporting date through an annual revaluation. The Council formally revalued all of its investment property as at 31st March 2019. We performed coverage sampling on Investment assets by testing a total amount of £27.8m of assets. The valuations were agreed to the valuer's report. We also examined the type of the property and the rental income earned to gain assurance over the property's classification. We are satisfied that the Investment property value included within the financial statements is not materially misstated. 	 (green)


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Assessment

-  (red) We disagree with the estimation process or judgements that underpin the estimate and consider the estimate to be potentially materially misstated
-  (amber) We consider the estimate is unlikely to be materially misstated however management's estimation process contains assumptions we consider optimistic
-  (yellow) We consider the estimate is unlikely to be materially misstated however management's estimation process contains assumptions we consider cautious
-  (green) We consider management's process is appropriate and key assumptions are neither optimistic or cautious





Significant findings – key judgements and estimates

Financial statements

















	Summary of management's policy	Audit Comments	Assessment
Land and Buildings – Other - £336.9m	The Council has engaged Wilkes Head & Eve to complete the valuation of properties as at 31 March 2019 on a five yearly cyclical basis. The council made the decision to value all property assets that hadn't been valued in 2017/18. Valuations of land and buildings are carried out in accordance with the methodologies and bases for estimation as set out in the professional standards of the Royal Institution of Chartered Surveyors. The valuation of properties valued by the valuer has resulted in a net decrease of £1.4m. Management has considered the year end value of non-valued properties. The valuer performs a review using local indices to determine whether there has been a material change in the total value of these properties. Management's assessment of assets not revalued has identified no material change to the properties value - £656k.	<p>We have:</p> <ul style="list-style-type: none"> Assessed the objectiveness and competency of management's expert. Determined the accuracy of the underlying information used to determine the estimate. Compared the consistency of estimate against a report from Gerald Eve setting out indices movements in the year. Tested the value of the properties by comparing a sample to underlying data to enable us to assess the reasonableness of the estimate. Tested a sample of valuations to underlying data. Reviewed the adequacy of disclosure of estimate in the financial statements. 	<p> (green)</p>

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Assessment

-  (red) We disagree with the estimation process or judgements that underpin the estimate and consider the estimate to be potentially materially misstated
-  (amber) We consider the estimate is unlikely to be materially misstated however management's estimation process contains assumptions we consider optimistic
-  (yellow) We consider the estimate is unlikely to be materially misstated however management's estimation process contains assumptions we consider cautious
-  (green) We consider management's process is appropriate and key assumptions are neither optimistic or cautious

Significant findings – key judgements and estimates

	Summary of management's policy	Audit Comments	Assessment																								
105	<p>Net pension liability – £268.3m</p> <p>The Council's net pension liability at 31 March 2019 is £268.3m (PY £225.1m) comprising the Worcestershire County Council Pension Fund Local Government and unfunded defined benefit pension scheme obligations. The Council uses Mercers to provide actuarial valuations of the Council's assets and liabilities derived from this scheme. A full actuarial valuation is required every three years. The latest full actuarial valuation was completed in 2016. A roll forward approach is used in intervening periods, which utilises key assumptions such as life expectancy, discount rates, salary growth and investment returns. Given the significant value of the net pension fund liability, small changes in assumptions can result in significant valuation movements. There has been a £43.2m net actuarial loss during 2018/19.</p>	<ul style="list-style-type: none"> We have reviewed the estimate, undertaking tests on the asset and liability elements of the net liability. Using analytical procedures we have compared actual results with expectations and have concluded that the results are reasonable. We have reviewed the work of Mercers, through the use of an auditor's expert, Pricewaterhousecoopers. We have undertaken an assessment of actuary's roll forward approach, including completing detail work to confirm reasonableness of approach. 	 (green)																								
		<table border="1"> <thead> <tr> <th>Assumption</th> <th>Actuary Value</th> <th>PwC range</th> <th>Assessment</th> </tr> </thead> <tbody> <tr> <td>Discount rate</td> <td>2.4%</td> <td>2.4-2.5%</td> <td> (green)</td> </tr> <tr> <td>Pension increase rate</td> <td>2.3%</td> <td>2.3-2.2%</td> <td> (green)</td> </tr> <tr> <td>Salary growth</td> <td>3.7%</td> <td>3.1-4.35%</td> <td> (green)</td> </tr> <tr> <td>Life expectancy – Males currently aged 45 / 65</td> <td>22.7 / 24.9</td> <td>22.2-23.7 / 24.8-26.3</td> <td> (green)</td> </tr> <tr> <td>Life expectancy – Females currently aged 45 / 65</td> <td>25.7 / 28.0</td> <td>25.0-23.7 / 27.9-29.0</td> <td> (green)</td> </tr> </tbody> </table>	Assumption	Actuary Value	PwC range	Assessment	Discount rate	2.4%	2.4-2.5%	 (green)	Pension increase rate	2.3%	2.3-2.2%	 (green)	Salary growth	3.7%	3.1-4.35%	 (green)	Life expectancy – Males currently aged 45 / 65	22.7 / 24.9	22.2-23.7 / 24.8-26.3	 (green)	Life expectancy – Females currently aged 45 / 65	25.7 / 28.0	25.0-23.7 / 27.9-29.0	 (green)	
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		<ul style="list-style-type: none"> We have undertaken checks on the completeness and accuracy of the underlying information used to determine the estimate in order to determine the reasonableness of increase in the estimate. We have also ensured adequacy of the disclosure of the estimate in the financial statements and have undertaken analytical procedures regarding the Council's share of fund assets. 																									
		<p>Our audit work in this area was satisfactorily completed.</p>																									

Assessment

-  (red) We disagree with the estimation process or judgements that underpin the estimate and consider the estimate to be potentially materially misstated
-  (amber) We consider the estimate is unlikely to be materially misstated however management's estimation process contains assumptions we consider optimistic
-  (yellow) We consider the estimate is unlikely to be materially misstated however management's estimation process contains assumptions we consider cautious
-  (green) We consider management's process is appropriate and key assumptions are neither optimistic or cautious

Significant findings – matters discussed with management

This section provides commentary on the significant matters we discussed with management during the course of the audit.

Significant matter	Commentary	Auditor view
<p>1 Significant events or transactions that occurred during the year</p>	<ul style="list-style-type: none"> During the 2018/19 financial year, the pension liability of Hoople Ltd was passed back to the Council. 	<ul style="list-style-type: none"> We have reviewed the legal advice that the Council received as well as the amendment to the deed of admission. We have no matters to report to you in this respect.

Significant findings - Going concern

Our responsibility

As auditors, we are required to “obtain sufficient appropriate audit evidence about the appropriateness of management's use of the going concern assumption in the preparation and presentation of the financial statements and to conclude whether there is a material uncertainty about the entity's ability to continue as a going concern” (ISA (UK) 570).

Going concern commentary

Management's assessment process

The Chief Finance Officer as s151 Officer has a reasonable expectation that the services provided by the Council will continue for the foreseeable future. For this reason, the Council continue to adopt the going concern basis in preparing the financial statements.

Auditor commentary

Management have determined that there is no evidence of an intention to cease the provision of services, and have therefore adopted the going concern assumption. We have not identified any issues through our review and enquiries that suggest that this is not appropriate.

We are satisfied that the going concern assumption is appropriate for the Council and is in line with accounting standards and the CIPFA code.

Work performed

Auditor commentary

We have reviewed management's assessment and confirm that the assumptions underpinning this is reasonable. Based on our review of management's assessment, no material uncertainties have been identified.

The Council's Medium Term Financial Plan does identify a current shortfall in income against expected costs over the MTFS period. Current levels of Council reserves confirm that the Council has sufficient useable reserves to call upon, should this be required to manage the financial position within the foreseeable future.

Concluding comments

Auditor commentary

Based on our work undertaken, we are satisfied with the Council's assessment that the going concern basis is appropriate for the 2018/19 financial statements.

Other communication requirements

We set out below details of other matters which we, as auditors, are required by auditing standards and the Code to communicate to those charged with governance.

	Issue	Commentary
1	Matters in relation to fraud	<ul style="list-style-type: none"> We have previously discussed the risk of fraud with the Audit and Governance Committee. We have not been made aware of any incidents in the period and no other issues have been identified during the course of our audit procedures
2	Matters in relation to related parties	<ul style="list-style-type: none"> We are not aware of any related parties or related party transactions which have not been disclosed
3	Matters in relation to laws and regulations	<ul style="list-style-type: none"> You have not made us aware of any significant incidences of non-compliance with relevant laws and regulations and we have not identified any incidences from our audit work, we have, however, continued to be appraised of the matter that has resulted in the withholding of the audit certificate for the last two years
4	Written representations	<ul style="list-style-type: none"> A letter of representation was provided by the Council, including specific representations in respect of the Group, which is included in Appendix G Specific representations were provided by management in respect of the significant assumptions used in making accounting estimates for the McCloud impact on the pension liability.
5	Confirmation requests from third parties	<ul style="list-style-type: none"> We requested from management permission to send confirmation requests to the holders of investments, loans and the Council bankers. This permission was granted and the requests were sent. All of these requests were returned with positive confirmation.
6	Disclosures	<ul style="list-style-type: none"> Our review found no material omissions in the financial statements
7	Audit evidence and explanations/significant difficulties	<ul style="list-style-type: none"> All information and explanations requested from management was provided No issues were noted with accounts closedown, production of draft accounts and working papers

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Other responsibilities under the Code

Issue	Commentary
① Other information	<ul style="list-style-type: none"> We are required to give an opinion on whether the other information published together with the audited financial statements (including the Annual Governance Statement and Narrative Report), is materially inconsistent with the financial statements or our knowledge obtained in the audit or otherwise appears to be materially misstated. <p>No inconsistencies were identified and we issued an unmodified opinion in this respect on 31 July 2019 – refer to Appendix E</p>
② Matters on which we report by exception	<p>We are required to report on a number of matters by exception in a numbers of areas:</p> <ul style="list-style-type: none"> If the Annual Governance Statement does not meet the disclosure requirements set out in the CIPFA/SOLACE guidance or is misleading or inconsistent with the other information of which we are aware from our audit If we have applied any of our statutory powers or duties <p>We have nothing to report on these matters</p>
③ Specified procedures for Whole of Government Accounts	<p>We are required to carry out specified procedures (on behalf of the NAO) on the Whole of Government Accounts (WGA) consolidation pack under WGA group audit instructions. The Council does not exceed the threshold and so no procedures are required.</p>
④ Certification of the closure of the audit	<p>We will be unable to certify the completion of the 2018/19 audit of Herefordshire Council in our auditor's report, as detailed in Appendices E and F as there remain unresolved matters from the prior years. We have been updated by officers of progress on the prior year matter during the year.</p>

Value for Money

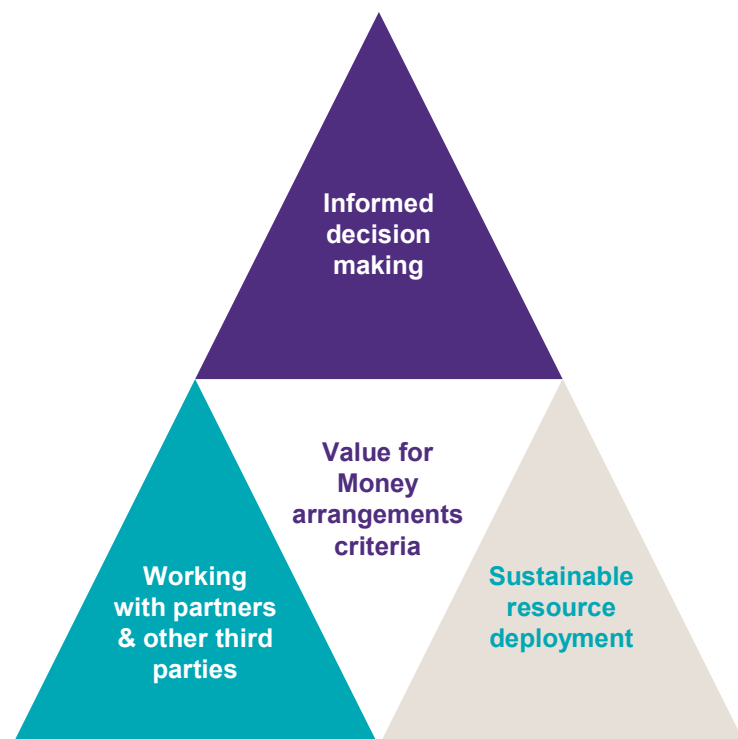
Background to our VFM approach

We are required to satisfy ourselves that the Council has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources. This is known as the Value for Money (VFM) conclusion.

We are required to carry out sufficient work to satisfy ourselves that proper arrangements are in place at the Council. In carrying out this work, we are required to follow the NAO's Auditor Guidance Note 3 (AGN 03) issued in November 2017. AGN 03 identifies one single criterion for auditors to evaluate:

"In all significant respects, the audited body takes properly informed decisions and deploys resources to achieve planned and sustainable outcomes for taxpayers and local people."

This is supported by three sub-criteria, as set out below:



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Risk assessment

We carried out an initial risk assessment in January 2019 and identified a number of significant risks in respect of specific areas of proper arrangements using the guidance contained in AGN03. We communicated these risks to you in our Audit Plan dated 23 January 2019.

Our work

AGN 03 requires us to disclose our views on significant qualitative aspects of the Council's arrangements for delivering economy, efficiency and effectiveness.

Overall conclusion

Whilst we were unable to issue a conclusion in July 2019 (see Appendix E), based on the work we have since performed to address the significant risks, we are now satisfied that the Council had proper arrangements for securing economy, efficiency and effectiveness in its use of resources.

The text of our proposed report is included in Appendix F.

Key findings

We set out below our key findings against the significant risks we identified through our initial risk assessment and further risks identified through our ongoing review of documents.

	Significant risk	Findings	Conclusion
1	<p>The significant risk identified was financial sustainability. If the key assumptions within the Medium-Term Financial Strategy are not reasonably based, then the future financial position of the Council could be at risk.</p> <p>Audit work proposed to address this risk: we will discuss with Officers the key assumptions in the Medium-Term Financial Strategy and consider supporting evidence.</p>	<p>We considered the key assumptions in the medium term financial plan focussing on the assumptions around children's services and adult social care as the areas having most risk.</p> <p>In 2010, the need to make savings was considered crucial to making the Council more financially sustainable. More recently the financial pressure on councils has grown through reductions in central government grants and increasing costs particularly through demand in social care. The Council has focussed on delivering recurring savings but also disposing of assets which do not meet strategic priorities, providing capital receipts to be invested in corporate priority areas. In Herefordshire we have not seen a particular focus on potentially risky commercial measures for income generation, which we are seeing in some other councils.</p> <p>The Council has a long standing track record of achieving a high level of savings. The Medium-Term Financial Strategy showed a savings target of £13m for 2018/19. Actual savings achieved was £12m. Whilst the savings were just short of target, the Council managed to achieve an underspend in the year against budget of £600k (against a budget of £144.1m, the outturn position was £143.5m). Whilst some use of balances has been made in the year, there has been a net addition to reserves of £9m increasing the General Fund balance to £74.9m.</p> <p>In 2018/19, there was an overspend in relation to Children's Services of £1.5m against budget, although the savings target set at the start of the year was substantially achieved. This overspend is attributed to the increase in numbers of looked after children, some of which have been awarded a more expensive care package than in previous years.</p> <p>Adult Social Care achieved an underspend of £220k in 2018/19 and also achieved a high level of savings against the target set.</p> <p>We have considered the significant risks identified in our planning and now consider we have sufficient evidence to conclude that the risk is sufficiently mitigated and there is no impact on our VfM conclusion.</p>	<p>We concluded that the Council had adequate arrangements to ensure to achieve planned and sustainable outcomes for taxpayers and local people.</p>

Key findings - continued

2	Significant risk	Findings	Conclusion
112	<p>The significant risk identified related to the Council's capital programme. There has been a recent high-profile budget overspend on a capital project. The quality of capital reporting has also been under some scrutiny. The Council are currently reviewing the governance arrangements around on-going schemes. Whilst the Council is responding to the weaknesses in this area, we consider that this represents a significant risk.</p> <p>The audit work proposed to address this risk is that we will consider the actions that the Council is taking to respond to concerns raised around the governance of the capital programme.</p>	<p>We had assessed a significant risk in this area due to the Council's experience with the Blue School House project the previous year, which had been subject to a number of critical Internal Audit reviews. Whilst a follow up of progress has been undertaken by Internal Audit of its previous recommendations regarding capital procurement, which showed limited progress had been made, a separate issue has recently arisen that demonstrates ongoing weaknesses in the Council's arrangements in capital procurement.</p> <p>This issue relates to procurement for the South Wye Transport Package and we understand will be reported by Internal Audit to the Council's Audit and Governance Committee in September 2019. This Internal Audit report identifies that the tendering process did not consider financial turnover or financial stability of the contractors. This was identified in July 2018 - however there is no reference to this in the project control group meetings until January 2019.</p> <p>Given this is now the second audit where we have had to consider weaknesses in capital procurement, the Council should, as a priority, now review its governance arrangements over capital projects to ensure that information is being documented appropriately so that informed decision-making takes place. In this instance, no contract had been awarded and therefore there was no loss to the Council.</p>	<p>We concluded that the Council had adequate arrangements to ensure to achieve planned and sustainable outcomes for taxpayers and local people.</p>
	<p>We have considered the significant risks identified in our planning and now consider we have sufficient evidence to conclude that the risk is sufficiently mitigated and there is no impact on our VfM conclusion.</p>		

Independence and ethics

We confirm that there are no significant facts or matters that impact on our independence as auditors that we are required or wish to draw to your attention. We have complied with the Financial Reporting Council's Ethical Standard and confirm that we, as a firm, and each covered person, are independent and are able to express an objective opinion on the financial statements

We confirm that we have implemented policies and procedures to meet the requirements of the Financial Reporting Council's Ethical Standard and we as a firm, and each covered person, confirm that we are independent and are able to express an objective opinion on the financial statements.

Further, we have complied with the requirements of the National Audit Office's Auditor Guidance Note 01 issued in December 2017 which sets out supplementary guidance on ethical requirements for auditors of local public bodies.

Details of fees charged are detailed in Appendix D

Audit and Non-audit services

For the purposes of our audit we have made enquiries of all Grant Thornton UK LLP teams providing services to the Council. The following non-audit services were identified as well as the threats to our independence and safeguards that have been applied to mitigate these threats.

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	Fees £	Threats identified	Safeguards
Audit related			
Grant certification – housing benefits	5,806 tbc	Self-Interest (because this is a recurring fee)	The level of this recurring fee taken on its own is not considered a significant threat to independence as the fee for this work is £5,806 in comparison to the total fee for the audit of £95,792 and in particular relative to Grant Thornton UK LLP's turnover overall.
Audit of Teachers Pension	6,000 tbc		
Audit of SFA grant	4,000 tbc		

These services are consistent with the group's policy on the allotment of non-audit work to your auditors. None of the services provided are subject to contingent fees.

Action plan

We have identified recommendations for the group as a result of issues identified during the course of our audit. We have agreed our recommendations with management and we will report on progress on these recommendations during the course of the 2019/20 audit. The matters reported here are limited to those deficiencies that we have identified during the course of our audit and that we have concluded are of sufficient importance to merit being reported to you in accordance with auditing standards.

	Assessment	Issue and risk	Recommendations
1	● (amber)	Journals authorisation – During the course of our testing we noted that none of the journals posted to the financial system were subject to an authorization process. The risk is that this could result in a material misstatement in the financial statements. From discussions with management we note that the financial system has restrictions in place so that only appropriate staff can post journals. We understand that management are looking to introduce an authorisation process in the future.	We therefore recommend that management look to increase the priority of the authorisation process or put in place mitigating controls until this process can be implemented. Management response The Council will consider adopting this going forward.
1 14 2	● (amber)	The Council now prepares group financial statements however the Annual Governance Statement appears to be focussed on the Council with limited reference to the subsidiary company, Hoople. The code confirms that where there is a group relationship, the review of the internal control systems shall include group activities.	We therefore recommend that management look to expand the Annual Governance Statement in future years to cover the group activities. Management response The Council will consider adopting this going forward.

Controls

- (red) High – Significant effect on control system
- (amber) Medium – Effect on control system
- (green) Low – Best practice

Follow up of prior year recommendations

We identified the following issues in the audit of Herefordshire Council's 2017/18 financial statements, which resulted in recommendations being reported in our 2017/18 Audit Findings report. We are pleased to report that management have implemented all of our recommendations.

	Assessment	Issue and risk previously communicated	Update on actions taken to address the issue
1	✓	<ul style="list-style-type: none"> Valuation of PPE: the balance sheet at 31/3/18 should reflect valuations at 31/3/18. For any assets not valued the Council must demonstrate that there has not been a material change in value. We noted that the revised asset register did not include information on impairments, which made the accounting for changes to valuations difficult and was a factor in the adjustments required on page 25. The asset register has now been updated and will be included going forward. 	<ul style="list-style-type: none"> During 2018/19 WHE were appointed for a period of 3 years. The valuation date was amended to the year end (31st March) minimising the possibility of a material misstatement. Prior year downwards revaluations taken to the CI&E are on the FAR so reversals can be readily identified and actioned if necessary.
115 2	✓	<ul style="list-style-type: none"> Quality Control and preparation of working papers: Market Forces Review. There were material inconsistencies between assets considered for market review, and those assets held on register. The consequence was the assumptions that officers made around whether a material difference existed on the carrying value of assets was materially incorrect and more valuations were instructed at a late stage of the audit. 	<ul style="list-style-type: none"> This is now a minimal issue due to assets being valued bi-annually and the year-end valuation date change.
3	✓	<ul style="list-style-type: none"> Quality Control and preparation of working papers: We recognise that officers made considerable efforts to support the audit. All the samples were turned round quickly and there were relatively few queries arising from that work. Also additional resource was obtained to deal with group accounts and other technical queries raised and this helped. 	<ul style="list-style-type: none"> The audit documentation request during this year's finals audit was completed through the Inflo system. This seemed to work well, good to be able to view the statuses of each request online real-time. The working paper and queries were also more distributed amongst the finance team and this meant that the turnaround for requests was a lot more efficient compared to previous years.

Assessment

- ✓ Action completed
- X Not yet addressed

Follow up of prior year recommendations

	Assessment	Issue and risk previously communicated	Update on actions taken to address the issue
4	✓	<ul style="list-style-type: none"> Group accounts: The Council has for the first time prepared group accounts. We have worked with officers during the audit to refine the notes to ensure they fully code compliant. 	<ul style="list-style-type: none"> The 2018/19 group accounts are very similar to 2017/18 due to the pension novation in 2018/19 the group accounts will substantially reduce in volume in 2019/20.
5	✓	<ul style="list-style-type: none"> Elimination of school balances: from our debtors testing we identified that debtors control account contained balances with schools under local authority control, which should under the code be eliminated. 	<ul style="list-style-type: none"> This was reviewed at year end and due to not falling on a bank holiday this was not an issue for 2018/19 year end.
116	✓	<ul style="list-style-type: none"> The statement of accounts is a relatively clear and concise statement of accounts. To further improve we consider that the content of the narrative report could be expanded to include the capital outturn, and non financial performance information around the Council and the group. Footnotes should be added to explain significant changes in numbers year on year and significant estimates and judgements should be reviewed to reflect matters within the accounts. 	<ul style="list-style-type: none"> Narrative report reviewed by finance team in 1819 and format updated. It has remained concise, concentrating on key messages.

Assessment

- ✓ Action completed
- X Not yet addressed

Audit Adjustments

We are required to report all non trivial misstatements to those charged with governance, whether or not the accounts have been adjusted by management.

Impact of adjusted misstatements

All adjusted misstatements found to date are set out in detail below along with the impact on the key statements and the reported net expenditure for the year ending 31 March 2019.

Detail	Comprehensive Income and Expenditure Statement £'000	Statement of Financial Position £' 000	Impact on total net expenditure £'000
<p>1 Housing Benefits overpayments categorisation</p> <p>During our grants testing, it was identified that £620k of Housing Benefits overpayments income had been miscategorised as DWP Grant instead of Other grants and contributions. The Other grants and contributions line will show £620k more income and the DWP grants line will show £620k less income. The total of the note is unchanged.</p>	nil	nil	nil
<p>1 Pension Liability Valuation – McCloud Judgement</p> <p>The legal ruling around age discrimination (McCloud - Court of Appeal) has implications for pension schemes where transitional arrangements on changing benefits have been implemented.</p> <p>The actuarial valuation of the pension liability for the Authority had to be updated to assess the impact of the McCloud judicial judgement. This has resulted in an adjustment to the pension liability.</p>	(3,600)	(3,600)	(3,600)
<p>3 Waste Loan – accrued interest</p> <p>During our testing of a loan agreement with Mercia Waste Management Limited, we noted that interest of approx. £600k had not been accrued for.</p>	600	600	600
Overall impact	3,000	3,000	3,000

Audit Adjustments

Misclassification and disclosure changes

The table below provides details of misclassification and disclosure changes identified during the audit to date which have been made in the final set of financial statements.

Disclosure omission	Detail	Auditor recommendations	Adjusted?
Employee bandings	<ul style="list-style-type: none"> Two employees were in the wrong band for the employees earning over £50k. These had been disclosed in the £125-130k band instead of the £120-125k band 	<ul style="list-style-type: none"> Management should review disclosures prior to inclusion in the draft financial statements to ensure that they agree to underlying supporting information. 	✓
Cashflow	<ul style="list-style-type: none"> Several disclosure points were identified whereby the notes to the cashflow did not agree to underlying notes or supporting information 	<ul style="list-style-type: none"> Management should review disclosures to ensure that amounts are included correctly and that the values can be reconciled to other notes in the accounts. 	✓
Exit packages	<ul style="list-style-type: none"> One individual was miscoded so had not been included within the exit packages Several employees had their salary figures listed instead of the exit packages amount 	<ul style="list-style-type: none"> Management should review disclosures prior to inclusion in the draft financial statements to ensure that they agree to underlying supporting information. 	✓
Group accounts	<ul style="list-style-type: none"> Several presentational adjustments were required to the Group accounts and notes 	<ul style="list-style-type: none"> Management should review disclosures to ensure that amounts are included correctly and that the values can be reconciled to other notes in the accounts. 	✓
General presentational amendments	<ul style="list-style-type: none"> We have identified other general amendments including spelling, grammar as well as other presentational items 	<ul style="list-style-type: none"> We requested of management that amendments were made in relation to these items for clarity within the accounts 	✓

Audit Adjustments

Impact of unadjusted misstatements

The table below provides details of adjustments identified during the 2018/19 audit to date which have not been made within the final set of financial statements. The Audit and Governance Committee is required to approve management's proposed treatment of all items recorded within the table below:

Detail	Comprehensive Income and Expenditure Statement £'000	Statement of Financial Position £' 000	Impact on total net expenditure £'000	Reason for not adjusting
1 Our testing of expenditure cut off discovered an accrual for Housing Benefits expenditure for 2018/19 that was paid out 2019/20 has not been made. From the items we tested this identified an error of £23,588, which when extrapolated across the population is £570,927.	571	(571)	571	As this is an extrapolated error we would not expect an adjustment
2 During our grants testing we identified a £25k credit to the fees and charges grants section was miscoded and should have been a credit to expenditure. Expenditure and income have therefore been overstated. The extrapolated error is £554,026.	nil	nil	nil	As this is an extrapolated error we would not expect an adjustment
Overall impact	571	(571)	571	

Impact of prior year unadjusted misstatements

There were no unadjusted misstatements identified during the prior year audit which had not been made within the final set of 2017/18 financial statements.

Fees

We confirm below our final fees charged for the audit and provision of non-audit services..

Audit Fees

	Proposed fee	Final fee	2017/18 fee
Council Audit	£95,792	£95,792	£124,405
Potential additional fee, covering McCloud, IAS19, PPE and VFM	£10,500	£10,500	-
Prior year audit overrun	£15,503	£15,503	£15,000
Audit of subsidiary company – Hoople Limited	Nil	Nil	£12,000
Total audit fees (excluding VAT)	£121,795	£121,795	£151,405

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The proposed fees for the year, have not yet been approved by PSAA.

Audit fees are reported in the accounts rounded to £1m.

Non Audit Fees

Fees for other services	Fees £'000
Audit related services:	
• Grant Certification – housing benefits	6 tbc
• Certification of Teachers Pension	6 tbc
• Skills funding agency audit	4 tbc
	16 tbc

Audit opinion July 2019

We provided the Group with a modified audit report on 31 July 2019

Independent auditor's report to the members of Herefordshire Council Report on the Audit of the Financial Statements Opinion

We have audited the financial statements of Herefordshire Council (the 'Authority') and its subsidiaries (the 'group') for the year ended 31 March 2019 which comprise the Movement in Reserves Statement, the Comprehensive Income and Expenditure Statement, the Balance Sheet, the Cash Flow Statement, the Group Comprehensive Income and Expenditure Statement, the Group Movement in Reserves Statement, the Group Balance Sheet, the Group Cash Flow Statement, the Collection Fund Statement and notes to the financial statements, including a summary of significant accounting policies. The notes to the financial statements include Notes to the Core Statements, Notes to the Group Accounts and Notes to the Collection Fund Statement. The financial reporting framework that has been applied in their preparation is applicable law and the CIPFA/LASAAC code of practice on local authority accounting in the United Kingdom 2018/19.

In our opinion, the financial statements:

- give a true and fair view of the financial position of the group and of the Authority as at 31 March 2019 and of the group's expenditure and income and the Authority's expenditure and income for the year then ended;
- have been prepared properly in accordance with the CIPFA/LASAAC code of practice on local authority accounting in the United Kingdom 2018/19; and
- have been prepared in accordance with the requirements of the Local Audit and Accountability Act 2014.

Basis for opinion

We conducted our audit in accordance with International Standards on Auditing (UK) (ISAs (UK)) and applicable law. Our responsibilities under those standards are further described in the 'Auditor's responsibilities for the audit of the financial statements' section of our report. We are independent of the group and the Authority in accordance with the ethical requirements that are relevant to our audit of the financial statements in the UK, including the FRC's Ethical Standard, and we have fulfilled our other ethical responsibilities in accordance with these requirements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Conclusions relating to going concern

We have nothing to report in respect of the following matters in relation to which the ISAs (UK) require us to report to you where:

- the Chief Finance Officer's use of the going concern basis of accounting in the preparation of the financial statements is not appropriate; or
- the Chief Finance Officer has not disclosed in the financial statements any identified material uncertainties that may cast significant doubt about the group's or the Authority's ability to continue to adopt the going concern basis of accounting for a period of at least twelve months from the date when the financial statements are authorised for issue.

Other information

The Chief Finance Officer is responsible for the other information. The other information comprises the information included in the Statement of Accounts, other than the Authority and group financial statements and, our auditor's report thereon. Our opinion on the financial statements does not cover the other information and, except to the extent otherwise explicitly stated in our report, we do not express any form of assurance conclusion thereon.

In connection with our audit of the financial statements, our responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or our knowledge of the group and Authority obtained in the audit or otherwise appears to be materially misstated. If we identify such material inconsistencies or apparent material misstatements, we are required to determine whether there is a material misstatement in the financial statements or a material misstatement of the other information. If, based on the work we have performed, we conclude that there is a material misstatement of this other information, we are required to report that fact.

We have nothing to report in this regard.

Other information we are required to report on by exception under the Code of Audit Practice

Under the Code of Audit Practice published by the National Audit Office on behalf of the Comptroller and Auditor General (the Code of Audit Practice) we are required to consider whether the Annual Governance Statement does not comply with the 'Delivering Good Governance in Local Government: Framework (2016)' published by CIPFA and SOLACE or is misleading or inconsistent with the information of which we are aware from our audit. We are not required to consider whether the Annual Governance Statement addresses all risks and controls or that risks are satisfactorily addressed by internal controls.

We have nothing to report in this regard.

Audit opinion

Opinion on other matters required by the Code of Audit Practice

In our opinion, based on the work undertaken in the course of the audit of the financial statements, the other information published together with the financial statements in the Statement of Accounts, for the financial year for which the financial statements are prepared is consistent with the financial statements.

Matters on which we are required to report by exception

Under the Code of Audit Practice, we are required to report to you if:

- we issue a report in the public interest under section 24 of the Local Audit and Accountability Act 2014 in the course of, or at the conclusion of the audit; or
- we make a written recommendation to the Authority under section 24 of the Local Audit and Accountability Act 2014 in the course of, or at the conclusion of the audit; or
- we make an application to the court for a declaration that an item of account is contrary to law under Section 28 of the Local Audit and Accountability Act 2014 in the course of, or at the conclusion of the audit; or;
- we issue an advisory notice under Section 29 of the Local Audit and Accountability Act 2014 in the course of, or at the conclusion of the audit; or
- we make an application for judicial review under Section 31 of the Local Audit and Accountability Act 2014, in the course of, or at the conclusion of the audit.

122 We have nothing to report in respect of the above matters.

Responsibilities of the Authority, the Chief Finance Officer and Those Charged with Governance for the financial statements

As explained more fully in the Statement of Responsibilities set out on page 13, the Authority is required to make arrangements for the proper administration of its financial affairs and to secure that one of its officers has the responsibility for the administration of those affairs. In this authority, that officer is the Chief Finance Officer. The Chief Finance Officer is responsible for the preparation of the Statement of Accounts, which includes the financial statements, in accordance with proper practices as set out in the CIPFA/LASAAC code of practice on local authority accounting in the United Kingdom 2018/19, for being satisfied that they give a true and fair view, and for such internal control as the Chief Finance Officer determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Chief Finance Officer is responsible for assessing the group's and the Authority's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless there is an intention by government that the services provided by the Authority will no longer be provided.

The Audit and Governance Committee is Those Charged with Governance. Those charged with governance are responsible for overseeing the Authority's financial reporting process.

Auditor's responsibilities for the audit of the financial statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISAs (UK) will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

A further description of our responsibilities for the audit of the financial statements is located on the Financial Reporting Council's website at: www.frc.org.uk/auditorsresponsibilities. This description forms part of our auditor's report.

Report on other legal and regulatory requirements - Delay in certification of completion of the audit

We cannot formally conclude the audit and issue an audit certificate in accordance with the requirements of the Local Audit and Accountability Act 2014 and the Code of Audit Practice until we have completed our work to give our conclusion on the Authority's arrangements for securing economy, efficiency and effectiveness in its use of resources. In addition, we are unable to issue our conclusion until we have completed our consideration of matters that have been brought to our attention by the Authority. We are satisfied that these matters do not have a material effect on the financial statements.

Use of our report

This report is made solely to the members of the Authority, as a body, in accordance with Part 5 of the Local Audit and Accountability Act 2014 and as set out in paragraph 43 of the Statement of Responsibilities of Auditors and Audited Bodies published by Public Sector Audit Appointments Limited. Our audit work has been undertaken so that we might state to the Authority's members those matters we are required to state to them in an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Authority and the Authority's members as a body, for our audit work, for this report, or for the opinions we have formed.

Jon Roberts
for and on behalf of Grant Thornton UK LLP, Local Auditor

Bristol

Date

Updated Audit opinion September 2019

Independent auditor's report to the members of Herefordshire Council

Issue of audit opinion on the financial statements

In our audit report for the year ended 31 March 2019 issued on 31 July 2019 we reported that, in our opinion the financial statements:

- give a true and fair view of the financial position of the group and of the Authority as at 31 March 2019 and of the group's expenditure and income and the Authority's expenditure and income for the year then ended;
- have been prepared properly in accordance with the CIPFA/LASAAC code of practice on local authority accounting in the United Kingdom 2018/19; and
- have been prepared in accordance with the requirements of the Local Audit and Accountability Act 2014.

Report on other legal and regulatory requirements - Conclusion on the Authority's arrangements for securing economy, efficiency and effectiveness in its use of resources

In our report dated on 31 July 2019, we explained that we could not formally conclude the audit and issue an audit certificate in accordance with the requirements of the Local Audit and Accountability Act 2014 and the Code of Audit Practice until we had completed our work to give our conclusion on the Authority's arrangements for securing economy, efficiency and effectiveness in its use of resources. We have now completed this work.

Conclusion

On the basis of our work, having regard to the guidance on the specified criterion issued by the Comptroller and Auditor General in November 2017, we are satisfied that the Authority put in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources for the year ended 31 March 2019.

Responsibilities of the Authority

The Authority is responsible for putting in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources, to ensure proper stewardship and governance, and to review regularly the adequacy and effectiveness of these arrangements.

Auditor's responsibilities for the review of the Authority's arrangements for securing economy, efficiency and effectiveness in its use of resources

We are required under Section 20(1)(c) of the Local Audit and Accountability Act 2014 to be satisfied that the Authority has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources. We are not required to consider, nor have we considered, whether all aspects of the Authority's arrangements for securing economy, efficiency and effectiveness in its use of resources are operating effectively.

We have undertaken our review in accordance with the Code of Audit Practice, having regard to the guidance on the specified criterion issued by the Comptroller and Auditor General in November 2017, as to whether in all significant respects the Authority had proper arrangements to ensure it took properly informed decisions and deployed resources to achieve planned and sustainable outcomes for taxpayers and local people. The Comptroller and Auditor General determined this criterion as that necessary for us to consider under the Code of Audit Practice in satisfying ourselves whether the Authority put in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources for the year ended 31 March 2019.

We planned our work in accordance with the Code of Audit Practice. Based on our risk assessment, we undertook such work as we considered necessary to be satisfied that the Authority has put in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources.

Report on other legal and regulatory requirements - Delay in certification of completion of the audit

In our report dated on 31 July 2019, we also explained that we could not formally conclude the audit and issue an audit certificate in accordance with the requirements of the Local Audit and Accountability Act 2014 and the Code of Audit Practice until we had completed our consideration of matters that have been brought to our attention by the Authority. We have yet to complete this work.

We therefore cannot formally conclude the audit and issue an audit certificate for the Authority for the year ended 31 March 2019 in accordance with the requirements of the Local Audit and Accountability Act 2014 and the Code of Audit Practice. We are satisfied that these matters do not have a material effect on the financial statements or on our conclusion on the Authority's arrangements for securing economy, efficiency and effectiveness in its use of resources for the year ended 31 March 2019.

Use of our report

This report is made solely to the members of the Authority, as a body, in accordance with Part 5 of the Local Audit and Accountability Act 2014 and as set out in paragraph 43 of the Statement of Responsibilities of Auditors and Audited Bodies published by Public Sector Audit Appointments Limited. Our audit work has been undertaken so that we might state to the Authority's members those matters we are required to state to them in an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Authority and the Authority's members as a body, for our audit work, for this report, or for the opinions we have formed.

Jon Roberts, Key Audit Partner
for and on behalf of Grant Thornton UK LLP, Local Auditor

Bristol

Date:

Management Letter of Representation July 2019

Our ref:
Your ref:

Grant Thornton UK LLP
2 Glass Wharf
Temple Quay
BRISTOL
BS2 0EL

[Date]

Dear Sirs

Herefordshire Council Financial Statements for the year ended 31 March 2019

This representation letter is provided in connection with the audit of the financial statements of Herefordshire Council and its subsidiary undertaking, Hoople Limited for the year ended 31 March 2019 for the purpose of expressing an opinion as to whether the group and parent Council financial statements are presented fairly, in all material respects in accordance with International Financial Reporting Standards and the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2018/19 and applicable law.

We confirm that to the best of our knowledge and belief having made such inquiries as we considered necessary for the purpose of appropriately informing ourselves:

Group Financial Statements

We have fulfilled our responsibilities for the preparation of the Council's financial statements in accordance with International Financial Reporting Standards and the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2018/19 ("the Code"); in particular the financial statements are fairly presented in accordance therewith.

We have fulfilled our responsibilities for the preparation of the group and parent Council's financial statements in accordance with International Financial Reporting Standards and the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2019/19 ("the Code"); in particular the group and parent Council financial statements are fairly presented in accordance therewith.

We have complied with the requirements of all statutory directions affecting the group and parent Council and these matters have been appropriately reflected and disclosed in the group and parent Council financial statements.

The Council has complied with all aspects of contractual agreements that could have a material effect on the group and parent Council financial statements in the event of non-compliance. There has been no non-compliance with requirements of any regulatory authorities that could have a material effect on the group and parent Council financial statements in the event of non-compliance.

We acknowledge our responsibility for the design, implementation and maintenance of internal control to prevent and detect fraud.

Significant assumptions used by us in making accounting estimates, including those measured at fair value, are reasonable.

Except as disclosed in the financial statements:

- there are no unrecorded liabilities, actual or contingent
- none of the assets of the Council has been assigned, pledged or mortgaged
- there are no material prior year charges or credits, nor exceptional or non-recurring items requiring separate disclosure.

We confirm that we are satisfied that the actuarial assumptions underlying the valuation of pension scheme assets and liabilities for IAS19 Employee Benefits disclosures are consistent with our knowledge. We confirm that all settlements and curtailments have been identified and properly accounted for. We also confirm that all significant post-employment benefits have been identified and properly accounted for.

Related party relationships and transactions have been appropriately accounted for and disclosed in accordance with the requirements of International Financial Reporting Standards and the Code.

All events subsequent to the date of the group and parent Council financial statements and for which International Financial Reporting Standards and the Code require adjustment or disclosure have been adjusted or disclosed.

We have considered the adjusted misstatements, and misclassification and disclosures changes schedules included in your Audit Findings Report. The group and parent Council financial statements have been amended for these misstatements, misclassifications and disclosure changes and are free of material misstatements, including omissions.

The group and parent Council financial statements are free of material misstatements, including omissions.

Management Letter of Representation July 2019

Actual or possible litigation and claims have been accounted for and disclosed in accordance with the requirements of International Financial Reporting Standards.

We have no plans or intentions that may materially alter the carrying value or classification of assets and liabilities reflected in the group and parent Council financial statements.

We believe that the group and parent Council's financial statements should be prepared on a going concern basis on the grounds that current and future sources of funding or support will be more than adequate for the group and parent Council's needs. We believe that no further disclosures relating to the group and parent Council's ability to continue as a going concern need to be made in the financial statements.

We believe the accounts presented adequately represent the impact on the pension deficit position following the recent case law decision in respect of the protections for members nearing retirement being deemed to have given rise to an unlawful age discrimination to younger workers without those protections (what is known as the McCloud case). The full impact will be considered in finalising the LGPS 2019 triennial valuation.

Information Provided

We have provided you with:

- access to all information of which we are aware that is relevant to the preparation of the group and parent Council financial statements such as records, documentation and other matters;
- additional information that you have requested from us for the purpose of your audit; and
- unrestricted access to persons within the Council from whom you determined it necessary to obtain audit evidence.

We have communicated to you all deficiencies in internal control of which management is aware.

All transactions have been recorded in the accounting records and are reflected in the group and parent Council financial statements.

We have disclosed to you the results of our assessment of the risk that the group and parent Council financial statements may be materially misstated as a result of fraud.

We have disclosed to you all information in relation to fraud or suspected fraud that we are aware of and that affects the group and parent Council and involves:

- management;
- employees who have significant roles in internal control; or
- others where the fraud could have a material effect on the group and parent Council financial statements.

We have disclosed to you all information in relation to allegations of fraud, or suspected fraud, affecting the group and parent Council's financial statements communicated by employees, former employees, analysts, regulators or others.

We have disclosed to you all known instances of non-compliance or suspected non-compliance with laws and regulations whose effects should be considered when preparing financial statements.

We have disclosed to you the identity of the group and parent Council's related parties and all the related party relationships and transactions of which we are aware.

We have disclosed to you all known actual or possible litigation and claims whose effects should be considered when preparing the group and parent Council financial statements.

Annual Governance Statement

We are satisfied that the Annual Governance Statement (AGS) fairly reflects the Council's risk assurance and governance framework and we confirm that we are not aware of any significant risks that are not disclosed within the AGS.

Narrative Report

The disclosures within the Narrative Report fairly reflect our understanding of the group and parent Council's financial and operating performance over the period covered by the group and parent Council financial statements.

Approval

The approval of this letter of representation was minuted by the Council's Audit and Governance Committee at its meeting on 30 July 2019.



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Meeting:	Audit and governance committee
Meeting date:	Tuesday 24 September 2019
Title of report:	2018/19 additional external audit fee
Report by:	Chief finance officer

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose and summary

For the committee to note the proposed additional external audit fee charge for work completed during the external audit of the 2018/19 statement of accounts and reaching a value for money conclusion.

The additional fee proposed is £10,500 following the requirement to incur an additional 14 days external audit work.

Recommendation(s)

That:

- (a) the committee review the reasons for the proposed fee increase and determine any views they wish to put forward to Public Sector Audit Appointments Limited regarding the proposal.**

Alternative options

1. None. The additional work has been completed by Grant Thornton. The Public Sector Audit Appointments Limited (PSAA) is the designated appointing person under the 2015

Local Audit (Appointing Persons) Regulations that has the legal responsibility for agreeing the proposal, and will have regard to the views of the committee in doing so.

Key considerations

2. It is a function of the committee to:
 - review and agree the External Auditors annual plan, including the annual audit fee and annual letter and receive regular update reports on progress; and
 - comment on the scope and depth of external audit work and to ensure it gives value for money.
3. The council's external auditor contract is managed by Public Sector Audit Appointments Limited (PSAA). Grant Thornton's proposed 2018/19 external audit fee was £96k, a reduction of £28k on scale fee applied in 2017/18 as proposed by the PSAA and approved by the committee on 23 January 2019.
4. The scale fee covers the audit of the statement of accounts, value for money conclusion and review of the whole of government accounts. It is based on the reasonable expectation of the auditor on the work required on the accounts and working papers.
5. The scale fee excludes any additional work outside that reasonable expectation. Following identification of additional work, variations to the agreed fee can occur and there is a validation process that needs to be followed. This is where the auditor agrees the proposed fee variation locally, first with officers and then with the audit and governance committee. The identification of additional work is normally in the form of national developments during the audit period. Following this Grant Thornton approach PSAA with their verification ahead of the variation becoming payable. In 2017/18 an additional fee of £6,686 was approved by the committee.
6. The cost overrun in 2018/19 reflects a number of areas where the scope of the audit work changed, specifically:-
 - Assessing the impact of the national McCloud ruling on transitional arrangements for pensions that were ruled discriminatory by the Court of Appeal last December.
 - An increased level of scope and coverage of external audit work in respect of pension international accounting standard 19 following highlighted need by the national Financial Reporting Council.
 - The national Financial Reporting Council also highlighted a need for external auditors to increase their volume and scope of work on property, plant and equipment valuations.
 - Locally an additional two days' work was required to be undertaken on reaching the value for money conclusion. This additional work followed Grant Thornton being alerted to a matter arising in a draft Internal Audit Report. The Internal Audit Report will include recommendations to mitigate a similar future re-occurrence.
7. Grant Thornton has discussed the additional work required with the S151 officer who has confirmed that the additional work was required and this proposal is reasonable.

Community impact

8. In accordance with the adopted code of corporate governance, the council must ensure that those making decisions and delivering services are accountable for them. To support effective accountability the council is committed to reporting on actions completed and

outcomes achieved, and ensuring stakeholders are able to understand and respond as the council plans and carries out its activities in a transparent manner.

9. An efficient and effective audit service supports the council in demonstrating compliance with its code of corporate governance and its corporate plan priority to secure better services, quality of life and value for money.

Equality duty

10. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:
A public authority must, in the exercise of its functions, have due regard to the need to -
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
11. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. As this is a decision on back office functions, we do not believe that it will have an impact on our equality duty.

Resource implications

12. The 2018/19 external audit scale fee was set at £96k. This variation will increase the 2018/19 external audit cost to £106k which will be funded by existing budgets.

Legal implications

13. The Local Audit and Accountability Act 2014 provides that the audit has to be conducted under a Code of Audit Practice.
14. The duty to prescribe scales of fees for work undertaken in accordance with the Code is a statutory function delegated to PSAA by the Secretary of State for Communities and Local Government.
15. The scale fees for individual audited bodies are normally based on the scale fee for the previous year and are based on the expectation that audited bodies are able to provide the auditor with complete and materially accurate financial statements, with supporting working papers, within agreed timeframes.
16. PSAA can approve proposed variations to the scale fee for an individual audited body, to reflect changes in circumstances. PSAA will consider the views of the council when finalising the fee.

Risk management

17. The fee variation proposed has no direct impact on risk management. The external audit work required continues to evolve until the completion of the audit therefore a cost overrun is a possible inherent risk, mitigation action is completed by ensuring adherence and compliance to the external audit plan.

Consultees

18. None

Appendices

Appendix 1 Additional 2018/19 external audit fee proposal

Background papers

None identified

Mr A Lovegrove
Chief Finance Officer
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2 Glass Wharf
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16 August 2019

Dear Andrew,

Fee variations in relation to the 2018-19 external audit

I am writing to seek your agreement to increase the external audit fee for additional work performed in connection with the 2018-19 statutory audit of the Council.

As you know, local government audit fees have significantly reduced in recent years. In the last year alone, the scale fees reduced by a total of £28,613, which equates to a saving of 23%.

As outlined in our audit plan, the 2018-19 scale fee published by PSAA of £95,792 excluding VAT assumes that the scope of the audits do not significantly change. There are a number of areas where the scope of the audit has changed, which has led to additional work. These are set out in the table below.

Area	Reason	Number of days	£
Assessing the impact of the McCloud ruling	The Government's transitional arrangements for pensions were ruled discriminatory by the Court of Appeal last December. The Supreme Court refused the Government's application for permission to appeal this ruling. As part of our audit we have reviewed the revised actuarial assessment of the impact on the financial statements along with any audit reporting requirements.	4	£3,000
Pensions – IAS 19	The Financial Reporting Council has highlighted that the quality of work by audit firms in respect of IAS 19 needs to improve across local government audits. Accordingly, we have increased the level of scope and coverage of our work in respect of IAS 19 this year to reflect this.	4	£3,000
PPE Valuation – work of experts	As above, the Financial Reporting Council has highlighted that auditors need to improve the quality of work on PPE valuations across the sector. We have increased the volume and scope of our audit work to reflect this.	4	£3,000
Value for Money	Additional work undertaken on the Value for Money conclusion and attendance at meetings with Council Officers.	2	£1,500
Total			£10,500

As a result of the above, we propose the revised fee for the audits will be £110,292 excluding VAT. This compares with an actual fee charged for the 2017/18 audit of £139,908 excluding VAT. The revised fee still provides a saving of £29,616 (or 21%) on the prior year fee. In light of the additional work performed to provide the statutory audit opinion over and above that performed in the prior year, we believe the revised fee still provides value for money.

Process for agreement

Public Sector Audit Appointments Limited (PSAA) is the designated 'Appointing Person' under the 2015 Local Audit (Appointing Persons) Regulations. Under section 17 of the Regulations, PSAA has the legal responsibility for agreeing such fee variations, which are also incorporated into our conditions of contract with PSAA. As such, PSAA requires evidence from us that you have agreed in principle with the variation, before it can determine the additional fees in accordance with its responsibilities. This can be provided by you emailing us a response to this letter and Audit Committee approval is not required. We will, of course, inform the Committee of the final position, when agreed by PSAA. I am happy to discuss the contents of this letter with you, prior to you responding more formally, if you should wish.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jon Roberts', written in a cursive style.

Jon Roberts, Partner
Grant Thornton (UK) LLP



Meeting:	Audit and governance committee
Meeting date:	Tuesday 24 September 2019
Title of report:	NMiTE progress report
Report by:	Chief finance officer

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose and summary

To provide further assurance on the adequacy of the arrangements in regards of the risk framework on the measures the Council is taking as the accountable body for public money supporting the New Model in Technology & Engineering (NMiTE) and the milestone payments from the Department of Education (DfE).

Recommendation(s)

That:

- (a) having regard to the further assurance provided and actions proposed to mitigate any risks, the committee determine any recommendations it wishes to make to secure greater assurance.**

Alternative options

1. There are no alternative recommendations; it is a function of the committee to consider if the measures taken meet the risk management framework.

Key considerations

2. On 14 December 2017 Cabinet agreed that the council would act as the accountable body for public funding allocated to create the new Hereford Higher Education Institution, NMiTE.
3. Accountable body status means that the council will be accountable for public funding allocated to the new university project by government. The council will receive funds from government, for onward transmission to NMiTE, ensuring those funds are allocated and spent in accordance with any conditions specified and providing reports on the expenditure.
4. The purpose of the agreement between the council and NMiTE is to enable compliance with the terms of the grant determinations set by the Department of Education to enable the milestone payments to be passed to NMiTE.
5. On 13 December 2017 General Scrutiny Committee examined the proposal for the council to act as the accountable body for the NMiTE project, and in January 2018 Council confirmed that the function of supervising the discharge of accountable body duties was within the remit of the Audit and Governance Committee. The Audit and Governance Committee, at its meeting on 30 July 2019 requested that the General Scrutiny Committee be invited to consider adding a review of the effectiveness of the council's accountable body role into their work program; this request has been forwarded.
6. Officials from the Department for Education, as part of their ongoing engagement with NMiTE, have discussed the issues raised in the SWAP report extensively with both senior officers and members of the board of NMiTE, and NMiTE's plans to improve and strengthen their governance, control environment and financial reporting. They have confirmed in writing to the council that they are satisfied with assurances provided by NMiTE in respect of the issues raised in the SWAP report including the payments to subcontractors to the end of July 2019.
7. A number of meetings have been held with NMiTE, Thorne Widgery (NMiTE's external auditors) and South West Audit Partnership (SWAP) to discuss the issues in the SWAP report and to agree the way forward. Assurances have been given that a range of improvements have been made and these will be verified by SWAP and Thorne Widgery as part of their ongoing engagement with NMiTE. These meetings also reflected on the lessons to be learnt from the latest reporting round, which included the need for closer working between the respective auditors and a need for an agreed timetable for responses. A number of process improvements have been agreed to ensure that both firms of auditors can work collaboratively, sharing audit evidence as well as reducing the impact on NMiTE servicing the requests for audit information.
8. The newly appointed Finance Director, a role that the Department of Education requested be created as a condition of the grant, will oversee the relationship with the auditors.
9. The Finance Director is reviewing the monthly reporting arrangements for NMiTE and has commissioned the annual review of the triparty memorandum of understanding.
10. NMiTE has also appointed a dedicated company secretary as part of its steps to improve its governance arrangements.

11. The Department for Education has agreed a number of changes to the milestone targets as part of their normal review process; Thorne Widgery and SWAP will measure performance against these milestones as part of the section 31 grant reporting process.

Community impact

12. Acting as the accountable body is helping the establishment of NMiTE which supports the council's corporate plan priorities of giving young people a great start in life and support the growth of our economy.
13. The opportunity of attending a new university in Hereford could also help to promote the life chances of those children we, as the council, are parents to.
14. In accordance with the council's code of corporate governance effective financial management and risk management is an important element of the overall performance management system. The council's role is not to manage the performance of NMiTE, it is solely to act as the accountable body for the grant funding provided by the Department for Education.

Equality duty

15. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to –

 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
16. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. Acting as an accountable body is not expected to impact on the council's public sector equality duty, and the council expects its partners to consider their equality obligations in all that they do.

Resource implications

17. There are no resourcing implications for the council.

Legal implications

18. This committee's role is to monitor the operation of risk management and the effectiveness of the internal control systems in relation to the council's work as accountable body for DFE funding of NMiTE.

Risk management

19. Ultimately the DfE could require the council to repay the grant funding that it has received and which has been paid to NMiTE. Whilst this obligation will also be passed down to NMiTE through the flow down agreement, it is possible that NMiTE would not be able to make any required repayment, which would therefore leave the council out of pocket. The risk of any clawback is being managed / mitigated by ensuring compliance with the grant funding terms through the monitoring and reporting obligations that are in place. The Department for Education is satisfied therefore the risk is currently nil.
20. These risks are identified and monitored by the section 151 officer within the corporate risk register.

Consultees

21. None

Appendices

None.

Background papers

None identified.



Meeting:	Audit and governance committee
Meeting date:	Tuesday 24 September 2019
Title of report:	Energy from waste (EfW) loan update
Report by:	Chief finance officer

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose and summary

To provide assurance to the audit and governance committee on the current status of the energy from waste loan arrangement to enable the committee to fulfil its delegated functions.

Herefordshire and Worcestershire are partners in a joint waste disposal private finance initiative contract that was varied in May 2014 to enable the councils to finance the construction of an Energy from Waste plant through the use of prudential borrowing. A total loan facility was agreed at £163.5m, with Herefordshire providing 24.2% of the loan value, being £40m.

The current status of the loan arrangement is considered satisfactory.

Recommendation(s)

That:

- (a) the risks to the council, as lender, are confirmed as being reasonable and appropriate having regard to the risks typically assumed by long term senior funders to waste projects in the United Kingdom and best banking practice; and**
- (b) arrangements for the administration of the loan are reviewed and confirmed as satisfactory.**

Alternative options

1. None, the loan arrangement was contractually agreed in May 2014, no breaches or areas of concern have taken place during this reporting period. This report provides an update on the arrangement to the Audit and Governance Committee in its role as the waste loan governance committee which entails reviewing risks to the lender and monitoring administration of the loan.

Key considerations

2. In 1998 Herefordshire Council, in partnership with Worcestershire County Council, entered into a 25 year contract with Mercia Waste Management Limited for the provision of an integrated waste management system using the Private Finance Initiative.
3. A variation to the contract was signed in May 2014 to design, build, finance and operate an Energy from Waste plant. Both councils provided circa 82% of the project finance requirement from their own planned prudential borrowing with the remaining 18% being provided by the equity shareholders of Mercia Waste Management Limited.
4. This report ensures the committee fulfils the functions delegated to it in relation to the governance of the waste loan arrangement; specifically to review the risks to the council as lender and to monitor administration of the loan.
5. Since the last report to the committee in September 2018 the loan arrangement has continued to be repaid in line with expectations. No decisions or courses of action have been identified for recommendation to the committee.

Key loan features and update

6. Herefordshire and Worcestershire councils provided a loan facility of £163.5m in total, with Herefordshire providing 24.2% of the loan value, £40m.
7. Total loan interest and fees charged to Mercia are fixed and are representative of commercial bank charges. These total £69m, £17m for Herefordshire.
8. During the last year, since the previous report to the committee, loan repayments of £3.7m have been received, representing £1.4m in principal and £2.3m in interest. A summary of repayments received to date is shown below:

Date	Interest (£m)	Principal (£m)	Total (£m)
June 2017	0.8	0.3	1.1
December 2017	1.2	0.6	1.8
June 2018	1.1	0.9	2.0
December 2018	1.2	0.6	1.8
June 2019	1.1	0.8	1.9
Totals	5.4	3.2	8.6

Senior Term Loan Facilities Agreement (STLFA) ratio calculation

9. Mercia is required to produce an assurance statement, ratio calculations and ratio compliance certificate during the loan repayment phase. These are attached at appendices 1, 2 and 3.
10. Ratios are a financial covenant imposed by Lenders as a monitoring mechanism to provide early warning of project distress and potential Borrower default on their loan repayment obligations. The ratios provide a measure of the project's historic and future performance in relation to its ability to service current and upcoming debt liabilities. In the event the ratios fall below a prescribed level then the Borrower will be unable to distribute any surplus cash within the project until a date when the ratios are above the required level. The Borrower can then rectify any operational issues which resulted in the ratios falling below the prescribed level in the first instance and continue to cover debt service costs.
11. There are principally three ratio calculations used by Lenders:
 - Historic Annual Debt Service Cover Ratio ("ADSCR"): A historic periodic measure used to assess the project's ability to service its current debt obligation over the preceding 12 month period. This ratio is currently 1.73 which positively exceeds the target of 1.35 and default of 1.05.
 - Projected ADSCR: A forecasted periodic measure used to assess the project's ability to service its upcoming debt obligations for the preceding 12 month period.
 - Loan Life Cover Ratio ("LLCR"): A forecasted measure used to assess the project's ability to repay the outstanding loan from future cash flows over the remaining life of the loan.
12. It should be noted that the ratio calculations have been calculated using the base case financial model. The committee should be aware that the councils are in negotiation with Mercia with regards to disposal contract cost savings and a possible contract extension and these are impacting on the availability of an updated financial model however the likely impact of perceived variation(s) on an updated financial model is considered to have an immaterial effect on the ratio information.
13. The council has gained assurance on the financial performance of the company from its annual accounts as well as the assurance statements provided as appendices to this report. This together with the evidence that Mercia have continued to meet their repayment obligations in full and on time provides sufficient lender assurance.
14. Also at appendix 2 provided is the 'cash flow after debt servicing' within the current base financial model compared to the 'actual 'cash flow after debt servicing'. This shows a positive picture where the actual cash flow has been in excess of the financial model at the end of each quarter for 2018.

Assurance Statement

15. Twice a year Mercia produce a short, high level assurance statement with the aim being to reassure the Lender (the council) that there is no material matters which would impair Mercia's ability to repay the loan in accordance with the financial model in the coming period, this attached at appendix 1.

Plant Performance Operating Report

16. Attached at Appendix 4 is a post completion plant performance operating report prepared by external advisors Fichtner Consulting Engineers Limited. The report confirms that the availability of the plant was above the annual availability guarantee. There are two minor items remaining from construction and payment is being withheld until these items have been completed. The plant continues to operate in line with performance and availability targets therefore there are no concerns likely to affect Mercia's ability to honour loan repayment obligations.

Community impact

17. In accordance with the adopted code of corporate governance, Herefordshire Council must ensure that it has an effective performance management system that facilitates effective and efficient delivery of planned services. Effective financial management, risk management and internal control are important components of this performance management system. The committee's assurance that any risks associated with the loan arrangement have sufficient mitigation actions applied supports adherence to the code.
18. The loan arrangement supports the continued viability and affordability of the contracted waste disposal arrangement.

Equality duty

Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
19. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. As this is a factual update, we do not believe that it will have an impact on our equality duty.

Resource implications

20. There are no financial implications arising from the recommendations of this report.
21. The loan arrangement is being repaid as expected, the implications of the agreed loan arrangement are reflected in the council's medium term financial strategy and treasury management strategy as agreed by Council in February 2019.

Legal implications

22. The terms and arrangements for this loan agreement are set out in the senior term loan facilities agreement. There are no specific legal implications arising from this report.
23. The function of the committee is set out in the constitution under 3.5.13. This report relates to functions (a) to review risks as lender and (b) to monitor the administration of the loan.

Risk management

24. There are two open risks that have been substantially mitigated and are assessed green as shown on the risk register attached at appendix 5.
25. The risk register is shared with Worcestershire County Council and is therefore in a jointly agreed format.

Consultees

26. None

Appendices

- | | |
|------------|------------------------------|
| Appendix 1 | STLFA assurance statement |
| Appendix 2 | Ratio compliance certificate |
| Appendix 3 | Ratio calculation |
| Appendix 4 | Performance operating report |
| Appendix 5 | Risk register |

Background papers

None identified

Senior Term Loan Facility Agreement Assurance Statement for Lenders

1. Audit and Trading

Auditors from Deloitte were on site for two weeks in January. No material issues were raised at the finalisation meeting (Jan 18th).

2018 proved to be a successful year for the Company with profit and cash generation ahead of the figures in comparison with the Financial Model. The Company's forecasts for 2019 also display a positive outcome against the Model.

The main positive variances that the Company experienced in 2018 related to the EfW Plant, especially in respect of the sale of electricity. Unfortunately, as is widely known, the global market for recyclable material continued to be difficult and the Company has continued to experience negative outturns in this area.

2. Loan Repayment

Repayments have continued to be made in full and on time.

As at the date of this statement Mercia anticipates being able to continue to make payments as per the Loan Agreement.

3. Buildings, Plant and other Infrastructure

No material problems exist which would require the Lenders attention at any of Mercia's Facilities. The Energy from Waste Plant has met its targets relating to availability, throughput and export of power.

4. Compliance with Environmental Conditions and Permits

There are no material matters to report.

5. Insurance

All appropriate Policies are in place. The Company's claims history remains satisfactory.

In December the Company's Policies (excluding the EfW which has a different inception date) were renewed and whilst the Property market was difficult due to fires elsewhere in the industry the Company and its brokers managed to secure appropriate cover at a marginally lower premium.

Information required by the broker and insurer for the EfW renewal has been forwarded and no issues are anticipated

6. Key Staff

All senior staff remained in their roles during the period and continue in their employment at the date of this Statement.

J W Haywood - Mercia Waste Management 8.2.19

Ratio Compliance Certificate

To: Worcestershire County Council and The County of Herefordshire District Council ("The Lenders").

Attention: Rob Wilson

From: Mercia Waste Management Limited

A senior term loan facilities agreement dated 21st May 2014 between, among others, Mercia Waste Management and the Lenders (the "Senior Term Loan Facilities Agreement")

We refer to the Senior Term Loan Facilities Agreement. Terms defined in the Senior Term Loan Facilities Agreement have the same meaning in this notice.

Pursuant to clause 15.8 (Ratio Compliance Certificate) of the Senior Term Loan Facilities Agreement we confirm that:

(a)

- (i) the Historic Annual Debt Service Cover Ratio on 31 December 2018 was 1.73:1 ;
- (ii) the Projected Annual Debt Service Cover Ratio on 31 December 2018 was 1.35:1; and
- (iii) the Loan Life Cover Ratio on 31 December 2018 was 3.22 : 1; and

(b) so far as the Borrower is aware:

- (i) no Default has occurred other than any previously notified to the Lenders or waived in accordance with clause 21.3 (Remedies, Waivers, Amendments and Consents) of the Senior Term Loan Facilities Agreement

Date: 12.2.19

By: 

Director

Appendix 3

Senior Term Loan Facility Agreement Ratio Testing as at 31st December 2018

	<u>12 Month Period</u>			
	Qtr End Mar-18	Qtr End Jun-18	Qtr End Sep-18	Qtr End Dec-18
Cash Flow After Debt Servicing (CFADS)				
FM Cash Flow Before Transfers (incl interest)	5,336	5,880	5,336	5,384
FM Maintenance Reserve Account (MRA) Transfer	152	-303	-792	-199
FM CFADS^ Total	5,487	5,577	4,544	5,185
<hr/>				
Actual Cash Flow Before Transfers	7,907	5,666	6,796	7,379
Actual MRA Transfer	151	-303	-792	-200
Actual CFADS Total	8,058	5,363	6,004	7,179
<hr/>				
Difference	2,571	-214	1,461	1,994

Historic Annual Debt Service Cover Ratio

FM CFADS	20,793
FM Debt Service Requirement (DSR)	15,402
FM Cover Ratio	1.35x
147	
Actual CFADS	26,605
FM DSR	15,402
Actual Cover Ratio	1.73x Pass

Ratio is better than target of 1.35 and default of 1.05

^ Note CFADS in FM used for Ratio Test is "CFADS after Major Maintenance Reserve Account (MMRA)" as per line 32 of the "Ratios&Returns" tab. Flows to Line 151 and then the Ratio calculation.

Default **1.05x** As per STLFA 19.1 (u) (i) (B)

All figs except ratios are £000

DSR = Debt Service Requirement

08 February 2019

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Stockport
SK4 1LW

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Mr Jim Haywood
Mercia Waste Management
The Marina
Kings Road
Evesham
WR11 3XZ

Ref: Performance of the EnviRecover EfW Plant

Dear Jim,

In response to your request for an update on the operational performance of the EnviRecover energy from waste (EfW) plant, we are pleased to provide this brief overview.

Following completion of construction by Hitachi Zosen Inova (HZI), the plant was taken over on 3rd March 2017 and is now operated by Severn Waste Services (SWS) on behalf of Mercia Waste Management (Mercia). In accordance with the engineering, procurement and construction (EPC) Contract, following successful completion of the Reliability and Performance Tests, the Acceptance Certificate was issued on 2nd August 2017 and the Availability Test subsequently commenced at 00:00 on 3rd August 2017.

The first year of the Availability Test was completed on 3rd August 2018. The Availability for the Plant during the first completed year was 93.1% in terms of thermal input and 89.2% in terms of electrical export, compared to guarantees of 90.6% and 88.1% respectively.

Availability during September and October 2018 was low due to the planned outage. The annual availability guarantee takes account of an annual outage and therefore the figures are not adjusted. Since the outage availability in November, December and January has been very good.

There are still two "Minor Items" remaining from construction, which are still to be addressed by HZI. These relate to the access control system for the personnel lift and the air handling system for the administration building. Payments are being withheld against these works, and as such Milestone 43d will not be certified for payment until SWS has advised that these items have been completed to their satisfaction.

SWS has raised a number of Defects since Take Over. The Contract defines a Defect as being any part of the Works which is considered to be "*defective or not in accordance with the Contract (normal wear and tear excepted)*". To date none of the Defects raised have had any long-term effects on the ability of the plant to process waste or generate power. The Defect Liability Period will expire on 3rd March 2019 after which new Defects cannot be raised. However, HZI will still be required under the Contract to close any Defects that remain open at on 3rd March 2019.



Certificate Number 2291
ISO 9001
ISO 14001
OHSAS 18001

In conclusion, the EnviRecover EfW plant continues to operate in line with its performance and availability targets. Therefore, we cannot currently foresee any performance issues with the plant that are likely to affect Mercia's ability to honour their loan repayment obligations.

Yours sincerely
FICHTNER Consulting Engineers Limited

Mark Shatwell

Project Manager under the EPC Contract

Energy from Waste Loan Risk Register

Appendix 5

Risk Reference	Description of risk	Gross Impact	Gross Likelihood	Gross Risk Score	Risk control approach	Mitigating Actions	Residual Impact	Residual Likelihood	Residual Risk Score	Assigned to (Risk Owners)
a	Default of loan repayments by borrower to lenders due to SPV (Mercia) or HZI falling into administration.	Critical	Medium	15	Risk transferred	Due to the security package negotiated by the Councils a fall away analysis indicated that Mercia, its Shareholders and HZI would need to enter administration at the same time to put at repayment at risk during the construction phase. The maximum exposure to the Councils has been calculated and included within the sufficiency assessment of the Council's reserves. All press articles are scanned regularly for indications of financial strength issues and followed up to ensure counterparty risk is not increased.	Substantial	Very Low	6	The risk owners are the Section 151 Officers of each Council supported by Ashurst as advisors in case of contract default and Deloitte to monitor Mercia's actual quarterly cash flow tests and cover ratios that have to be maintained by Mercia.
f	Mercia loan principal and / or interest repayments are below the required values as per the rates agreed in the STFLA .	Substantial	Very Low	6	Risk treated	The Council's treasury team maintain a spreadsheet detailing drawdowns to date and expected future principal and interest payments. This is reconciled to Mercia's repayment spreadsheet and will be matched to principal and interest repayments received from Mercia during the post construction period.	Substantial	Almost Impossible	5	The risk owners are the Section 151 Officers supported by Treasury and Financing Teams.

Key

High 19 – 24	Unacceptable Risk: Immediate control/improvement required
Medium 8 – 18	Acceptable Risk: Close monitoring and cost effective control improvements sought.
Low 1 – 7	Acceptable Risk: Need periodic review, low cost control improvements sought if possible.

Scoring Matrix

Likelihood				
Very High	9	19	21	24
High	8	12	20	23
Medium	4	11	15	22
Low	3	10	14	18
Very Low	2	6	13	17
Almost Impossible	1	5	7	16
	Negligible	Substantial	Critical	Extreme
	Impact			



Meeting:	Audit and governance committee
Meeting date:	Tuesday 24 September 2019
Title of report:	Work programme for 2019/20
Report by:	Democratic services officer

Classification

Open

Key decision

This is not an executive decision.

Wards affected

Countywide.

Purpose

To provide an update on the Committee's work programme for 2019/20.

Recommendation(s)

THAT:

Subject to any updates made by the committee, the work programme for 2019/20 for the audit and governance committee be agreed.

Alternative options

- 1 There are no alternative options as regards whether or not to have a work programme as the committee will require such a programme.

Reasons for recommendations

- 2 The work programme is recommended as the committee is required to define and make known its work. This will ensure that matters pertaining to audit and governance are tracked and progressed in order to provide sound governance for the council.
- 3 The committee is asked to consider any further adjustments.

Further information on the subject of this report is available from
Caroline Marshall, democratic services officer on Tel (01432) 260249

Key Considerations

- 4 The routine business of the committee has been reflected as far as is known, including the regular reporting from both internal and external auditors.

Community impact

- 5 A clear and transparent work programme provides a visible demonstration of how the committee is fulfilling its role as set out in the council's constitution.

Equality duty

- 6 This report does not impact on this area.

Financial implications

- 7 There are no financial implications.

Legal implications

- 8 The work programme reflects any statutory or constitutional requirements.

Risk management

- 9 The programme can be adjusted in year to respond as necessary to risks as they are identified; the committee also provides assurances that risk management processes are robust and effective.

Consultees

- 10 The chief finance officer and monitoring officer have contributed to the work programme

Appendices

Appendix 1 – audit and governance work programme 2019/20.

Background papers

- None identified.

**Audit and Governance Work Programme
2019/20**

Function area	Report	Purpose
July 2019		
Governance	Annual governance statement	To approve the annual governance statement
Accounts (Annual)	Statement of account	To approve the statement of account and includes the signing of the letter of representation
External audit	External auditor report	Presentation of the Audit Findings Report for consideration by the Committee before approval of the statutory accounts. The report will contain the external audit draft opinion on the accounts, draft value for money conclusion and a summary of the key findings for the financial year.
Internal audit (Annual)	SWAP Internal audit annual opinion report	To consider SWAP's annual report and opinion, and a summary of the internal audit activity and the level of assurance it can give over the council's corporate governance arrangements
Governance (Annual)	University Report	To act as the accountability body for the Department for Education funding for the University
Governance (Annual)	Accounting policies update	To approve any amendments to the accounting policies
Internal audit	Progress report on internal audit plan	To update members on the progress of internal audit work and to bring to their attention any key internal control issues arising from work recently completed
Governance (every meeting)	Work programme	To note the current work programme of the committee
September 2019		
Code of conduct (Annual)	Code of Conduct complaints Annual Report	To receive the annual code of conduct report
Internal audit	Progress report on internal audit plan	To update members on the progress of internal audit work and to bring to their attention any key internal control issues arising from work recently completed
Waste contract (Annual)	Energy from waste (EFW) Loan Update	To provide assurance to the audit and governance committee on the status of the

**Audit and Governance Work Programme
2019/20**

Function area	Report	Purpose
Governance	NMiTE update report	energy from waste (EfW) loan arrangement. To provide the committee with a progress update report (requested at meeting held on 30 July 2019)
Governance (every meeting)	Work programme	To note the current work programme of the committee
November 2019		
Governance (annual)	Information governance review	To review the council's information governance requirements to include all complaints (inc. children's social care), information requests, breaches of Data Protection Act, corporate governance and Regulation of Investigatory Act.
External audit (annual)	Annual audit letter	To review the annual audit letter
Governance (Every two years)	Anti-fraud and corruption strategy	To maintain an overview and approve changes to the strategy
Governance	Biennial review of constitution	To agree the arrangements for the review of the Constitution due in 2020.
Governance (six monthly)	Corporate risk register	To consider the status of the council's corporate risk register in order to monitor the effectiveness of the performance, risk and opportunity management framework
Internal and external audit (Six monthly)	Tracking of internal and external audit recommendations	To monitor implementation of action plans agreed in response to recommendations made by internal and external audit
Governance (every meeting)	Work programme	To note the current work programme of the committee
January 2020		
Internal audit	Progress report on internal audit plan	To update members on the progress of internal audit work and to bring to their attention any key internal control issues arising from work recently completed
Governance (Annual)	Annual governance statement progress	Review of the effectiveness of the council's governance process and system of internal control. Update on the progress of the annual governance statement

**Audit and Governance Work Programme
2019/20**

Function area	Report	Purpose
External audit	Annual Certification Letter	Report on the grant claims completed in 2017/18 plus an update on fees.
External audit (Annual)	External auditors annual plan	Review and agree the external auditors annual plan, including the annual audit fee and annual letter.
Governance (Annual)	Contract procedure rules, finance procedure rules	Review of procedure rules and approve any amendments to the rules.
Internal and external audit (Every six months)	Tracking of internal and external audit recommendations	Monitor implementation of action plans agreed in response to recommendations made by internal and external audit
Governance (Quarterly)	Corporate risk register	To consider the quarterly status of the council's corporate risk register in order to monitor the effectiveness of the performance, risk and opportunity management framework
Governance (every meeting)	Work programme	To note the current work programme of the committee
March 2020		
External audit	External audit progress update	Update on progress to date in order to comment on the scope and depth of external audit work and ensure that it gives value for money and includes interim audit findings and the informing the risk assessment document.
Internal audit (Annual)	Internal audit plan for 2020/21	To consider the internal audit plan for 2020/21.
Internal audit	Progress report on internal audit plan	To update members on the progress of internal audit work and to bring to their attention any key internal control issues arising from work recently completed.
Internal audit (annual)	Internal audit charter	To approve the internal audit charter
Code of Conduct	Remuneration of independent persons	To consider whether or not the appointed independent persons should be remunerated
Governance (Annual)	Future work programme for 2020/21	To note the work programme for 2020/2021.

