

Agenda

Audit and Governance Committee

Date: **Tuesday 29 October 2024**

Time: **2.00 pm**

Place: **Conference Room 1, Herefordshire Council Offices,
Plough Lane, Hereford, HR4 0LE**

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

For any further information please contact:

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Agenda for the meeting of the Audit and Governance Committee

Membership

Chairperson **Councillor David Hitchiner**

Vice-chairperson **Councillor Mark Woodall**

Councillor Chris Bartrum

Councillor Frank Cornthwaite

Councillor Peter Hamblin

Councillor Robert Highfield

Councillor Aubrey Oliver

Mrs Kerry Diamond – Independent Expert

Agenda

		Pages
1.	<p>APOLOGIES FOR ABSENCE</p> <p>To receive apologies for absence.</p>	
2.	<p>NAMED SUBSTITUTES (IF ANY)</p> <p>To receive details of any councillor nominated to attend the meeting in place of a member of the committee.</p>	
3.	<p>DECLARATIONS OF INTEREST</p> <p>To receive declarations of interest in respect of items on the agenda.</p>	
4.	<p>MINUTES</p> <p>To approve and sign the minutes of the meeting held on Thursday 26 September 2024.</p>	11 - 18
<p>HOW TO SUBMIT QUESTIONS</p> <p>Deadline for receipt of questions is 5pm on Wednesday 23 October 2024.</p> <p>Questions must be submitted to councillorservices@herefordshire.gov.uk.</p> <p>Questions sent to any other address may not be accepted.</p> <p>Accepted questions and the response to them will be published as a supplement to the agenda papers prior to the meeting. Further information and guidance is available at www.herefordshire.gov.uk/getinvolved</p>		
5.	<p>QUESTIONS FROM MEMBERS OF THE PUBLIC</p> <p>To receive any questions from members of the public.</p>	
6.	<p>QUESTIONS FROM COUNCILLORS</p> <p>To receive any questions from councillors.</p>	
7.	<p>INTERNAL AUDIT UPDATE REPORT QUARTER 2 2024/25</p> <p>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.</p> <p>To assure the committee that action is being taken on risk related issues identified by internal audit. This is monitored through acceptance of agreed management actions and progress updates in implementing the action plans. In addition, occasions where audit actions not accepted by management are documented 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.</p>	19 - 32
8.	<p>ENERGY FROM WASTE LOAN UPDATE</p> <p>To update the committee on the current status of the energy from waste loan arrangement to enable the committee to fulfil its delegated functions.</p>	33 - 44

9.	REGULATORY INVESTIGATORY POWERS ACT 2000 (RIPA) UPDATE	45 - 72
	To provide an update to the Committee about the operation of Regulatory Investigatory Powers Act 2000 (RIPA) within the Council.	
10.	WHISTLEBLOWING UPDATE	73 - 76
	To update the Committee as to the operation of the Whistleblowing Policy.	
11.	WORK PROGRAMME	77 - 80
	To consider the work programme for the committee.	
12.	DATE OF NEXT MEETING	
	Tuesday, 28 January 2025, 2pm.	

The public's rights to information and attendance at meetings

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We will review and update this guidance in line with Government advice and restrictions. Thank you for your help in keeping Herefordshire Council meetings safe.

You have a right to:

- Attend all council, cabinet, committee and sub-committee meetings unless the business to be transacted would disclose 'confidential' or 'exempt' information.
- Inspect agenda and public reports at least five clear days before the date of the meeting. Agenda and reports (relating to items to be considered in public) are available at www.herefordshire.gov.uk/meetings
- 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. Information about councillors is available at www.herefordshire.gov.uk/councillors
- 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. The council's constitution is available at www.herefordshire.gov.uk/constitution
- Access to this summary of your rights as members of the public to attend meetings of the council, cabinet, committees and sub-committees and to inspect documents.

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The location of the office and details of city bus services can be viewed at:
www.herefordshire.gov.uk/downloads/file/1597/hereford-city-bus-map-local-services-

**The Seven Principles of Public Life
(Nolan Principles)**

1. Selflessness

Holders of public office should act solely in terms of the public interest.

2. Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

3. Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

4. Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

5. Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

6. Honesty

Holders of public office should be truthful.

7. Leadership

Holders of public office should exhibit these principles in their own behaviour and treat others with respect. They should actively promote and robustly support the principles and challenge poor behaviour wherever it occurs.

Guide to the Audit and Governance Committee

The audit and governance committee comprises seven members of the council plus an additional independent expert who is not a councillor and is appointed by Monitoring Officer (in consultation with the Chair of Audit & Governance) under delegation from the Audit & Governance committee.

Councillor David Hitchiner (Chairperson)	Independents for Herefordshire
Councillor Aubrey Oliver (Vice-Chairperson)	Liberal Democrats
Councillor Chris Bartrum	Liberal Democrats
Councillor Frank Cornthwaite	Conservative Party
Councillor Peter Hamblin	Conservative Party
Councillor Robert Highfield	Conservative Party
Councillor Mark Woodall	The Green Party
Kerry Diamond	Independent expert

The Audit and Governance Committee is responsible for proving assurance on the council's audit, governance (including risk management and information governance) and financial processes in accordance with the functions scheme.

The committee shall:

- (a) review and examine, and where required in depth examine, matters relating to internal audit, external audit, risk management, governance, assurance statement, anti-fraud and anti-corruption arrangements as well as any other function to meet the Council's audit committee requirements
- (b) enhance and promote the profile, status and authority of the internal audit function and to demonstrate its independence
- (c) contribute towards making the authority, its committees and departments more responsive to the audit function
- (d) review compliance with the relevant standards, code of conduct, codes of practice and corporate governance policies
- (e) act within the Council's Constitution.

Minutes of the meeting of the Audit and Governance Committee held in Conference Room 1, Herefordshire Council Offices, Plough Lane, Hereford, HR4 0LE on Thursday 26 September 2024 at 2.30 pm

Committee members present in person and voting: **Councillors: Polly Andrews, Frank Cornthwaite, Robert Highfield, David Hitchiner (Chairperson), Ben Proctor and Mark Woodall (Vice-Chairperson)**

Others in attendance:

G Hawkins	Senior Manager, Grant Thornton
C Jacobs	Information Governance Manager
S O'Connor	Head of Legal Services and Deputy Monitoring Officer
T Page	Complaints and Children's Rights Manager
J Preece	Democratic Services Officer
N Preece	Value for Money Manager, Grant Thornton
R Sanders	Director of Finance
Cathy Smith	Public Sector Audit Manager. Grant Thornton

1. APOLOGIES FOR ABSENCE

Apologies for absence had been received from Councillors Chris Bartrum, Peter Hamblin and Aubrey Oliver

2. NAMED SUBSTITUTES (IF ANY)

Councillor Polly Andrews was present as the named substitute for Councillor Aubrey Oliver and Councillor Ben Proctor attended the meeting as a substitute member for Cllr Chris Bartrum.

3. DECLARATIONS OF INTEREST

No declarations of interest were made.

4. MINUTES

RESOLVED:

That the minutes of the meeting held on 23 July 2024 be confirmed as a correct record and signed by the chairman.

5. QUESTIONS FROM MEMBERS OF THE PUBLIC (Pages 9 - 10)

Questions received and responses given are attached as a supplement to the minutes.

6. QUESTIONS FROM COUNCILLORS

There were no questions received from Councillors.

7. ANNUAL REVIEW OF THE COUNCIL'S INFORMATION REQUESTS & COMPLAINTS 2023/24

The committee considered a report on performance in the areas of complaints, data incidents and requests for information made to the council over the municipal year 2023/24.

The Information Governance Manager (IGM) informed the committee that the information held in the report was from 1 May 2023 to 30 April 2024. The following points were highlighted:

- 834 Freedom of Information (FOI) and 130 Environmental Information Regulation (EIR) requests had been dealt with by the Council which was a decrease from the previous year. This was thought to be due to the publication of the disclosure log detailing past requests and responses. More requests have also been dealt with as "business as usual".
- Requests answered within the statutory 20 working days was 98.6%, which exceeded the Council's target of 95% compliance.
- Three cases were referred to the Information Commissioner's Office (ICO) and in all cases the ICO upheld the council's decision.
- 207 requests from individuals asking for their own personal data (SARS) were received with a response rate of 78%, which fell below Council target.
- 260 low-level data security incidents were reported during the period. 4 of those met the threshold for reporting to the ICO. In 3 of those cases, they were satisfied with how the Council had dealt with those breaches and 1 case the decision was still pending.
- It was noted the fact the number of breaches were high was not necessarily a cause for concern and was likely from a high level of staff awareness due to mandatory training processes in place for reporting such issues and an open culture around reporting things which have gone wrong.

The Complaints and Children's Rights Manager (CCRM) informed the committee that:

- 483 corporate complaints had been received during the municipal year a decrease from 734 the previous year.
- 158 service requests had been received.
- 102 statutory children's complaints had been received, 55 of which were sent to the ombudsman. Of those 55, only 10 were investigated and only 8 were upheld.
- In 100% of cases the council had complied with the recommendations made by the Local Government and Social Care Ombudsman (LGSCO) to bring cases to resolution.
- The council paid out a total sum of £250 as advised by the LGSCO for the period of 1 April 2023 to 31 March 2024, a notable decrease from the £2200 paid to complainants 1 April 2022 to 31 March 2023.

In response to committee questions, it was noted:(please also see actions below).

1. The CCRM did not feel the increase in children's complaints was a cause for concern and that the process for making a complaint was much more accessible.
2. The CCRM explained that predominantly families are making the complaints on behalf of the children, but when a complaint is received from a child or young person, they are supported through the advocacy service. If a parent or a family member or foster care is complaining on behalf of the child, If they are age appropriate (generally from 12 years) the team would ensure that the child knows

- about the complaint and if they consent for the complaint being made would try to give them the option of putting the complaint in themselves rather than the family doing it.
3. The CCRM advised on the recording of complaints when multiple complaints are received on the same subject matter.
 4. The IGM confirmed that along with the disclosure logs detailing previous requests and where to find the information, the frequently asked questions page, service areas were also being encouraged where recurring themes were being asked, that they should make the information available on the website.
 5. The CCRM provided the committee with an overview of the Advocacy Service which was welcomed by the committee.
 6. The CCRM advised the committee that any child in the care of Herefordshire, no matter where they were living in the country, will have access to the “hear me” service. This can involve travelling out of County or just talking over the phone. Every local authority should have an advocacy service. It was noted that two local authorities had asked to spot purchase Herefordshire’s advocacy service for children that have been placed here, which is not something currently offered but is being investigated.

RESOLVED

That the information set out in the report is noted.

Action(s)

2023/24-038 The IGM would provide the committee with data on the number of duplicate FOI requests received that had previously been asked and answers published on the Councils website.

2023/24-039 The IGM would feedback improvements needed to the council search engine, which could aid in receiving fewer duplicate requests.

2023/24-040 The IGM would ensure the disclosure log was labelled with the Open Government Licence (OGL).

8. UPDATE TO RISK MANAGEMENT ARRANGEMENTS

The Director of Finance (DOF) introduced the report the purpose of which was to provide an update on the ongoing work in respect of the activity that has been undertaken to review and develop the Council's approach to risk management. The principal points included:

- External risk management consultants had evaluated the risk management arrangement.
- Following that exercise, their feedback and best practise had been incorporated into the updated draft risk management strategy attached at [Appendix 1](#).
- More work was still to be done and it was noted that the strategy attached at [Appendix 1](#) had some gaps in the risk appetite matrix relating to corporate risks. The Corporate Leadership Team (CLT) would be working through the plan in the coming months to populate those risks, identify the ones that are most relevant to the Council and the sectors that are operated in, and to define risk appetite.

In response to committee questions, it was noted: (also see actions below)

1. The Head of Corporate Performance & Intelligence (HCPI) explained that once the strategy had been approved by all parties, frequent communication would be emailed across to all staff, workshops would take place to explain what risk

- management is and what the new strategy is and how they can ensure that we consider this in their day-to-day work.
2. The HCPI confirmed that all cabinet, cabinet member and committee reports came through to her prior to being released for the relevant meetings and she would be reviewing these in terms of ensuring there is consideration of risk.
 3. The HCPI advised she is already working closely with South West Audit Partnership (SWAP) and had recent conversation with regards to renewing the corporate risk registers. A benchmarking exercise to see how we compare with other local authorities had already been started. The new strategy was in its early stages of being created, the next steps would be to refresh all the risk registers, embed those and to ensure that the strategy is being implemented. She would then like it to be fully audited by swap to ensure we are following and implementing what we say we are going to do.
 4. The HCPI was looking to develop an E-Learning module that was mandatory to ensure all staff undertook the training but also to provide interactive workshops where case studies could be explored, and discussions can be had on how we deal with risk management and people could get immediate feedback on their thoughts and processes.
 5. Consideration would be given to the presentation of the risk appetite levels.

RESOLVED:

That the committee noted the activity completed to update the Draft Risk Management Strategy.

Action(s)

2023/24-041 The HCPI to update the wording with regards to roles and responsibilities to give clarity that the Audit and Governance Committee is responsible for approving the process rather than the complete Register, and to consider the best timing for the quarterly reviews as between the SLT, Cabinet and this committee

2023/24-042 The HCPI to investigate and provide a written response with regards to where the delegation for cabinet is within the constitution for the accountability of risk management.

9. 2023/24 EXTERNAL AUDIT FINDINGS REPORT

The Director of Finance (DOF) introduced the report and offered her thanks to the Senior Manager (SM), Grant Thornton (GT) and her team for their hard work and dedication. The following principal points were noted:

- The draft accounts were published on 31st of May in line with the statutory deadline. At that point it was noted by the auditors that the expenditure in the council's comprehensive income and expenses statement exceeded the £500 million threshold which prompted a change in their audit classification to "a major local audit". As a result, additional procedures, the audit scope and layers of review were undertaken by GT, an additional partner review and technical review. This inevitably presented some changes in the council's disclosure and presentations in the accounts which were detailed in the audit findings report.
- No material errors had been found and where auditor's had recommendations these had been accepted and where appropriate corrections made straight away, or action plans put in place to remedy.

The SM advised the committee they planned to give an unmodified opinion, later in the agenda subject to some items that were still outstanding. These included:

- A response from the external property valuer had been received, and that work was completed and was subject to review.
- A letter was expected from the engagement lead for the pension fund audit which would enable GT to complete and close on this work.
- GT were awaiting final sign off on the hot review and ethics process.
- Their aim was for the accounts to be signed off by the statutory deadline of 30 September.

The Public Sector Audit Manager (PSAM) GT provided the committee with details on the recommendations that had been made, the errors that had been found and what had been done to remedy those.

In response to committee questions, it was noted:

1. The PSAM advised that some software packages would not allow journals to be posted unless it had been approved by an appropriate approver. Unfortunately, the council's software did not accommodate this, and it was advised that this could be achieved by an appropriate approver signing a piece of paper and scanning in as evidence or an email.
2. The process for auditing the valuation of assets was explained.
3. The DOF explained the presentation error with regards to the placement of the £8.4M.

RESOLVED

That: The report of the external auditor attached at Appendix 1 was considered and the committee determined that no issues raised in the report required inclusion in the committee's future workplan.

10. ANNUAL GOVERNANCE STATEMENT 2023/24

The Director of Finance (DOF) introduced the Annual Governance Statement (AGS) 2023/24 a draft of which was presented to the committee in June. Changes requested by the Committee in terms of language used had been altered. Grant Thornton had reviewed the statement as part of their audit work for consistency and considered the control framework and governance arrangements.

In response to committee questions, the DOF informed the committee that a public inspection period had taken place during 1st of June through to the 12th of July giving members of the public the opportunity to ask questions. The AGS will be published as part of the audited statement and remains on the Council's website with further updates on actions highlighted as areas for improvement being brought back to this committee throughout the year.

RESOLVED:

That: The committee determined that the Annual Governance Statement at Appendix 1 properly reflects the risk environment the council is operating in and that actions identified represent an appropriate response.

11. 2023/24 STATEMENT OF ACCOUNTS

The Director of Finance (DOF) introduced the statement of accounts a draft of which was presented to the committee in June. Those accounts had been subject to audit by Grant Thornton who had made recommendations which the Council have adjusted. A final set of accounts were presented to the auditors, who have confirmed all required changes had been made and were presented to the committee for approval along with the letter of representation.

The Chair expressed his congratulations and thanks to the DOF and officers for their hard work and dedication.

RESOLVED:

That: The 2023/24 Statement of Accounts (at Appendix 1) be approved; and the letter of representation (at Appendix 2) be signed by the chairperson of the committee and the Chief Finance Officer.

12. EXTERNAL AUDITOR'S ANNUAL REPORT 2023/24

The Director of Finance (DOF) expressed her thanks to the Value for Money Manager (VMM) Grant Thornton (GT), for his work over the recent years. The following principal points were noted:

- The annual auditors report is a review of the arrangements that have been put in place under three key themes, financial sustainability, governance and the three ES - economy, efficiency and effectiveness in the council's use of resources. The report outlines against each of those criteria the recommendations made, and any weaknesses identified in arrangements.
- GT had conducted an additional piece of work this year in to the finance arrangements within the children and Young People Directorate. It was noted the review confirmed that there are good arrangements in place with a realistic and robust budget set.

The VMM introduced the report, the following principal points were noted:

- 1 key recommendation with regards to the continuing significant weakness in respect of improvement in children's services was highlighted, however the VMM was keen to note that the direction of travel was positive having reviewed the robust budget arrangements as previously mentioned and reassuring discussions had with the Corporate Director in terms of new approach, change and refocus. The VMM advised that it would be difficult for the classification to be changed whilst Herefordshire still had an Ofsted rating of inadequate.
- 3 Improvement recommendations had been made with regards to;
 1. The Dedicated Schools Grant (DSG) and the increasing deficit due to greater pressures of SEN in schools and the use of having to use out of county places at a significant cost. Closer working with schools, partners and stake holders to reduce expenditure was recommended.
 2. Improvements to risk reporting arrangements to enhance the corporate risk registers by including the corporate objectives and what they relate to was recommended along with quarterly reporting to Cabinet after it was reviewed by the Audit and Governance Committee.
 3. To enhance arrangements where necessary to waive normal tendering arrangements, the council should report tender waivers to the Audit and Governance Committee on a quarterly basis.
- The Council is found to have reasonable and robust budget setting and good financial reporting processes in place.

In response to committee questions, it was noted:

1. The DOF assured the committee that the corporate leadership team were aware of the recommendations made and special attention will be given to the areas that are within their individual directorates.
2. In terms of budget setting the DOF would personally ensure that all these recommendations are considered and from a finance perspective, would be

discussing each of the recommendations with her teams. GT would also be following up on these in future years and internal audit as part of their management of the council's audit recommendations. Some of the recommendations had a direct impact on the revenue budget and forecast and would be considered as part of general financial management arrangements.

3. As part of the recommendation for the tender of waivers to be reported through the Audit and Governance Committee, the DOF explained that these are monitored but there is not currently a mechanism for reporting to the committee. She would explore the volume with her team to determine an appropriate frequency and report back to the committee.
4. The DOF assured the committee of the budget setting process and highlighted one of the key priorities and drivers in setting the budget was ensuring there were sufficient funds to deliver priorities of the council plan whilst joining that up with the capital program and making sure consideration is given for revenue pressures and understanding what can be done to contain, mitigate and minimize financial pressures.

RESOLVED

That the committee reviewed the external auditor's report, noted its findings and recommendations and had considered the management responses.

Action:

2023/24-043 The DOF to explore the volume of tender waivers with her team to determine an appropriate frequency and report back to the committee.

13. WORK PROGRAMME

The committee's updated work programme was presented, showing amendments which included the External Auditor's Annual Report 2023/24 having been brought forward to this meeting from January 2025.

Having noted the discussion during the Risk Management item, it was highlighted that an additional item on the Corporate Risk Registers was required before the already scheduled meeting on 10 June 2025.

RESOLVED

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

14. DATE OF NEXT MEETING

Tuesday, 29 October 2024, 2pm.

The meeting ended at 16:03.

Chairperson



Title of report: Internal Audit Update Report Quarter 2 2024/25

Meeting: Audit and Governance Committee

Meeting date: Tuesday 29 October 2024

Report by: Director of Finance

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose

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 assure the committee that action is being taken on risk related issues identified by internal audit. This is monitored through acceptance of agreed management actions and progress updates in implementing the action plans. In addition, occasions where audit actions not accepted by management are documented 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 the Committee:

- a) Reviews the areas of activity and concern and be satisfied that necessary improvements are outlined and delivered; and**
- b) Notes the report and consider the assurances provided and the recommendations which the report makes, commenting on its content as necessary.**

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 Committee should consider the report to gain assurance that, from the work undertaken by internal audit, the Council have a robust internal control environment that effectively manages risk
3. The internal audit progress report is attached at Appendix A. A glossary of terms is 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.

Environmental Impact

5. Herefordshire Council provides and purchases a wide range of services for the people of Herefordshire. Together with partner organisations in the private, public and voluntary sectors we share a strong commitment to improving our environmental sustainability, achieving carbon neutrality and to protect and enhance Herefordshire's outstanding natural environment.
6. Whilst this is a decision on back office functions and will have minimal environmental impacts, consideration has been made to minimise waste and resource use in line with the Council's Environmental Policy.

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 –
 - 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 is a decision on back-office functions, we do not believe that it will have an impact on our equality duty

Resource implications

9. 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.

Legal implications

10. None.

Risk management

11. 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 the programme of internal audit work, and subsequent coverage assessments.
12. Risks identified by internal audit are mitigated by actions proposed by management in response. Progress on implementation of agreed actions is now reported to this committee as part of the internal audit progress reports.

Consultees

13. None.

Appendices

Appendix A – SWAP Internal Audit Progress Report Quarter 2 2024-25

Background papers

None identified.

Appendix A

Herefordshire Council

Internal Audit Update Report

As @ 10th October 2024

23

Internal Audit Progress Report 2024/25

Indicative Rolling Opinion



Our work highlighted there is generally a sound system of governance, risk management and control in place. We identified some issues, non-compliance or scope for improvement which may put at risk the achievement of objectives.

Summary of high corporate risks, limited or no assurance opinions and high priority actions agreed.

No High organisational risks identified this period.

6 Priority 2 Findings identified.

No Limited Assurances identified.

Summary of this reporting period



Ongoing coverage of internal audit work continues to be aligned to the corporate priorities, the Council's corporate risks, SWAPS sector wide top 10 risk areas and the 8 strands of our 'Healthy Organisation' framework to demonstrate coverage across these key areas.

Coverage of internal audit work has been developed to demonstrate coverage against not only complete and in progress audits but also those future proposed audits.

Links to corporate risks has improved since the last progress update and we would expect this to increase as part of the rolling plan process.



Nine assignments have been completed since our last progress report.

Five assignments are currently in progress. One of these is at draft report stage.



An update on the tracking of internal audit actions has been included in this report. There are currently 60 live actions pending remediation. Further detail of the status of internal audit actions, as well as additional functionality, is available through AuditBoard and is now available to Committee Members.



Our Internal Audit Rolling Plan dashboard provides further oversight on the internal audit activity and can be accessed at any time to show live information.



Internal Audit work either met or exceeded expectation in 99% of audits where a post audit questionnaire was completed. This is based on a 73% return rate (24 of 33 post audit questionnaires completed and returned).

Assurance Opinions

Substantial	0
Reasonable/Certified	4
Limited	0
No Assurance	0
Advisory	5
Follow Up	0
Investigations	0

Internal Audit Agreed Actions

Priority 1	0
Priority 2	6
Priority 3	8

Internal Audit Progress Report 2024/25

A risk assessment for 2024/25 has been undertaken which maps internal audit work to the Councils Corporate risks and SWAPs Top 10 Organisation Risks. This will ensure that internal audit coverage is focused into key areas.

A continuous risk assessment will be undertaken throughout 2024/25 which will inform the internal audit work programme for 2024/25.

Full coverage of internal audits can be seen in the Rolling Plan Dashboard within AuditBoard.



Internal Audit Work Programme and Coverage

We have assessed internal audit coverage for 2024/25 based on the corporate risks taken from Herefordshire Council's Corporate Risk Register presented to committee in March 2024 and SWAPs top 10 risks. The risk coverage will be updated as and when the risk register and SWAP Top 10 risks are updated as part of rolling plan approach.

Previous coverage showed complete and in progress audits only, we have since developed our dashboard to include future proposed audits.

The table below shows coverage to the Councils Corporate Risks for audits that are complete, in progress and future proposed. However, it is noted the dashboard has the functionality to filter between complete and in progress audits and future proposed audits as shown on the next page of this report.

Strategic Risk	Coverage	Average Opinion
R64 - Inability to recruitment and retain social care staff and other ...	Some	
R74 - School Assets	None	
R75 - SEND Inspection - Risk of adverse inspection	Some	Non Opinion Audits
R77 - Increase in out of county educational placements	Some	Non Opinion Audits
R80 - Supply chain capacity	None	
R81 - Reviews - capacity, timeliness and statutory duty of care	Some	
R82 - Contract Fleet Lease Expiry	None	
R83 - BBLP Payment Mechanism Value for Money	Some	
R84 - Contract Management Software	None	
R85 - Waste Management services contract	Adequate	Non Opinion Audits
R86 - Insufficient range and quantity of placements for children in ...	Some	Non Opinion Audits
R87 - Lack of pace in development of Performance	None	
R88 - Lack of pace in development of Mosaic	None	
R89 - Business Support	None	
R90 - EYFS Sufficiency	None	
R91 - Secondary School Places	None	
R92 - Special School Demand	Some	

Internal Audit Plan Progress Q1 2024/25

A risk assessment for 2024/25 has been undertaken which maps internal audit work to the Councils Corporate risks and SWAPs Top 10 Organisation Risks. This will ensure that internal audit coverage is focused into key areas.

A continuous risk assessment will be undertaken throughout 2024/25 which will inform the internal audit work programme for 2024/25.

Full coverage of internal audits can be seen in the Rolling Plan Dashboard within AuditBoard.

Internal Audit Work Programme and Coverage

Coverage against the Councils Corporate Risks for Complete and In Progress Audits.

Strategic Risk	Coverage	Average Opinion
R64 - Inability to recruitment and retain social care staff and other ...	None	
R74 - School Assets	None	
R75 - SEND Inspection - Risk of adverse inspection	Some	Non Opinion Audits
R77 - Increase in out of county educational placements	Some	Non Opinion Audits
R80 - Supply chain capacity	None	
R81 - Reviews - capacity, timeliness and statutory duty of care	None	
R82 - Contract Fleet Lease Expiry	None	
R83 - BBLP Payment Mechanism Value for Money	None	
R84 - Contract Management Software	None	
R85 - Waste Management services contract	Some	Non Opinion Audits
R86 - Insufficient range and quantity of placements for children in ...	Some	Non Opinion Audits
R87 - Lack of pace in development of Performance	None	
R88 - Lack of pace in development of Mosaic	None	
R89 - Business Support	None	
R90 - EYFS Sufficiency	None	
R91 - Secondary School Places	None	
R92 - Special School Demand	None	

Internal Audit Plan Progress Q1 2024/25

A risk assessment for 2024/25 has been undertaken which maps internal audit work to the Councils Corporate risks and SWAPs Top 10 Organisation Risks. This will ensure that internal audit coverage is focused into key areas.

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Full coverage of internal audits can be seen in the Rolling Plan Dashboard within AuditBoard.



Internal Audit Work Programme and Coverage

Coverage against SWAPs Top 10 Risks can also be shown across complete and in progress audits and future proposed as shown below.

Coverage against SWAP Top 10 risks for complete, in progress and future proposed audits.

Top 10 Risks	Coverage	Average Opinion
Planning, Housing, Environment and the Local Economy	Good	Reasonable
Governance	Good	Reasonable
Sustaining Care	Good	Reasonable
Finance	Good	Limited
Health & Safety	Some	Non Opinion Audits
Education	None	
Contracts, Procurement and Commissioning	Good	Reasonable
Workforce	Good	Limited
Technology, Digital and Security	Adequate	Reasonable
Strategic Asset Management	Some	Limited

Top 10 Risks	Coverage	Average Opinion
Planning, Housing, Environment and the Local Economy	Good	Reasonable
Governance	Good	Reasonable
Sustaining Care	Good	Reasonable
Finance	Good	Limited
Health & Safety	Some	Non Opinion Audits
Education	None	
Contracts, Procurement and Commissioning	Good	Reasonable
Workforce	Adequate	Limited
Technology, Digital and Security	Adequate	Reasonable
Strategic Asset Management	Some	Limited

Coverage against SWAP Top 10 risks for complete and in progress audits only.

Internal Audit Plan Progress Q1 2024/25

Definitions of coverage and average opinion are shown here.

The assessment of none, some, and good is based on the number of audits in these areas and the scope of the audits.

This gives the Committee oversight as to whether internal audit is aligned to the corporate priorities and risks, although we would not expect all audits to align to all corporate risks.

Internal Audit Work Programme and Coverage

Description of coverage and the assurance are outlined here.

Coverage	Description
Good	Good audit coverage completed
Adequate	Adequate audit coverage completed
Some	Some aspects of audit coverage completed
In Progress	Some aspects of audit coverage in progress
None	No audit coverage to date

Assurance	Description
Substantial	Sound system of governance, risk management and controls exist
Reasonable	Generally sound system of governance, risk management and control in place
Limited	Significant gaps, weaknesses or non-compliance were identified
No Assurance	Fundamental gaps, weaknesses or non-compliance identified

28

High organisational risks are brought to the Committee's attention.

Limited Assurance Audits are brought to the Committee's attention.

High Organisational Risks 2024/25 and Limited Assurance Opinions

There have been no high organisational risks identified in this period of reporting.

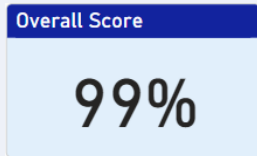
There have been no limited assurance reports issued in this period of reporting.

Internal Audit Plan Progress Q1 2024/25

One of the roles of the Audit & Governance Committee is to oversee the independence, objectivity, performance and professionalism of internal audit.

SWAP promote a range of performance areas and indicators to assess our effectiveness and professionalism.

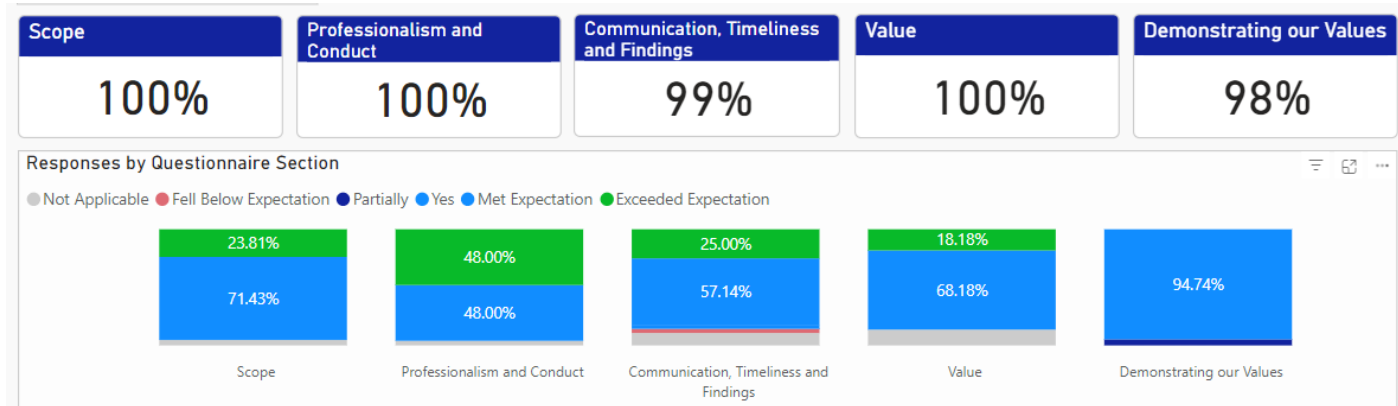
The overall customer satisfaction level for Herefordshire Council is:



Quality Assurance

Following the conclusion of internal audit work, a customer satisfaction questionnaire is issued to the key audit contact to complete. This asks a range of questions; including the value that the audit delivered, the professionalism and conduct of the auditor, and the communication and timeliness of the review.

From the 24 returned questionnaires (a return rate of 73%, from the 33 issued), feedback was strong; especially in relation to our professionalism and conduct. The below visual summarises this feedback across five themes:



Internal Audit Progress Report 2024/25

Action Tracking



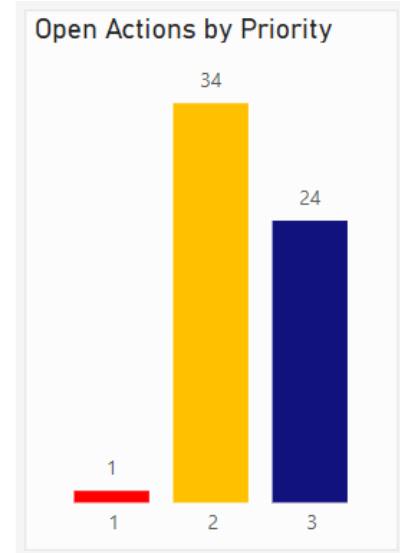
Action Tracking

In the July progress report there were 88 actions for Herefordshire Council pending remediation.

Since the Q1 progress report action tracking processes in place have closed off 42 actions and a further 14 actions have been agreed with Council officers.

There are now 60 actions pending remediation. A breakdown of the current actions pending remediation, and their priority is shown here.

Work will continue to gain an update from the responsible officers allocated to the actions and report this progress to committee. This work will concentrate on those that are most overdue. Those actions that have not been remediated will have updated due dates agreed with officers.



Pending Remediation Actions by due date are shown below:

Not yet due	Due within 30 days	1-30 days overdue	31-60 days overdue	61-90 days overdue	91+ days overdue	Total Actions
4	4	14	1	3	34	60

Committee and senior management now have access to the Action Tracker – Management Actions Dashboard to allow a full overview of progress against actions. This dashboard allows the user to drill down further to specific actions and display actions in different formats e.g., per directorate.

Internal Audit Progress Report 2024/25 – Completed Audits

All 'IN PROGRESS' audits

Filter by Directorate		Audit Progress								
All		25%	50%	75%	100%	Draft Report Issued	Final Report Issued	Type of Work	Fieldwork Start Date	Notes
Audit Title		Fieldwork Complete								<i>Hover over text to view whole note</i>
Action Tracking		█	█					Follow up	01/04/2024	Tracking of agreed audit actions with an upd...
Court of Protection 24-25		█	█	█	█			Assurance	01/05/2024	
CIFAS Support of Implementation		█	█					Proactive fraud work	23/05/2024	
All Ages Commissioning - Use of Spot Purc...		█						Assurance	12/08/2024	
Local Authority Designated Officer (LADO) ...		█	█	█	█	25/09/2024		Assurance	19/08/2024	Close out meeting scheduled 10th October.
Debtors (Accounts Receivable) Processes (A...								Assurance	14/10/2024	Kick off meeting scheduled for 14.10. Meetin...

31

All 'WAITING TO GO LIVE' audits

Filter by Directorate			
All		Audit Title	Notes
Hereford Enterprise Zone Follow Up of Actions (including extended review of sales)		Advisory	Request to follow up on previous audit actions with an extended specific scope of sales of the plots. Brief to be drafted and agreed.
Mutual Employment Resignation Scheme (MERS)		Assurance	Initial meeting scheduled October 2024
Supporting Families Introduction of New Processes		Advisory	
Supporting Families Q3 24/25		Grant Certification	As required by DfE Supporting Families Programme Guidance 2022-25 review to ensure that the payment-by-results claims to be submitted by the Council from April 2024 to March 2025 are legitimate.
VfM Assessment Public Realm		Advisory	Initial meeting held, audit brief in process of being drafted.

Internal Audit Plan Progress Q1 2024/25



ROLLING AUDIT PLAN as at:

02/10/2024



All 'COMPLETED' Audits

Filter by Audit Period		Filter by Directorate		Number of Actions & Priority					
2024/25		All		1	2	3	Organisational Risk Assessments	Completed Date	Link to Final Report
HC Changing Places Fund Grant Determination (2023-2024): No 31/6864, No 31/7...	Advisory						N/A	27 September 2024	
HC Local Transport Capital Block Funding (Pothole Fund) Specific Grant Determinat...	Grant Certification						N/A	27 September 2024	🔗
HC Local Authority Bus Subsidy (Revenue) Grant: Determination 2023/24: No 31/6...	Grant Certification						N/A	24 September 2024	🔗
HC Supporting Families Q2 24/25	Grant Certification						N/A	24 September 2024	🔗
HC Planning Benchmarking	Advisory						N/A	12 September 2024	🔗
HC Foster Care Placements	Advisory		6	8			Medium	06 September 2024	🔗
HC Waste Contract Mobilisation	Advisory						N/A	03 September 2024	🔗
HC Safeguarding in Recruitment Processes	Reasonable (Medium)						Low	23 August 2024	🔗
HC ICT Security Assurance Framework Review (SAFR)	Advisory						N/A	12 July 2024	🔗
HC Home Upgrade Grant - HUG 2	Substantial (Low)						Low	04 July 2024	🔗
HC Risk Management Consultancy	Advisory						N/A	03 July 2024	🔗
HC Planning Enforcement	Reasonable (Medium)						Low	26 June 2024	🔗
HC Rough Sleeping Accommodation Programme (RSAP) – Statement of Grant Usa...	Grant Certification						N/A	25 June 2024	🔗
HC Supporting Families Q1 24/25	Grant Certification						N/A	25 June 2024	🔗
HC Registration Service Follow Up	Follow Up						N/A	12 June 2024	🔗

32



Our SWAP assurance framework and definitions can be found here (www.swapaudit.co.uk/audit-framework-and-definitions). SWAP work is completed to comply with the International Professional Practices Framework of the Institute of Internal Auditors, further guided by interpretation provided by the Public Sector Internal Audit Standards (PSIAS) and the CIPFA Local Government Application Note.

Title of report: Energy from waste loan update

Meeting: Audit and Governance Committee

Meeting date: Tuesday 29 October 2024

Report by: Director of Finance, Chief Accountant

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose

To update the committee on the current status of the energy from waste loan arrangement to enable the committee to fulfil its delegated functions.

Recommendation(s)

That:

- a) **The risks to the council, as joint 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 the 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, the council, in partnership with Worcestershire County Council, entered into a 25 year contract with Mercia Waste Management Limited (Mercia) for the provision of an integrated waste management system using the Private Finance Initiative. In 2014, a variation to the contract was signed, to build, finance and operate an energy from waste plant in Hartlebury.
3. The councils (the Lenders) provided a total of £163.5 million to Mercia (the Borrower) as a long term loan split across two facilities (Facility A £35.45 million and Facility B £128.05 million). Herefordshire Council provided 24.2% of the loan (value £39.57 million).
4. Facility A was fully repaid in December 2022. The repayments for Facility B have been extended for 5 years until January 2029 in line with the extension to the Waste Management Services contract.
5. This report enables the committee to fulfil 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.
6. Since the last report to the committee in December 2023, the loan arrangement has continued to be repaid in line with expectations, and risks to the council are considered to be reasonable and appropriate.
7. The ownership of Mercia Waste Management has changed. In June 2024, FCC Servicios Medio Ambiente completed the purchase of Urbaser UK (one of the two main owners of Mercia Waste Management). The impact of this on the parent company guarantee and the loan facility is considered in Appendix 3, the joint risk register.

Update to loan balance

8. During the last year, since the previous report to the committee, the following loan repayments have been made:

	Interest £m	Principal £m	Total £m
Loan balance (principal) at December 2023		29.7	
December 2023 repayment	0.9	0.3	1.2
June 2024 repayment	0.9	0.9	1.8
Loan balance (principal) at October 2024		28.5	

Loan Agreement Ratios

9. The ratios are a financial covenant imposed by Lenders (in this case the council and Worcestershire County Council together as Lenders) as a monitoring mechanism to provide early warning of project distress and potential Borrower (in this case Mercia) default on their 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. The ratios are reported every 6 months in June and December.

10. The ratios reported at June 2024 were as follows:

Ratio	Calculation	Reason	Compliance value	Actual value at June 2024	Actual value at June 2023
The Historic Annual Debt Service Cover Ratio	Preceding 12 months actual cash flows Divided by Loan principal and interest repayments over the preceding 12 months	To assess the ability to service current debt obligation over the preceding 12 month period	1.35	2.22	1.58
The projected Annual Debt Service Cover Ratio	Following 12 months actual cash flows Divided by Loan principal and interest repayments over the next 12 months	To assess the ability to service future debt obligations over the following 12 month period	1.35	1.98	2.30
The Loan Life Cover Ratio before distributions	NPV all future cash flows plus available reserve balances Divided by Loan principal outstanding	To assess the ability to repay the outstanding loan balance from future cash flows over the remaining life of the loan	1.40	9.05	7.77

11. The ratio calculations have been supplied by Mercia along with forecasts of future ratio value up until the end of the loan agreement. There are no ratios that are forecast to be below the agreed compliance values.
12. Mercia have supplied a Ratio Compliance Certificate confirming that, as at June 2024, all ratios are within the levels outlines in the Senior Term Loan Facilities Agreement. There are no areas of concern to highlight to the committee. This Certificate is included in Appendix 1.
13. Mercia have supplied a Senior Term Loan Facility Agreement Assurance Statement for Lenders to provide some assurance to the council that loan covenants have been met, and there are no significant issues or risks to future loan repayments. This Statement is included in Appendix 2.

Community impact

14. In accordance with the adopted code of corporate governance, the 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.
15. The loan arrangement supports the continued viability and affordability of the contracted waste disposal arrangement.

Environmental Impact

16. Herefordshire Council provides and purchases a wide range of services for the people of Herefordshire. Together with partner organisations in the private, public and voluntary sectors we share a strong commitment to improving our environmental sustainability, achieving carbon neutrality and to protect and enhance Herefordshire's outstanding natural environment.
17. This is an update on an existing loan arrangement and will have minimal environmental impacts. However, consideration has been made to minimise waste and resource use in line with the Council's Environmental Policy, which is managed as part of the overall waste collection and disposal service provision.

Equality duty

18. The Public Sector Equality Duty requires the Council to consider how it can positively contribute to the advancement of equality and good relations, and demonstrate that it is paying 'due regard' in our decision making in the design of policies and in the delivery of services.
19. The mandatory equality impact screening checklist has been completed for this activity and it has been found to have no impact for equality.

Resource implications

20. There are no financial implications arising from the recommendations in this report. The loan arrangement is being repaid as expected, the implications of the agreed loan arrangements are reflected in the council's medium term financial strategy and treasury management strategy as agreed by Council in February 2024.

Legal implications

21. 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. 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

22. Attached at Appendix 3 is the joint risk register with Worcestershire County Council.

Consultees

23. None.

Appendices

Appendix 1 – Ratio Compliance Certificate

Appendix 2 – Senior Term Loan Facility Agreement Assurance Statement for Lenders

Appendix 3 – Joint Risk Register

Background papers

None identified.

Report Reviewers Used for appraising this report:

Governance	Jen Preece	Date 15/10/2024
Finance	Wendy Pickering, Karen Morris, Judith Tranmer	Date 18/10/2024
Legal	Sean O'Connor	Date 18/10/2024
Communications	Luenne Featherstone	Date 10/10/2024
Equality Duty	Harriet Yellin	Date 18/10/2024
Procurement	N/A	
Risk	Jessica Karia	Date 18/10/2024
Approved by	Rachael Sanders	Date 19/10/2024

Ratio Compliance Certificate

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

Attention: Sherief Loutfy and Judith Tranmer

From: Mercia Waste Management Limited

The senior term loan facilities agreement dated 30th December 2022 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:

- (i) the Historic Annual Debt Service Cover Ratio on 30 June 2024 was 2.22;
- (ii) the Projected Annual Debt Service Cover Ratio on 30 June 2024 was 1.98; and
- (iii) the Loan Life Cover Ratio on 30 June 2024 as 9.05 : 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:.....

By:.....

Director

Senior Term Loan Facility Agreement Assurance Statement for Lenders

Statement from Mercia Waste Management

1. Financial Performance

The Company continued to produce a satisfactory performance both in terms of profitability and cash generation as it moved into the extended Contract period. Tonnages received under the Contract whilst slightly lower than modelled were within c2% of the level predicted. Income from recycling is ahead of the prior year whilst electricity prices have fallen.

The Company's capacity to make repayments of the loan and associated interest in full and on time remains firmly in place.

2. Loan Repayment

Repayments of Capital and Interest for the period ending 30th June 2024 were made on time in accordance with the Loan Agreement as have such all previous payments. The Company has every confidence that it will be able to deal with the payments due at the end of December 2024 in the same way.

3. Buildings, Plant and other Infrastructure

No problems exist which would require the Lenders attention at any of the Company's Facilities.

4. Compliance with Environmental Conditions and Permits

There are no material issues at any sites.

5. Insurance

The company completed the renewal process for the Energy from Waste Plant during February. We continue to benefit from our best-in-class rating flowing from the Plant design and our collaborative approach to risk management with the Insurer.

There are no significant issues to report in respect of claims or other matters.

6. Key Staff

There are no changes to report.

Note

On 10th June 2024 Urbaser Limited, one of the two owners of Mercia Waste Management, was purchased by FCC Environment. Whilst the direct ownership has not changed (Urbaser Limited continues to own 50% of Mercia) FCC now has the entire beneficial ownership of the Company.

J W Haywood - Mercia Waste Management. 16.09.2024

Risk Ref	Description of risk	Gross Impact	Gross Likelihood	Gross Risk Score	Risk control approach	Mitigating Actions	Residual Impact	Residual Likelihood	Residual Risk Score	Risk Ref
a	Weakening of Mercia Waste Management parent company guarantee due to the acquisition of Urbaser's UK business to FCC Servicios Medio Ambiente	Substantial	Medium	11 (A)	Risk treated	<p>WCC have procured legal advice from Eversheds Sutherland and Ashurst LLP regarding the continuing guarantee from FCC to ensure that existing protections are not inferior to that previously enjoyed. HCC have also been involved in the process. In addition, WCC engaged KPMG to perform an independent review which confirmed that FCC Servicios is of adequate financial standing and capacity to act as Guarantor for the Waste Management Service Contract.</p> <p>The proposed change represents a reasonable and appropriate arrangement in light of current industry practice and market conditions. This work was done in partnership with Herefordshire and Racheal their Interim S151 has been fully involved and concurs with this assessment</p>	Negligible	Low	3 (G)	
b	Default of loan repayments by borrower to lenders due to SPV (Mercia) or HZI falling into administration.	Critical	Medium	15 (A)	Risk transferred	<p>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. In December 2023 the Council was informed that an announcement had been made on the Spanish Stock Exchange stating that Urbaser Limited would be purchased by FCC the deal which would leave Mercia with one owner rather than two is subject to the approval of The Competitions and Markets Authority and all legal matters relating to the Waste Mngement Contract and Loan will be considered at the appropriate time.</p>	Substantial	Very Low	6 (G)	a
c	Impact of extension of contract with Mercia Waste Management by the County on the ability of company to repay the loan	Substantial	Low	6 (G)	Risk treated	<p>KPMG have conducted an analysis of the ratio's used for the ability of Mercia Waste Management to repay the loan on the basis of the extension and reduction in payments. KPMG have provided assurance that the revised ratios should not impact on the company's ability to repay the extended 5 year loan.</p>	Substantial	Very Low	6 (G)	
d	Mercia loan principal and / or interest repayments are below the required values as per the rates agreed in the STFLA .	Substantial	Very Low	6 (G)	Risk treated	<p>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. The County receive an assurance statement within the Committee Report and the latest being on the 15th February 2024 provided by MWM..</p>	Substantial	Almost Impossible	5 (G)	f

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		Impact			
		Negligible	Substantial	Critical	Extreme
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	



Title of report: Regulatory Investigatory Powers Act 2000 (RIPA) Update

Meeting: Audit and Governance Committee

Meeting date: Tuesday 29 October 2024

Report by: Head of Legal Services and Deputy Monitoring Officer, Head of Regulation and Technical Services

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose

To provide an update to the Committee about the operation of Regulatory Investigatory Powers Act 2000 (RIPA) within the Council.

Recommendation(s)

That the Committee:

- a) **Adopts the revised RIPA Policy in Appendix 1; and**
- b) **Notes that the Investigatory Powers Commissioners Office has been satisfied as to the operation of RIPA within the Council.**

Alternative options

1. There are no other options.

Key considerations

2. The Council's Constitution tasks this committee with the role of '*To oversee the council's arrangements for Regulatory Investigatory Powers Act 2000 (RIPA) and Investigatory Powers Act 2016 under its Policy*'.

Further information on the subject of this report is available from
 Sean O'Connor, Charles Yarnold, Tel: 01432 383622, Tel: 01432 260765, email:
 Sean.O'Connor@herefordshire.gov.uk, Charles.Yarnold@herefordshire.gov.ukl

RIPA Policy

3. The Policy was last reviewed and [updated in June 2021](#) by the committee. A further review was performed in June 2023 and it was considered by officers that the Policy remained valid and up to date with only minor changes required to reflect changes to the roles within the Council.
4. Neither the Policy nor the terms of reference for the committee are clear as to the period that the Policy should be considered by the Committee. Ordinarily we would expect officers to keep the policy up to date and recommend changes to this to the committee as they occur.
5. Accordingly, a copy of the amended Policy with tracked changes is attached as Appendix 1.

Training

6. The application of the RIPA Policy has now been added to the basic induction training for officers. This makes clear guidance in respect to the use of social media by officers in performance of their duties.
7. In addition, specific training on the application of RIPA was rolled out to officers in the Council who may use RIPA as a part of any investigation into any unlawful activities, during April and May 2024. This mainly included officers with the Environmental Health and Trading Standards teams in the Economy and Environment Directorate.
8. In total over 50 staff were training by an external specialist on the use of RIPA in April and May 2024. This included the use of directed surveillance, covert human intelligence sources and the acquisition of communications data. In addition, this included the use of non-RIPA surveillance for investigations and the implications of unlawful use of surveillance.
9. Further, officers with specific roles under the Policy (Authorising Officers, Senior Authorising Officers, Senior Responsible Officers) had direct further training in respect to their individual roles under the Policy.

Investigatory Powers Commissioners Office (IPCO)

10. In January to March 2024 the Council received correspondence from the IPCO in respect to the Council's use of covert surveillance and covert human intelligence sources (CHIS) in accordance with RIPA.
11. The IPCO's inspection regime has changed where the Council provides a written report on its use of RIPA and only where the IPCO is not satisfied with the responses, is a full inspection performed.
12. The IPCO requested that the Council provided information on the following matters:
 - a. That previous non-compliance had been remedied
 - b. The RIPA policy is reviewed and submitted to members for approval
 - c. Specific awareness training and key officer training has occurred
 - d. Central records are kept
 - e. Specific officers under the Policy are in place
 - f. Social media is covered in training

- g. The use of social media is monitored by managers
 - h. CCTV is operated and managed in line with RIPA considerations
 - i. The Council is aware of NAFN and how communications data is managed
 - j. The council complied with the Codes of Practice in relation to destruction of material
 - k. Provided copied of all RIPA authorisations used since the last inspection.
13. The Council's response on items a. to j. satisfied the IPCO on basis that training was scheduled for April/May for specified officers and that the RIPA policy would be assessed by the Audit & Governance Committee (this meeting).
14. The Council Trading Standards team have used RIPA authorisations twice in the last 3 years in August 2021 and April 2022 in respect to test purchases for tobacco. The IPCO were satisfied as to the process used but provided the Council with further guidance on drafting of the RIPA requests - including considering the specificity of the case for authorisation more closely and to formally cancel authorisations even when the authorisation was due to expire at the end of the authorisation period.

Community impact

15. Local authorities have a wide range of functions and are responsible for enforcing 1,000 separate Acts of Parliament and secondary legislation. Regulatory functions include consumer protection, animal health and welfare, fire safety and child protection. Effective and efficient enforcement protects the most vulnerable in our communities and acts as an enabler for economic progress

Environmental Impact

16. No impact.

Equality duty

17. The public sector equality 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.
18. The continued operation and update of this Policy is not likely to result in detrimental impact on any group with a protected characteristic. Any decision made under this Policy will require a further consideration whether any protected characteristics are impacted.

Resource implications

19. There are no resource implications as a result of the recommendations provided in this report.

Legal implications

20. Part 11 of the Regulation of Investigatory Powers Act 2000(RIPA) places covert surveillance on a statutory basis enabling public authorities identified in the legislation to carry out surveillance operations without breaching the Human Rights Act 1998.
21. A number of statutory instruments and codes of practice published by the Home Office govern the operation of RIPA.
22. Organisations using RIPA are subject to regular inspection by the IPCO.

Risk management

23. Failure to comply with legislation places the council at risk of legal challenge. Approval of the new policy and compliance with the policy and legislation ensures that the risk to the council is low.

Consultees

24. None.

Appendices

Appendix 1 – Revised RIPA Policy September 2024

Background papers

None identified.

Report Reviewers Used for appraising this report:

Governance	Jen Preece	Date 05/09/2024
Finance	Click or tap here to enter text.	Date Click or tap to enter a date.
Legal	Sean O'Connor	Date 18/10/2024
Communications	Luenne Featherstone	Date 15/10/2024
Equality Duty	Click or tap here to enter text.	Date Click or tap to enter a date.
Procurement	Click or tap here to enter text.	Date Click or tap to enter a date.
Risk	Click or tap here to enter text.	Date Click or tap to enter a date.
Approved by	Rachael Sanders	Date 18/10/2024



Please note: Track changes are to highlight the proposed amendments.

Appendix 1

Approved: June 2021

Version: 2

Last revised: ~~June~~October 2024~~3~~

Review date: ~~October~~June
2026~~7~~

Category

Owner: Legal services

Target audience: council officers

~~RIPA & Non-RIPA Surveillance~~

Regulation of Investigatory Powers Act 2000 (RIPA)

Policy and Procedures (including non-RIPA surveillance)

Regulation of Investigatory Powers Act 2000 (RIPA) - Policy and Procedures (including non-RIPA surveillance)

GENERAL STATEMENT OF POLICY

This policy document explains how Herefordshire Council will comply with the Regulation of Investigatory Powers Act 2000 ('RIPA') [and Investigatory Powers Act \(IPA\)](#) in relation to directed surveillance, use of covert human intelligence sources and the acquisition of communications data. [In addition, situations where surveillance is performed outside of RIPA.](#) This Policy is supplementary to the:

Regulation of Investigatory Powers Act (RIPA) 2000 - <http://www.legislation.gov.uk/ukpga/2000/23/contents>

[Investigatory Powers Act 2016 \(IPA\)](#)
[Investigatory Powers Act 2016 \(legislation.gov.uk\)](#)

[Human Rights Act -](#)
[Human Rights Act 1998 \(legislation.gov.uk\)](#)

Guidance on the use of covert surveillance or human intelligence sources by public authorities under part 2 of the Regulation of Investigatory Powers Act (RIPA) 2000.-
<https://www.gov.uk/government/publications/covert-surveillance-and-covert-human-intelligencesources-codes-of-practice>

Guidance to local authorities on the judicial approval process for RIPA and the crime threshold for directed surveillance -
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/118173/local-authority-england-wales.pdf

1.0 BACKGROUND

- 1.1 The primary function of central and local government regulation and enforcement is to protect the individual, the environment, and a variety of groups such as consumers and workers. At the same time, carrying out regulatory functions in an equitable, practical and consistent manner helps to promote a thriving national and local economy, and to prevent and detect crime and disorder.
- 1.2 The Regulation of Investigatory Powers Act 2000 (RIPA) came into effect in September 2000. RIPA sets out a regulatory framework for the use of covert surveillance techniques by public authorities. If such activities are conducted by council officers then RIPA regulates them in a manner which is compatible with the European Convention on Human Rights (ECHR), particularly Article 8 (the right to respect for private and family life). [IPA came into force in 2006 and regulates what form of communications data can be obtained by local authorities.](#)

- 1.3 Sections 37 and 38 of the Protection of Freedoms Act 2012 (the Act) came into force on 1 November 2012. Under the Act, local authority authorisations and notices for the use of particular covert techniques (direct surveillance, covert human intelligence sources (CHIS) and the acquisition of communications data) can only be given effect once an order approving the authorisation or notice has been granted by a Justice of the Peace (JP).
- 1.4 In addition amendments to the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 ("the 2010 Order") mean that a local authority can now only grant an authorisation under RIPA for the use of directed surveillance where the local authority is investigating particular types of criminal offences. These are criminal offences which attract a maximum custodial sentence of 6 months or would constitute an offence under sections 146, 147 or 147A of the Licensing Act 2003 or section 7 of the Children and Young Persons Act 1933 (sale of tobacco and alcohol to underage children).
- 1.5 Herefordshire Council will on occasion need to use covert surveillance in order to carry out its enforcement functions effectively. Examples of enforcement activities which may require the use of RIPA includes trading standards, community and fire safety, fraud investigations and child protection.
- 1.6 The council takes seriously its responsibilities as a regulatory authority and will at all times act in accordance with the law, ensuring that any regulatory and enforcement action it takes is lawful, necessary and proportionate.

1.7 The council will also undertake surveillance activities where the qualifications for RIPA is not met applied (where these per paragraph 3.2) and this Policy applies to such surveillance.

2.0 SCOPE AND DEFINITIONS

- 2.1 This policy applies to all Herefordshire Council services.
- 2.2 The main purpose of RIPA is to ensure that the relevant investigatory powers are used in accordance with human rights. These powers are:
- interception of communications
 - acquisition of communications data (e.g. billing data)
 - intrusive surveillance (on residential premises/in private vehicles)
 - directed surveillance in the course of specific operations
 - use of covert human intelligence sources (informants etc)
 - access to encrypted data
- 2.3 By working in conjunction with other, pre-existing legislation, the Act ensures the following points are clearly covered:
- purposes to which relevant powers may be used
 - which authorities can use the powers
 - authorisation of the use of the powers
 - the use that can be made of material gained
 - independent judicial oversight
 - a means of redress for the individual where powers are breached

2.4 RIPA limits local authorities to using 3 covert techniques for the purposes of the prevention or detection of crime or prevention of disorder. These techniques are:

- **Directed surveillance** - surveillance which is covert but not intrusive, and which is undertaken for the purposes of a specific investigation or a specific operation, in such a manner as is likely to result in obtaining information about a person – whether or not the target of the investigation/operation.
- A **covert human intelligence source (CHIS)** - undercover officers, public informants and people who make test purchases.
- **Communications data (CD)** - is the 'who', 'when' and 'where' of a communication, but not the 'what' (i.e. the content of what was said or written). RIPA groups CD into 3 parts:
 - 'traffic data' (which includes information about where the communications are made or received);
 - 'service use information' (such as the type of communication, time sent and its duration); and
 - 'subscriber information' (which includes billing information such as the name, address and bank details of the subscriber of telephone or internet services).

2.5 The council must be satisfied that there is an identifiable offence before authorising any covert surveillance. In addition the key tests in any application for authorisation are:

- Necessity
- Proportionality and
- Risk of collateral intrusion

3.0 DIRECTED SURVEILLANCE

3.1 Directed surveillance is defined in Section 26(2) of RIPA as surveillance which is covert, but not intrusive, and undertaken:

- for the purposes of a specific investigation or specific operation;
- in such a manner as it is likely to result in the obtaining of **private information** (Section 13) about the person (whether or not one specifically identified for the purposes of the investigation or operation); and
- otherwise than by way of an immediate response to events or circumstances, the nature of which is such that it would not be reasonably practical for an authorisation under Part II of RIPA to be sought for the carrying out of the surveillance

3.2 The Council will only use directed surveillance to investigate a crime and where the criminal offence being investigated meets one of the following conditions:

- The offence is punishable, whether on summary conviction or on indictment to a maximum term of at least 6 months of imprisonment, or
- Section 146, 147 or 147A of the Licensing Act 2003 or
- Section 7 of the Children's and Young Persons Act 1933

- 3.3 The crime threshold applies only to the authorisation of **directed surveillance** by local authorities under RIPA, not to the authorisation of local authority use of CHIS or their acquisition of CD.
- 3.4 No officer of the council will undertake intrusive surveillance. Intrusive surveillance is covert surveillance that is carried out in relation to anything taking place on residential premises or in any private vehicle and which involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device.
- 3.5 Surveillance operations will only be carried out by officers who have received appropriate training in human rights and the Act.
- 3.6 No officer within the council will undertake directed surveillance without prior or emergency authorisation (see section 7).
- 3.7 The use of directed surveillance under RIPA will not be authorised to investigate matters that do not involve criminal offences or to investigate low-level offences that do not meet the threshold test.

3.73.8 The use of non-RIPA directed surveillance shall be authorised in accordance with the guidance issued by . This relates to surveillance for non core functions (non public functions) of the Council (for example, functions related to contracts, as a land owner or related to employees). In all aspects the Council will comply other legislation requirements (Article 6 of the Human Rights Act 1998 and Data Protection Act 2018) and the guidance issued 31 January 2019 to Investigatory Powers Commissioner which includes 'a non-statutory authorisation process that runs in parallel to RIPA approvals'. In practice, this means the Council will follow the same process for non-RIPA directed surveillance other than seeking judicial approval.

4.0 COVERT HUMAN INTELLIGENCE SOURCE (CHIS)

- 4.1 A CHIS is defined by section 26(8) of RIPA as a person who establishes or maintains a personal or other relationship with another person for the covert purpose of facilitating the doing of anything falling within the following points;
- covertly uses such a relationship to obtain information or to provide access to any information to another person: or
 - covertly discloses information obtained by the use of such a relationship or as a consequence of the existence of such a relationship and
 - authorisations will only be given to officers who have undergone appropriate training in human rights and the Act.
- 4.2 The authorisation for the conduct and use of a CHIS may include:
- someone employed or engaged by the council to hide their true identity or motivation and covertly use a relationship to obtain information and disclose it to the local authority (an undercover officer); or

- a member of the public who provides a tip-off to a local authority and is asked to go back and obtain further information by establishing or continuing a relationship whilst hiding their true motivation (an informant).
- 4.3 Vulnerable individuals (a person who is in need of community care services by reason of mental or other disability, age or illness and who is or may be unable to take care or protect himself against significant harm or exploitation) may be authorised to act as a CHIS **only in the most exceptional circumstances**. Authorisation must be given by the chief executive or in his/her absence the director adults and communities and he/she will only do so after taking advice from the solicitor to the council.
- 4.4 Authorisation will only be given for the use of a covert human intelligence source, when the activity is necessary:
- to prevent or detect crime,
 - in the interests of public safety,
 - for the economic well-being of the UK,
 - the purposes of national security
 - for protecting public health.

Or is revenue related or specified by the Secretary of State.

4.5 Public volunteers

In many cases involving human sources, a relationship will not have been established or maintained for a covert purpose. Many sources merely volunteer or provide information that they have observed or acquired other than through a relationship, without being induced, asked, or tasked by a public authority. This means that the source is not a CHIS for the purposes of the 2000 Act and no authorisation under the 2000 Act is required.

Example 1: A member of the public volunteers a piece of information to a member of a public authority regarding something they have witnessed in their neighbourhood. The member of the public would not be regarded as a CHIS. They are not passing information as a result of a relationship which has been established or maintained for a covert purpose.

Example 2: A caller to a confidential hotline (such as Crimestoppers, the HMRC Fraud Hotline, the Anti-Terrorist Hotline, or the Security Service public telephone number) reveals that they know of criminal or terrorist activity. Even if the caller is involved in the activities on which they are reporting, the caller would not be considered a CHIS as the information is not being disclosed on the basis of a relationship which was established or maintained for that covert purpose. However, should the caller be asked to maintain their relationship with those involved and to continue to supply information (or it is otherwise envisaged that they will do so), an authorisation for the use or conduct of a CHIS may be appropriate.

4.6 Professional or statutory duty

Certain individuals will be required to provide information to public authorities or designated bodies out of professional or statutory duty. For example, employees within organisations regulated by the money laundering provisions of the Proceeds of Crime Act 2002 are required to report suspicious transactions. Similarly, financial officials, accountants or company administrators may have a duty to provide information that they have obtained by virtue of their position to the Serious Fraud Office.

- 4.7 Any such regulatory or professional disclosures should not result in these individuals meeting the definition of a CHIS, as the business or professional relationships from which the information derives will not have been established or maintained for the covert purpose of disclosing such information.
- 4.8 Furthermore, this reporting is undertaken 'in accordance with the law' and therefore any interference with an individual's privacy (Article 8 rights) will be in accordance with Article 8(2) ECHR.
- 4.9 This statutory or professional duty, however, would not extend to the situation where a person is asked to provide information which they acquire as a result of an existing professional or business relationship with the subject but that person is under no obligation to pass it on. For example, a travel agent who is asked by the police to find out when a regular client next intends to fly to a particular destination is not under an obligation to pass this information on. In these circumstances, a CHIS authorisation may be appropriate.
- 4.10 **Tasking not involving relationships**
Tasking a person to obtain information covertly may result in authorisation under Part II of the 2000 Act being appropriate. However, this will not be true in all circumstances. For example, where the tasking given to a person does not require that person to establish or maintain a relationship for the purpose of obtaining, providing access to or disclosing the information sought or where the information is already within the personal knowledge of the individual, that person will not be a CHIS.

Example: A member of the public is asked by a member of a public authority to maintain a record of all vehicles arriving and leaving a specific location or to record the details of visitors to a neighbouring house. A relationship has not been established or maintained in order to gather the information and a CHIS authorisation is therefore not available. Other authorisations under the Act, for example, directed surveillance, may need to be considered where there is a possible interference with the Article 8 rights of an individual. Identifying when a human source becomes a CHIS

- 4.11 Individuals or members of organisations (e.g. travel agents, housing associations and taxi companies) who, because of their work or role have access to personal information, may voluntarily provide information to public authorities on a repeated basis and need to be managed appropriately. Public authorities must keep such human sources under constant review to ensure that they are managed with an appropriate level of sensitivity and confidentiality, and to establish whether, at any given stage, they should be authorised as a CHIS.
- 4.12 Determining the status of an individual or organisation is a matter of judgement by the public authority. Public authorities should avoid inducing individuals to engage in the conduct of a CHIS either expressly or implicitly without obtaining a CHIS authorisation.

Example: Mr Y volunteers information to a member of a public authority about a work colleague out of civic duty. Mr Y is not a CHIS at this stage as he has not established or maintained (or been asked to establish or maintain) a relationship with his colleague for the covert purpose of obtaining and disclosing information. However, Mr Y is subsequently contacted by the public authority and is asked if he would ascertain certain specific information about his colleague. At this point, it is likely that Mr Y's relationship with his colleague is being maintained and used for the covert purpose of providing that information.

A CHIS authorisation would therefore be appropriate to authorise interference with the Article 8 right to respect for private or family life of Mr Y's work colleague.

- 4.13 However, the tasking of a person should not be used as the sole benchmark in seeking a CHIS authorisation. It is the activity of the CHIS in exploiting a relationship for a covert purpose which is ultimately authorised by the 2000 Act, whether or not that CHIS is asked to do so by a public authority. It is possible, therefore, that a person will become engaged in the conduct of a CHIS without a public authority inducing, asking or assisting the person to engage in that conduct. An authorisation should be considered, for example, where a public authority is aware that a third party is independently maintaining a relationship (i.e. "self-tasking") in order to obtain evidence of criminal activity, and the public authority intends to make use of that material for its own investigative purposes.
- 4.14 The use of a CHIS by the council is unlikely. These activities will only be undertaken where there is no other reasonable and less intrusive means of obtaining the information.

5.0 COMMUNICATIONS DATA

- 5.1 The term 'communications data' embraces the 'who', 'when' and 'where' of a communication but not the content, not what was said or written. It is information about a communication - not the communication itself.
- 5.2 Under RIPA a local authority can only authorise the acquisition of the less intrusive types of communications data such as service use and subscriber information. Under **no circumstances** can local authorities be authorised to obtain traffic data under RIPA.
- 5.3 In the case of communications data the RIPA authorisation or notice will be scrutinised by a single point of contact (a 'SPoC'). The SPoC is either an accredited individual or a group of accredited individuals trained to facilitate lawful acquisition of communications data and effective co-operation between a public authority and Communication Service Providers (CSPs). An accredited SPoC promotes efficiency and good practice in ensuring only practical and lawful requests for CD are made. Herefordshire council uses [National Anti-Fraud Network \(-NAFN\)](#) as the SPoC.
- 5.4 Under RIPA it is against the law for a business to intercept any electronic communication on its, or anyone else's, system. There are some exceptions to this:
- Interception is authorised under a warrant (this does not apply to local authorities)
 - where the interception takes place with consent
 - where the interception is connected with the operation of the communications service itself
- 5.5 Interception for business related workplace monitoring may be applicable in certain circumstances by the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000. The regulations are designed to meet the legitimate needs of businesses to manage their information systems, making use of the capabilities of modern communications technology, but in a way that is consistent with high standards of privacy.

- 5.6 Interception of Council telecommunications will only be made in accordance with the Regulations, and following procedures agreed by the Director of Legal & Governance ~~Assistant Director Governance~~. Interception may be carried out in the following circumstances:
- To establish the existence of facts or to ascertain compliance with regulatory or self regulatory practices (e.g. to keep records of communications where the specific facts are important, such as being able to prove that a customer has been given certain advice).
 - To check the standards are being achieved or ought to be achieved (e.g. to check the quality of e-mail responses sent by members of staff to customer enquiries or for staff training).
 - To prevent or detect crime (e.g. to check that employees or others are not involved in defrauding the Council).
 - To investigate or detect unauthorised use of the telecommunications system. Note that interception that is targeted at personal communications that do not relate to the business is not allowed regardless of whether the use of the system for such communications is authorised.
 - To ensure the security of the system and its effective operation (e.g. to check for viruses or other threats to the system or to enable automated processes such as caching or load distribution).
- 5.7 The Council will make all reasonable efforts to inform potential users that interceptions may be made.

6.0 COVERT SURVEILLANCE OF SOCIAL NETWORKING SITES

- 6.1 The growth of the internet, and the extent of the information that is now available online, presents new opportunities for public authorities to view or gather information which may assist them in preventing or detecting crime or carrying out other statutory functions, as well as in understanding and engaging with the public they serve. It is important that public authorities are able to make full and lawful use of this information for their statutory purposes. Much of it can be accessed without the need for RIPA authorisation; use of the internet prior to an investigation should not normally engage privacy considerations. But if the study of an individual's online presence becomes persistent, or where material obtained from any check is to be extracted and recorded and may engage privacy considerations, RIPA authorisations may need to be considered. The following guidance is intended to assist public authorities in identifying when such authorisations may be appropriate.
- 6.2 The internet may be used for intelligence gathering and/or as a surveillance tool. Where online monitoring or investigation is conducted covertly for the purpose of a specific investigation or operation and is likely to result in the obtaining of private information about a person or group, an authorisation for directed surveillance should be considered, as set out elsewhere in this code. Where a person acting on behalf of a public authority is intending to engage with others online without disclosing his or her identity, a CHIS authorisation may be needed (paragraphs 4.10 to 4.16 of the Home Office Covert Human Intelligence Sources code of practice provide detail on where a CHIS authorisation may be available for online activity).

- 6.3 In deciding whether online surveillance should be regarded as covert, consideration should be given to the likelihood of the subject(s) knowing that the surveillance is or may be taking place. Use of the internet itself may be considered as adopting a surveillance technique calculated to ensure that the subject is unaware of it, even if no further steps are taken to conceal the activity. Conversely, where a public authority has taken reasonable steps to inform the public or particular individuals that the surveillance is or may be taking place, the activity may be regarded as overt and a directed surveillance authorisation will not normally be available.
- 6.4 As set out in paragraph 6.5 below, depending on the nature of the online platform, there may be a reduced expectation of privacy where information relating to a person or group of people is made openly available within the public domain, however in some circumstances privacy implications still apply. This is because the intention when making such information available was not for it to be used for a covert purpose such as investigative activity. This is regardless of whether a user of a website or social media platform has sought to protect such information by restricting its access by activating privacy settings.
- 6.5 Where information about an individual is placed on a publicly accessible database, for example the telephone directory or Companies House, which is commonly used and known to be accessible to all, they are unlikely to have any reasonable expectation of privacy over the monitoring by public authorities of that information. Individuals who post information on social media networks and other websites whose purpose is to communicate messages to a wide audience are also less likely to hold a reasonable expectation of privacy in relation to that information.
- 6.6 Whether a public authority interferes with a person's private life includes a consideration of the nature of the public authority's activity in relation to that information. Simple reconnaissance of such sites (i.e. preliminary examination with a view to establishing whether the site or its contents are of interest) is unlikely to interfere with a person's reasonably held expectation of privacy and therefore is not likely to require a directed surveillance authorisation. But where a public authority is systematically collecting and recording information about a particular person or group, a directed surveillance authorisation should be considered. These considerations apply regardless of when the information was shared online.

Example 1: *A police officer undertakes a simple internet search on a name, address or telephone number to find out whether a subject of interest has an online presence. This is unlikely to need an authorisation. However, if having found an individual's social media profile or identity, it is decided to monitor it or extract information from it for retention in a record because it is relevant to an investigation or operation, authorisation should then be considered.*

Example 2: *A customs officer makes an initial examination of an individual's online profile to establish whether they are of relevance to an investigation. This is unlikely to need an authorisation. However, if during that visit it is intended to extract and record information to establish a profile including information such as identity, pattern of life, habits, intentions or associations, it may be advisable to have in place an authorisation even for that single visit. (As set out in the following paragraph, the purpose of the visit may be relevant as to whether an authorisation should be sought.)*

Example 3: A public authority undertakes general monitoring of the internet in circumstances where it is not part of a specific, ongoing investigation or operation to identify themes, trends, possible indicators of criminality or other factors that may influence operational strategies or deployments. This activity does not require RIPA authorisation. However, when this activity leads to the discovery of previously unknown subjects of interest, once it is decided to monitor those individuals as part of an ongoing operation or investigation, authorisation should be considered.

- 6.7 In order to determine whether a directed surveillance authorisation should be sought for accessing information on a website as part of a covert investigation or operation, it is necessary to look at the intended purpose and scope of the online activity it is proposed to undertake. Factors that should be considered in establishing whether a directed surveillance authorisation is required include:
- Whether the investigation or research is directed towards an individual or organisation;
 - Whether it is likely to result in obtaining private information about a person or group of people
 - Whether it is likely to involve visiting internet sites to build up an intelligence picture or profile;
 - Whether the information obtained will be recorded and retained;
 - Whether the information is likely to provide an observer with a pattern of lifestyle;
 - Whether the information is being combined with other sources of information or intelligence, which amounts to information relating to a person's private life;
 - Whether the investigation or research is part of an ongoing piece of work involving repeated viewing of the subject(s);
 - Whether it is likely to involve identifying and recording information about third parties, such as friends and family members of the subject of interest, or information posted by third parties, that may include private information and therefore constitute collateral intrusion into the privacy of these third parties.
- 6.8 Internet searches carried out by a third party on behalf of a public authority, or with the use of a search tool, may still require a directed surveillance authorisation (see paragraph 3.0).

Example: Researchers within a public authority using automated monitoring tools to search for common terminology used online for illegal purposes will not normally require a directed surveillance authorisation. Similarly, general analysis of data by public authorities either directly or through a third party for predictive purposes (e.g. identifying crime hotspots or analysing trends) is not usually directed surveillance. In such cases, the focus on individuals or groups is likely to be sufficiently cursory that it would not meet the definition of surveillance. But officers should be aware of the possibility that the broad thematic research may evolve, and that authorisation may be appropriate at the point where it begins to focus on specific individuals or groups. If specific names or other identifiers of an individual or group are applied to the search or analysis, an authorisation should be considered.

7.0 APPLICATION AND AUTHORISATION (See appendix 1 & 2)

- 7.1 At the start of an investigation, council officers will need to satisfy themselves that what they are investigating is a criminal offence. Directed surveillance is an invasive technique –and at the point it is decided whether or not to authorise its use, it must be clear that the threshold is met and that it is necessary and proportionate to use it.

- 7.2 The applicant will complete a written RIPA application form found at <https://www.gov.uk/government/collections/ripa-forms--2> and the authorisation form (see appendix 1) setting out for consideration by the authorising officer or, for communications data the designated person; why use of a particular technique is necessary and proportionate in their investigation. This authorising officer or designated person will consider the application, recording his/her considerations and countersign the form if he/she believes the statutory tests are met.
- 7.3 In cases where, through the use of surveillance, it is likely that knowledge of confidential information will be acquired, the use of surveillance is subject to a higher level of authorisation. The chief executive or in his/her absence director economy, communities and corporate will authorise surveillance activity where confidential information is likely to be acquired, he or she will do so only after taking advice from the solicitor to the council.
- 7.4 "Confidential information" is defined for the purposes of RIPA as matters subject to legal privilege, confidential personal information or confidential journalistic material. Confidential material must not be copied or retained unless for a specific purpose – e.g. use in evidence in proceedings and may only be disseminated following advice from the Head of Legal Services/Solicitor to the Council,
- 7.5 After the form has been countersigned the local authority must ~~will~~ seek judicial approval for their RIPA authorisation or notice. The Justice of the Peace (JP) will decide whether a local authority grant or renewal of an authorisation or notice to use RIPA should be approved and it will not come into effect unless and until it is approved by a JP.
- 7.6 The time limits for authorised applications are three months for directed surveillance and twelve months for a CHIS (one month if the CHIS is under 18). Authorisations and notices for communications data will be valid for a maximum of one month from the date the JP has approved the grant. This means that the conduct authorised should have been commenced or the notice served within that month.

8.0 Reviews

Authorisations should be reviewed regularly to assess the need for surveillance to continue. The results of a review should be recorded in the central record of authorisations. Particular attention should be paid to reviews where the surveillance provides access to confidential information or involves collateral intrusion.

It is the responsibility of the authorising officer to determine how often a review should take place and this should be as frequently as is considered necessary and practicable

9.0 Renewals

If at any time before an authorisation would cease to have effect the authorising officer considers it necessary for the authorisation to continue for the purpose of which it was given, he may renew it in writing for a further period of three months. Magistrate approval must then be obtained prior to expiry of the original authorisation in order for activity to continue.

All applications for renewal of an authorisation should record:-

- (a) whether this is the first renewal or every occasion on which the authorisation has been renewed previously;
- (b) any significant changes to the information contained in the original application;
- (c) the reasons why it is necessary to continue the surveillance;
- (d) the content and value to the investigation or operation of the information so far obtained from the surveillance;
- (e) the result of regular reviews of the investigation or operation.

Renewal records should be kept as part of the central record of authorisations.

10. Cancellations

The authorising officer who granted or last renewed the authorisation must cancel it as soon as it no longer meets the criteria for which it was originally authorised. In any event, it will expire after 3 months (4 months for CHIS).

Where the authorising officer is no longer available the person who is taking over that role will be responsible.

Ceasing surveillance activity.

As soon as the decision to cease directed surveillance is taken all those involved must be directed to stop surveillance of the subject. The date and time when such an instruction was given should be recorded in the central record of authorisations and the notification of cancellation where relevant which should also cancel the remained unused duration of the authorisation. -

11. Data Retention

RIPA documents should be kept in the central filing system held by legal with a working copy held by team/ applying officer. Documents should be destroyed after 6 years 36 months or after any completed prosecution court case whichever is the longer.

12. ROLES (See Appendix 3)

12.1 Senior Authorising officer

The senior authorising officer is the only person that can sign off a CHIS authorisation.

12.2 Authorising Officer

An Authorising Officer is a person who considers whether or not to grant an application to use directed surveillance. He/she must believe the activities to be authorised are necessary for the purposes of preventing or detecting crime and that they are proportionate to what is sought to be achieved by carrying them out.

12.3 Senior Responsible Officer

The Senior Responsible Officer oversees the competence of Authorising Officers and the processes in use in the council. The Senior Responsible Officer is not an Authorising Officer as it would be inappropriate to oversee his / her own authorisations. Specifically the Senior Responsible Officer will be responsible for:

- The integrity of the processes to authorise covert surveillance;
- Compliance with the statutory provisions and codes of conduct;
- Training or arranging training for Authorising Officers;
- Ensuring officers generally understand provisions relating to covert surveillance and □ Covert Human Intelligence Sources.
- Engagement with the Commissioners and inspectors when they conduct their inspections; and
- Overseeing the implementation of any action plans following an inspection.

12.4 RIPA Monitoring Officer

The RIPA Monitoring Officer has:

- The duty to maintain the list of Authorising Officers;
- The power to suspend from the list of Authorising Officers any Authorising Officer who does not follow the procedure or who does not attend training sessions; and
- The power to cancel any authorisation that is manifestly wrong.

13.0 RESPONSIBILITIES (See appendix 4)

13.1 Chief Executive (Senior Authorising Officer) to:

- Acts at the senior authorising officer who can sign off a CHIS authorisation

13.2 Director of Adults and Communities (Senior Authorising Officer) to:

- Acts at the senior authorising officer who can sign off a CHIS authorisation if person is vulnerable

13.3 Corporate Directors to:

- ensure all regulatory staff are aware of and trained in the Act
- delegate the task of authorising surveillance operations
- provide procedures to be adopted in the application for, granting etc of, and recording of authorisation
- ensure copies of the Codes of Practice for Covert Surveillance, The Use of Covert Human Intelligence Sources, and Acquisition and Disclosure of Communications

Data are available for public reference at council offices or by post or e-mail on public request

- ensure that details of the complaints procedure involving the Investigatory Powers Tribunal are readily available for public reference purposes at council offices or by post or e-mail on public request

13.4 **Solicitor to the Council** **Director of Legal & Governance (Senior Responsible Officer)** to:

- Fulfil the role of senior responsible officer and monitoring officer for RIPA and will be responsible for:
 - the integrity of processes for the management of CHIS
 - compliance with Chapter II of Part I of RIPA (acquisition and disclosure of CD)
 - compliance with Part II of RIPA (surveillance and CHIS)
 - oversight of the reporting of errors to the Investigatory Powers Commissioner's Office, identification of the cause(s) of errors and the implementation of processes to minimise repetition of errors
 - engagement with the commissioners' inspectors when they conduct their inspections
 - oversight of the implementation of post-inspection action plans approved by the commissioner.
 - maintaining a log of all RIPA applications, authorisations etc including copies of all completed forms, and reviewing the quality of applications, authorisations etc.
 - ensuring that all authorising officers are of an appropriate standard in light of any recommendations made by inspectors' reports
 - appoint further Authorising Officers
 - ensuring that cabinet members and members of the audit and governance committee have sufficient understanding of human rights and RIPA to be able to discharge their responsibilities under this policy when authorising this Policy

13.5 **Head of Legal and Deputy Monitoring Officer (Monitoring Officer)**

- maintain a record of all authorisations granted in the council
- report to audit and governance committee annually so that the committee can ensure that RIPA use is consistent with the policy and that the policy remains fit for purpose

- hold copies of all authorisations, extensions to and cancellations of authorisations and carry out an annual review of authorisations.

13.5 ~~Trading Standards Service Manager and Environmental Health Service Managers~~ (Regulation and Technical Services) (Authorising Officer) to:

- act as the authorising officer or for communications data the designated person to consider applications, and issue, renew, cancel or refuse authorisations relating to investigations of council employees, in accordance with the criteria set out in the Act and in the Investigatory Powers Commissioner's Office office procedures and guidance -
<https://www.ipco.org.uk/docs/OSC%20PROCEDURES%20AND%20GUIDANCE.pdf>
- ensure applications are complete and are made out on the appropriate *pro forma*, except in the case of emergency applications
- maintain a record of applications and authorisations, and provide copies to the head of law and governance within 5 working days of the application, irrespective of whether the authorisation is granted, and copies of all cancelled authorisations within 5 working days of the cancellation.
- ensure all staff involved in surveillance operations have access to the relevant codes of practice detailed below.
- review authorisations at least monthly and record the review on the authorisation and ensure that authorisations are cancelled as soon as they have either served their original purpose or no longer meet the criteria for issue, whichever is the earlier
- in the case of communications data to act as the responsible person

13.6 All staff involved in surveillance operations (Applying Officer) to:

- be familiar with Act, the relevant codes of practice, and the investigatory powers commissioner's office procedures and guidance -
<https://www.ipco.org.uk/docs/OSC%20Procedures%20&%20Guidance%20%20%20July%202016.pdf>
- ensure that the authorising officer is provided with all relevant information available to the investigation to enable an informed decision to be made
- advise the authorising officer as soon as practicable when an operation unexpectedly interferes with the privacy of an individual who is not the subject of the surveillance.
- cease the surveillance operation immediately it no longer meets the authorisation criteria

|
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OFFICIAL

17

Appendix 1 to Regulation of Investigatory Powers Act 2000 (RIPA) Policy and Procedures

Application for judicial approval for authorisation to obtain or disclose communications data, to use a covert human intelligence source or to conduct directed surveillance. Regulation of Investigatory Powers Act 2000 sections 23A, 23B, 32A, 32B.

Local authority:.....

Local authority department:.....

Offence under investigation:.....

Address of premises or identity of subject:
.....
.....

Covert technique requested: (tick one and specify details)

Communications Data Covert

Human Intelligence Source

Directed Surveillance

Summary of details
.....
.....
.....
.....
.....

Note: this application should be read in conjunction with the attached RIPA authorisation/RIPA application or notice.

Investigating Officer:.....

Authorising Officer/Designated Person:.....

Officer(s) appearing before JP:.....

Address of applicant department:.....
.....

Contact telephone number:.....

Contact email address (optional):.....

Local authority reference:.....

Number of pages:.....

Magistrates' court:.....

Having considered the application, I (tick one):

am satisfied that there are reasonable grounds for believing that the requirements of the Act

were satisfied and remain satisfied, and that the relevant conditions are satisfied and I therefore approve the grant or renewal of the authorisation/notice. refuse to approve the grant or renewal of the authorisation/notice.

refuse to approve the grant or renewal and quash the authorisation/notice.

Notes

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.....
.....

Reasons

.....
.....
.....
.....
.....

Signed:

Date:

Time:

Full name:

Address of magistrates' court:

Appendix 2 - Flow Chart for Directed Surveillance and CHIS

Applying officer must:

- Read this policy and the codes of practice
- Consider whether the authorisation is in accordance with the law and necessary
- Consider whether the surveillance is proportionate



Directed surveillance
If authorisation is necessary and proportionate, prepare and submit Form A1 to the authorising officer

If a less intrusive option is available, take it

CHIS
If authorisation is necessary for the use of a CHIS, prepare and submit Form B1 to the senior authorising officer



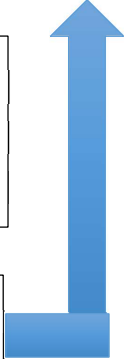
Senior/authorising officer must:

- Consider this policy and the codes of practice
- Consider whether the surveillance is in accordance with the law, is necessary and proportionate
- Authorise only if an overt or less intrusive option is not practicable
- Set an appropriate review date of up to 3 months after the authorisation date
- Best practice is for the same authorising officer to conduct the review



Copies of all forms must be sent to the **RIPA monitoring officer** for entry into the central database within 5 working days of completion

Applying officer must:
Apply to the magistrates' court for approval of the authorisation or renewal



Applying officer must:

- Review the authorisation by the review date set by the authorising officer and either:
- Ask for a further authorisation from the authorising officer; or
- Cancel the authorisation by submitting to the authorising officer for cancellation



Authorising officer must:

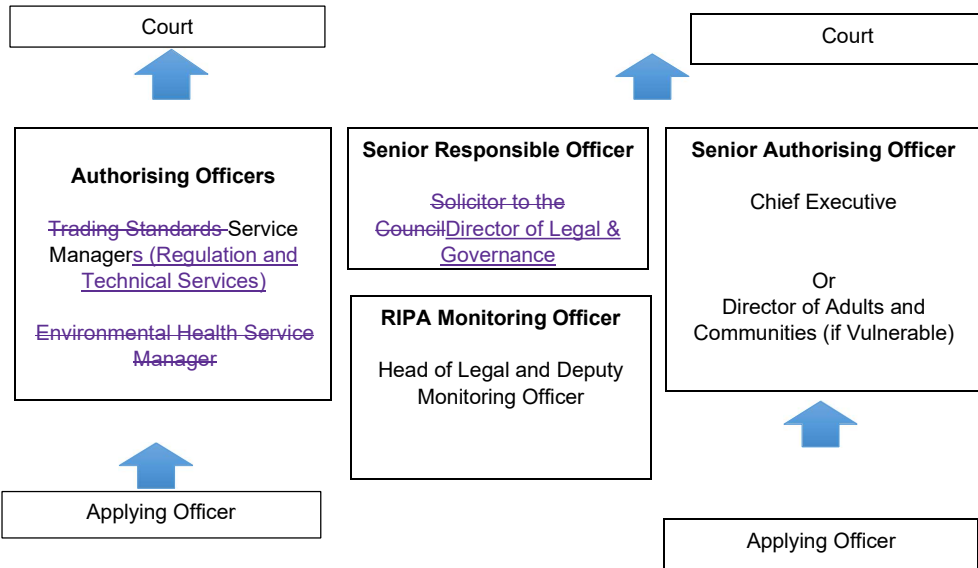
- Renew the authorisation if still necessary and proportionate and set a further review date; or
- Cancel the authorisation

Applying officer – the person who makes a request to use RIPA powers
 Authorising officer – the person who considers whether or not to grant an authorisation
 Senior authorising officer – the senior person who consider whether or not to grant an authorisation for the use of a CHIS

Appendix 3 - RIPA Management Structure

Directed Surveillance

CHIS



Appendix 4 - List of officer posts

Senior Responsible Officer	Solicitor to the Council Director of Legal & Governance
Monitoring Officer	Head of Legal and Deputy Monitoring Officer
Senior Authorising Officer	Chief Executive or Director of Adults and Communities (if Vulnerable)
Authorising Officers	Service Managers (Regulation and Technical Services) Trading Standards Service Manager Environmental Health Service Manager
Responsible person re communications data	Trading Standards Service Manager Environmental Health Service Manager Service Managers (Regulation and Technical Services)

Document Classification

<i>Author Name and Role</i>	David Hough Trading Standards Service Manager Kate Coughtrie Deputy Solicitor to the Council
<i>Date Created</i>	March/ April 2021
<i>Date Issued</i>	June 2021
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Consultation-Log

<i>Date sent for consultation</i>	
<i>Consultees</i>	

Approval Log

		Date
<i>Impact assessment by</i>		
<i>To be agreed by</i>		
<i>To be approved by</i>	Cabinet	
<i>Finally to be ratified by</i>		
<i>To be reviewed by</i>	Audit and governance committee	Annually

Version Log

Version	Status	Date	Description of Change	Reason For Change
2		29 October 2024	-Updates	-Changes with council and legislation

Title of report: Whistleblowing Update

Meeting: Audit and Governance Committee

Meeting date: Tuesday 29 October 2024

Report by: Head of Legal Services and Deputy Monitoring Officer

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose

To update the Committee as to the operation of the Whistleblowing Policy.

Recommendation(s)

That:

- a) **The committee notes the operation of the employee Whistleblowing Policy since the update to the Policy in June 2023 and the SWAP audit.**

Alternative options

1. There are no other alternatives.

Key considerations

2. A Whistleblowing Policy has been adopted by the Council to expressly provide a position and process around protections for staff (and associated workers) who wish to make a public interest disclosure. This reflects the legal protections under the Public Interest Disclosure Act 1998.
3. On [23 June 2023](#) the Committee reviewed and approved the existing Whistleblowing Policy and this is available to staff on the Council's [website](#).

4. The policy sets out the policy and steps involved should an employee wish to make a disclosure. In addition, there is a further process that enables a member of staff to make a disclosure anonymously through legal services.
5. The concept of 'whistleblowing' is not just related to that performed under the employee Whistleblowing Policy. Ordinary complaints from members of the public and service users are technically someone 'whistleblowing' and these are dealt with under the Council complaints processes. A report on complaints processes was received by this committee on [12 December 2023](#).
6. On [24 October 2023](#) it was reported to this committee that SWAP had undertaken a review of the operation of the Policy. This provided an assurance opinion of 'reasonable'. All four action points were completed before the report and have been maintained since this date.
7. The number of referrals made to the Council using the anonymous route was 6 in 2020/21, 9 in 2021/22, 14 in 2022/23, 3 in 2023/24 and 2 to date for 2024/25.
8. In relation to those raised in 2023/24, two disclosures were investigated by the relevant manager and management action was completed. The third complaint related to an individual who was not employed by the Council. The offer was made to refer the complaint to the relevant body, but this was not requested, and the nature of the complaint was not sufficiently serious that the Council would consider making such a referral without further information or grounds.
9. In 2024/25 both complaints have been rejected as neither related to the Council. The first related to a different council and the second related to a third party body. In both circumstances, advice and sign posting was made to the complainant to suggest how they could progress their complaint with the appropriate body.
10. It is not considered that the Whistleblowing Policy requires any further update since June 2023.

Community impact

11. Herefordshire Council is accountable for how it uses the resources under its stewardship, including accountability for outputs and outcomes achieved. In addition the council has an overarching responsibility to serve the public interest in adhering to the requirements of legislation and government policies. Periodic reviews to ensure the Policy remains current, fit for purpose and effective helps the council to meet the principles within its code of corporate governance.

Environmental Impact

12. There are minimal environmental impacts in the Whistleblowing Policy though of course any environmental concerns can be raised under the policy.

Equality duty

13. The policy is open to all employees. Many complaints are raised on an anonymous basis. Where a matter is raised and if it relates to an equality issue, then it would be investigated by the relevant department as part of the complaint. It is not considered that the operation of the policy has any negative impacts on employees with a protected characteristic.

Resource implications

14. There are no resource implications as the operation of the Whistleblowing Policy.

Legal implications

15. Any legal implications are set out in the body of this report.

Risk management

16. Failure to maintain a legally compliant whistle blowing policy could contravene employment law and leave the council open to challenge with associated financial penalties and bring the council into disrepute.

Consultees

17. None

Appendices

None

Background papers

None

Report Reviewers Used for appraising this report:

Governance	John Coleman	Date 05/09/2024
Finance	N/A	
Legal	Sean O'Connor	Date 29/08/2024
Communications	Luenne Featherstone	Date 30/08/2024
Equality Duty	N/A	
Procurement	N/A	
Risk	N/A	



Title of report: Work programme

Meeting: Audit and Governance Committee

Meeting date: 29 October 2024

Report by: Democratic Services Officer

Classification

Open

Decision type

This is not an executive decision.

Wards affected

(All Wards)

Purpose

To consider the committee's work programme (Appendix A).

Recommendation(s)

- (a) **That, subject to any further updates made by the committee, the work programme for the Audit and Governance Committee be noted.**

Alternative options

1. There are no alternative options, as the committee requires such a programme in order to set out its work for the coming year.
2. Updating 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.

Key considerations

3. The routine business of the committee has been reflected as far as is known, including the regular reporting from both internal and external auditors.
4. The committee is asked to consider any adjustments.

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.

Environmental impact

6. Whilst this is an update on the work programme and will have minimal environmental impacts, consideration has been made to minimise waste and resource use in line with the council's Environmental Policy.

Equality duty

7. This report does not impact on this area.

Resource implications

8. There are no financial implications.

Legal implications

9. The work programme reflects any statutory or constitutional requirements.

Risk management

10. 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

11. The Director of Finance and Assurance / S151 Officer, Director of Governance and Legal Services / Monitoring Officer, and committee members contribute to the work programme; the work programme is reviewed at each meeting of the committee.

Appendices

Appendix A Work programme for the Audit and Governance Committee

Background papers

None identified.

Audit and Governance Committee Constitution		Report	January 2024	March 2024	June 2024	July 2024	September 2024	October 2024	January 2025	March 2025	June 2025
3.5.10	Internal Audit	Internal Audit									
a	To consider the Head of Internal Audit’s annual report and opinion, and a summary of internal Audit activity (actual and proposed) and the level of assurance it can give over the Council’s corporate governance arrangements.	Internal Audit Plan and Internal Audit Charter Progress Report on Internal Audit Plan (see part b for timing) Internal Audit Annual Report and Opinion		Internal Audit Plan and Charter	Annual Report and Opinion					Internal Audit - Planning Approach and Charter	Internal Audit - Progress Report (including update on audit actions)
b	To consider summaries of specific Internal Audit reports and the main issues arising and seek assurance that action has been taken where necessary.	Progress Report on Internal Audit Plan	Progress Report	Progress Report	Internal Audit Progress Report	Internal Audit - Progress Report (including update on audit actions)		Internal Audit – Progress Report (including update on audit actions)		Internal Audit - Annual Report and Opinion	
c	To consider reports dealing with the management and performance of the providers of Internal Audit Services.										
d	To consider a report from Internal Audit on agreed recommendations not implemented within a reasonable timescale.	Update on Audit Recommendations Report									
e	To be able to call senior officers and appropriate members to account for relevant issues within the remit of the Committee.	No specific activity required as part of normal questioning activity									
f	The Committee will not receive detailed information on investigations relating to individuals. The general governance principles and control issues may be discussed, in confidential session if applicable, at an appropriate time, to protect the identity of individuals and so as not to prejudice any action being taken by the Council.	Progress report on internal audit plan (see part b for timing)									
3.5.11	External Audit	External Audit									
a	Review and agree the External Auditors annual plan, including the annual audit fee and annual letter and receive regular update reports on progress.	External Audit Annual Plan Annual Audit Fee Letter External Audit Progress Update External Audit Findings Report External Auditor’s Annual Report Update on Audit Recommendations Report	2022/23 External Auditors Annual Report (VFM findings)				External Audit Progress Report	1) External Audit Findings Report 2) External Audit – Auditor’s Annual Report 2023/24		External Audit - Audit Plan 2024/25	External Auditor’s Draft Plan (including indicative fee)
b	To consider specific reports from the External Auditor.	External Audit Progress Update	External Audit Progress Report and Sector Update	External Audit Plan /Progress Report							
c	To meet privately with the External Auditor once a year if required.	Not required to be scheduled on work programme									
d	To comment on the scope and depth of external audit work and to ensure it gives value for money.	No specific activity required as part of normal questioning activity									
e	To recommend appointment of the council’s local (external) auditor.										
f	Ensure that there are effective relationships between external and internal audit that the value of the combined internal and external audit process is maximised.	No specific activity required as part of normal questioning activity. External Audit can place limited reliance on Internal Audit Work.									
3.5.12	Governance										
a	To maintain an overview of the council’s Constitution, conduct a biennial review and recommend any changes to council other than changes to the contract procedure rules, finance procedure rules which have been delegated to the committee for adoption.	Accounting Policy Update Contract and Finance Procedure Rules Proposed Changes to the Constitution	Contract and Financial Procedure Rules Update (if required)	Accounting Policy Update (if required)						Contract and Financial Procedure Rules Update	Accounting Policy Update (if required)
b	To monitor the effective development and operation of risk management and corporate governance in the council.	Work Programme Corporate Risk Register	Work Programme	Work Programme Risk Registers Approach to Strategic Risk Management Update	Work Programme Dates of Future Meetings Draft Annual Report of the Audit & Governance Committee Appointment to Standards Panel	Work Programme	Work Programme Corporate Risk Registers	Work Programme Annual review of the Council’s use of the Regulation of Investigatory Powers Act 2000 (RIPA).	Work Programme Update to Risk Management Arrangements and Corporate Risk Registers	Work Programme	Work Programme Risk Registers Dates of future meetings / work programme Draft Annual Report of the Audit & Governance Committee
c	To maintain an overview and agree changes to the council policies on whistleblowing and the ‘Anti-fraud and corruption strategy’.	Whistleblowing Policy Anti-Fraud, Bribery and Corruption Strategy	Annual Fraud Report					Whistleblowing Policy	Annual Fraud Report		
d	To oversee the production of the authority’s Statement on Internal Control and to recommend its adoption.	Statement of Accounts				2023/24 Draft Statement of accounts					2023/24 Draft Statement of accounts
e	To annually conduct a review of the effectiveness of the council’s governance process and system of internal control which will inform the Annual Governance statement.	Annual Governance Statement				Draft Annual Governance Statement		Final Annual Governance Statement		Governance Statement Progress Report on Actions	Draft Annual Governance Statement

Audit and Governance Committee Constitution		Report	January 2024	March 2024	June 2024	July 2024	September 2024	October 2024	January 2025	March 2025	June 2025
f	The council's arrangements for corporate governance and agreeing necessary actions to ensure compliance.	Annual Governance Statement Progress Report									
g	To annually review the council's information governance requirements.	Annual Review of Information Access / Governance					Annual Review of Information Access / Governance				
h	To agree the annual governance statement (which includes an annual review of the effectiveness of partnership arrangements together with monitoring officer, s151 officer, caldicott guardian and equality and compliance manager reviews).	Annual Governance Statement Annual Governance Statement Progress Report									
i	To adopt an audit and governance code.										
j	To undertake community governance reviews and to make recommendations to Council.	On an ad hoc basis only									
3.5.13	Waste Contract										
a	To review, in conjunction with external advisers advising the council as lender, the risks being borne as a result of the funding provided by the council to Mercia Waste Management Ltd and consider whether the risks being borne by the council, as lender, are 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.	Energy from Waste Loan Update						Energy from Waste Loan Update			
b	To monitor the administration of the loan to the waste project in line with best banking practice having regard to any such external advice, including the terms of any waivers or amendments which may be required or are desirable.	Energy from Waste Loan Update						Energy from Waste Loan Update			
c	Consider what steps should be taken to protect the interests of the council as lender in the event of a default or breach of covenant by Mercia Waste Management Ltd, and make recommendations as appropriate to Council, the council's statutory officers or cabinet as appropriate to ensure the appropriate enforcement of security and litigation in relation to the loan to Mercia Waste Management Ltd	Energy from Waste Loan Update						Energy from Waste Loan Update			
d	Consider and recommend appropriate courses of action to protect the position of the council as lender to the waste project: (i) make recommendation as appropriate to Council with regards to its budget and policy framework and the loan to the waste project (ii) generally to take such other steps in relation to the loan within the scope of these terms of reference as the committee considers to be appropriate.	Energy from Waste Loan Update						Energy from Waste Loan Update			
3.5.14	Code of Conduct: To promote and maintain high standards of conduct by members and co-opted members of the Council										
a	To support Town and Parish Councils within the county to promote and maintain high standards of conduct by members and co-opted members of the Council.	Annual Code of Conduct Report					Code of Conduct for Councillors – 2023/24				
b	To recommend to Council the adoption of a code dealing with the conduct that is expected of members and co-opted members of the Council.										
c	To keep the code of conduct under review and recommend changes/replacement to Council as appropriate.									Code of Conduct for Councillors - 6 monthly update	
d	To publicise the adoption, revision or replacement of the Council's Code of Conduct.										
e	To oversee the process for the recruitment of the Independent Persons and make recommendations to Council for their appointment.	Recruitment done on an as required basis									
f	To annually review overall figures and trends from code of conduct complaints which will include number of upheld complaints by reference to individual councillors within unitary, town and parish councils and when a code of conduct complaint has been upheld by the Monitoring Officer or by the Standards Panel, after the option of any appeal has been concluded, promptly to publish the name of the councillor, the council, the nature of the breach and any recommendation or sanction applied.	Annual Code of Conduct Report									
g	To grant dispensations under Section 33 (2)(b)(d) and (c) Localism Act 2011 or any subsequent amendment.	On an ad hoc basis only									
h	To hear appeals in relation to dispensations granted under section 33 (2)(a) and (c) Localism Act 2011 by the monitoring officer.	On an ad hoc basis only									
3.5.15	Accounts										
	To review and approve the Statement of Accounts, external auditor's opinion and reports on them and monitor management action in response to the issues raised by external audit.	Statement of Accounts External Auditor Report						Final Statement of Accounts			