

Meeting:	Audit and governance committee
Meeting date:	Monday 30 July 2018
Title of report:	Annual Governance Statement
Report by:	Head of corporate governance

Classification

Open

Decision type

This is not an executive decision

Wards affected

(All Wards);

Purpose and summary

To agree the annual governance statement 2017/18.

The council is required to publish a statement annually which explains to the community, service users, tax payers and other stakeholders our governance arrangements and how the controls we have in place manage risks of failure in delivering our outcomes and reflecting our particular features and challenges. In May 2018, Audit and Governance Committee approved the draft statement for publication with the draft statement of accounts.

The draft statement has been reviewed having regard to the external auditor's findings and the internal auditor's annual report and opinion, and updated to take account of recent decisions taken by full Council. The statement is attached at appendix 1.

Recommendation(s)

That:

- (a) the annual governance statement 2017/18 at appendix 1 be approved.**

Alternative options

1. There are no alternatives to publishing an annual governance statement which is a requirement of the Accounts and Audit Regulations 2015.
2. It is open to the committee to propose amendments to the draft statement to ensure it accurately reflects the council's governance arrangements and their effectiveness, and to ensure that proposed actions are appropriate. The committee made no recommendations for change when approving the draft.

Key considerations

3. The council is required to publish a statement annually which explains to the community, service users, tax payers and other stakeholders our governance arrangements and how the controls we have in place manage risks of failure in delivering our outcomes and reflecting our particular features and challenges.
4. At its meeting on 8 May Audit and Governance Committee approved the draft statement for publication with the draft statement of accounts.
5. Since the draft was approved the following amendments have been made:

	Amendment	Reason
a)	Review of effectiveness principle A: bullet point 2	Updated to reflect decisions taken by Audit and Governance Committee in May on the standards procedure
b)	Review of effectiveness principle A: bullet point 3	Updated to reflect approval of the Employee Code of Conduct in July.
c)	Review of effectiveness principle A: bullet point 8	Updated to reflect decisions taken by Audit and Governance Committee in May on the Whistleblowing Policy.
d)	Review of effectiveness principle A: bullet point 12	Inclusion of reference to forthcoming legislative change.
e)	Review of effectiveness principle A: Summary	Revised to reflect a) and c) above.
f)	Review of effectiveness principle B: bullet point 5	Updated to reflect Cabinet's consideration of the corporate peer challenge findings and include a link to their approved response.
g)	Review of effectiveness principle D: Summary	Updated to reflect Cabinet's consideration of the corporate peer challenge findings
h)	Review of effectiveness principle F: bullet point 5	New bullet point added to reflect the new Development Partnership arrangements

i)	Review of effectiveness principle F: bullet point 9	Amended to reflect the internal auditor's opinion for 2017/18.
j)	Review of effectiveness principle B: bullet point 10	Updated to reflect implementation of General Data Protection Regulations
k)	Review of effectiveness principle G: bullet point 5	Removal of duplicate wording, and clarification of the relevance of acceptance rates of scrutiny recommendations
l)	Review of effectiveness principle G: bullet point 6	Inclusion of date for clarification.
m)	Review of effectiveness principle G: bullet point 7	Updated to reflect decisions taken by Audit and Governance Committee and Council in May regarding standards and the naming of parish councils and individuals found to have breached the code.
n)	Review of effectiveness principle G: bullet point 8	Addition of date clarifying when review was undertaken
o)	Paragraph 15.	Updated to reflect the review of progress the committee received in May.
p)	2018/19 action plan: Improvement required 1	Updated to reflect adoption of the revised Whistleblowing Policy and standards procedure; Addition of discussions with police on a joint protocol; and Revised implementation target dates.
q)	2018/19 action plan: Improvement required 2 and 3	Revised implementation target dates.

6. The External Auditor's draft annual findings report states that the annual governance statement is in compliance with the relevant statutory guidance and is consistent with their knowledge of the council and with the financial statements they have audited.
7. Following approval of the statement it will be signed by the Leader of the Council and the Chief Executive before being published on the council's website with the statement of accounts for 2017/18. The committee is scheduled to receive a report on implementation of the action plan within the statement at its meeting on 23 January 2019 in order to gain assurance that progress is being made to mitigate identified risks.

Community impact

8. Corporate governance is the term used to describe the systems, processes, culture and values the council has established to ensure we provide the right services, to the right people in a timely, open, and accountable way. Good corporate governance encourages better informed longer-term decision making using resources efficiently, and being open to scrutiny with a view to improving performance and managing risk
9. The annual review ensures that our arrangements are effective in supporting achievement of the council's vision and corporate plan priorities

Equality duty

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

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

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

Resource implications

12. None associated with the recommendations. If the committee proposes further actions the resource implications of implementing those actions will need to be considered.

Legal implications

13. The Accounts and Audit Regulations 2015 include a requirement for all councils to produce an annual governance statement, and set out the timescales by which they must be published. Approval of the statement ensures that the council will comply with these requirements.

Risk management

14. The statement itself identifies any high level or strategic governance risks and the action plan provides mitigation to those risks.

Consultees

15. The views of the council's appointed Independent Person, Mr R Stow, were sought in the drafting of the statement. Mr Stow expressed concerns about the degree to which the principles of openness and transparency were upheld in relation to the naming of parish councils in the annual report on code of conduct matters and suggesting ways in which the standards procedure for member code of conduct complaints could be improved to strengthen adherence to the principle of behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law. The annual governance statement reflects these views and, following the decisions taken by Audit and Governance Committee on 8 May and Council on 26 May changes have been made to the standards procedure and constitution which ensure the council is demonstrably upholding the principles of the code of corporate governance.

16. Since that time Mr Stow has expressed the following further concerns:

- a) There is no written protocol agreed with West Mercia Police, or specific criteria in the standards procedure, to describe how complaints about "disclosable pecuniary interests" (which may be criminal offences under s 34 of the Localism Act 2011) should be handled - i.e. when / why / how should such complaints be referred to the Police.

Whilst we do not have a joint protocol the Monitoring Officer has had discussions with West Mercia Police, who have not progressed a protocol at this time but have placed on their files our own protocol which includes the information provided in our published standards procedure. Whilst we may not require the police to enter into a joint protocol we will continue to seek its development, and have mitigated the risk around its absence through the discussions the Monitoring Officer has held to date.

- b) The failure of a group leader to take action against a member of Herefordshire Council who has refused to comply with a sanction should be considered a serious governance weakness because any failure to enforce sanctions, which have been properly imposed for established breaches of the code of conduct, undermines the entire standards system and demonstrates that the council is failing to discharge its statutory duty.

There is an instance where a member has failed to comply with an imposed sanction, namely to offer an apology. The matter was discussed with the relevant group leader. In the event that the sanction is not complied with this will be reported to the Audit and Governance Committee as part of the annual report of the Monitoring Officer and it will be for the committee to determine any further steps necessary. As this matter remains live and is yet to be reported to the committee it is not considered that there is a serious governance weakness in the standards system.

- c) The ability under the current procedure for the Monitoring Officer to reject a complaint at initial assessment about a Herefordshire Council member, without reference to the Independent Person, represents a weakness in the standards system.

There is no statutory requirement for the Independent Person to be consulted on such matters although the Monitoring Officer may choose to do so. In the past year in fact this only occurred on two occasions both when the Monitoring Officer was satisfied having listened to audio minutes that there was no evidence to suggest a breach may have occurred. In addition as a result of the latest changes to the standards panel in May 2018, all Monitoring Officer decisions are now subject to a 'sampling', whereby a

sample of decisions taken by the Monitoring Officer are reviewed by the Standards Panel. This has been introduced to ensure that an objective and sound approach is being maintained; it is therefore considered that there is not a serious governance weakness requiring reflection in the annual governance statement.

Appendices

Appendix 1: Annual Governance Statement 2017/18

Background papers

None identified.