

**Minutes of the meeting of the Audit and Governance Committee held in Conference Room 1, Herefordshire Council Offices, Plough Lane, Hereford, HR4 0LE on Tuesday 30 January 2024 at 2.00 pm**

**Committee members present in person and voting:**      **Councillors: Chris Bartrum, Frank Cornthwaite, Peter Hamblin, Robert Highfield, David Hitchiner (Chairperson), Aubrey Oliver (Vice-Chairperson) and Mark Woodall**

**Others in attendance:**      R Bamberger (Director of Continuous Improvement, South West Audit Partnership), P Barber (Director, Grant Thornton), B Davies (Senior Lawyer), R Hart (Head of Strategic Finance), A Lovegrove (Director of Resources and Assurance), J Nelson (Counter Fraud Manager), S O'Connor (Head of Legal Services and Deputy Monitoring Officer), J Preece (Democratic Services Officer), N Preece (Value for Money Manager, Grant Thornton) and A Probert (Principal Auditor, South West Audit Partnership)

**66. APOLOGIES FOR ABSENCE**

No apologies were received.

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

There were no substitutes.

**68. DECLARATIONS OF INTEREST**

No declarations of interest were made.

**69. MINUTES****RESOLVED:**

**That the minutes of the meeting held on 12 December 2023 be confirmed as a correct record and signed by the chairman.**

**70. QUESTIONS FROM MEMBERS OF THE PUBLIC**

No questions had been received from members of the public.

**71. QUESTIONS FROM COUNCILLORS**

No questions had been received from councillors.

**72. CODE OF CONDUCT FOR COUNCILLORS - 6 MONTHLY UPDATE**

The Head of Legal Services (HLS) introduced the report the following points were highlighted:

1. The number of code of conduct (COC) complaints had been reducing since 2021 but the first 6 months of 2023 had generated 29 complaints, being almost the same

- number of complaints as the previous year. However it was explained that figures had been skewed by a set of complaints received relating to one parish council
2. 60% of complaints had been registered by residents with 34% of complaints having been registered by parish and town councillors. This was deemed disappointing as this scheme is meant to be in place primarily for members of the public.
  3. 80% of complaints related to parish and town councils which was unsurprising given the large numbers of parish councils Herefordshire comprises. It was noted almost 50% of all complaints related to a single parish council.
  4. 70% of all complaints included disrespect and 20% of the complaints related to a failure to disclose an interest. It was highlighted that it did not mean all these complaints had been upheld but advice to members was to be mindful about how they perform their role and to disclose any interest even if it did not amount to a DPI or NRI.
  5. There had been 2 breaches of the COC relating to Councillors at Bartestree with Lugwardine Parish council during the period. Since the report was published the monitoring officer had received an update from the council who could confirm they had noted the monitoring officer's recommendations and they now considered the matter as being closed.
  6. Members attention was drawn to "Appendix 1 Historic Complaints per Parish Council" where it was noted 62% of all complaints related to just 6 parish and town councils with only 2 having had complaints in this year.
  7. Key Performance Indicators were currently in an early form as there had not been any dates captured before the current administrative year. Currently there are two captured indicators, time for initial assessment which was noted had reduced from an average of 61 days in March 2023 to 15 days in October 2023 and time for independent person response which currently on average is 1.7 days which is considered to be exceptional. It was noted that further data collection such as information in relation to the outcomes of recommendations provided to councils and the type of the complaint such as a planning or finance matter would be provided in the future.
  8. A review of the code of conduct process was currently underway.
  9. A new governance paralegal was starting who would be a dedicated resource for COC.

In response to committee questions, it was noted:

- I. The HLS agreed there is a high bar in relation to discussions had between members themselves and is considerably lower for any conversations with officers and members of the public. The courts had constantly disappointed with their judgments on what councillors can say amongst themselves as part of political discourse and in relation to an infringement of article 10 freedom of expression.
- II. The HLS explained that the bar was the same between county and parish councillors and personal opinion was that there is higher demand on the chairperson but the duty is on all members to ensure that each member conducts themselves in an acceptable way and should treat each other with the respect they deserve.
- III. The HLS explained that previously members of the legal department would handle COC as and when they arose but this would be conducted around other priorities that their lawyers had within their workload. The team have now freed up money to appoint a single member of staff who predominantly oversees the administrative arrangements for code of conduct and can ensure these matters are dealt with expeditiously.
- IV. The Independent person (IP) explained up until a few years ago, there had been a dedicated member of staff who was managing the administration and gave his support for this post having been reinstated.

- V. In relation to the number of complaints having been submitted by parish and town councillors, it was mentioned that training or recommendations could be suggested but this would be looked at again in the future once there was more comparison data.
- VI. The HLS confirmed the changes to the standards panel as recommended by the Audit and Governance Committee on 12 December 2023 would be included on the agenda for the Council meeting on 8 March 2024.
- VII. The HLS confirmed the review and simplifying of the existing COC arrangements was well underway and Cllr Woodall agreed to be the delegated member to be an early consultee on the changes.
- VIII. The IP explained there are four IP's appointed under the terms of the Localism Act, all are committed to supporting this service and highlighted that none of them wish to be or are remunerated to act in this position.
- IX. The IP was not surprised and would expect to see a rise in the number of complaints coming in due to this being an election year.
- X. The IP was in support of the inclusion of the "types of the complaints" for reporting and mentioned that having previously looked at this a third of complaints were related to planning applications.
- XI. The IP confirmed after a period of significant change in the composition of the legal function in the council, in terms of administration the IP's are now content that they are receiving the level of support and engagement that they should be for conducting this function.
- XII. The IP explained that currently they work in pairs on a 3 month rolling basis but there were ongoing discussions with themselves and the HLS how that might work in the future.

#### **Resolved**

#### **That the Committee:**

- a) noted the 6 monthly update on the Code of Conduct complaints arrangements; and**
- b) Cllr Woodall was delegated to be the member of the Committee to be an early consultee on the changes to be recommended on the Code of Conduct arrangements (investigation process) as set out in paragraph 7 to 9 of this report.**

### **73. EXTERNAL AUDIT PROGRESS REPORT AND SECTOR UPDATE**

The Director of Grant Thornton (DGT) introduced the audit progress report and sector update setting out the position against both the 2023 and 2024 audits. The following points were highlighted:

1. Members were reminded of Grant Thornton's (GT) responsibilities to give an opinion on the council's financial statements and issue a value for money judgment and conclusion.
2. GT signed off the councils 2023 draft accounts issuing an unqualified opinion in October 2023 which was one of the earlier sign offs in the country.
3. The value for money work (agenda item 9) has now concluded and enables the DGT to issue a certificate confirming completion of the audit for 2023.
4. The DGT explained that due to rotation requirements he would be rotating off the Herefordshire audit with effect from 2023/24 and a new external auditor would be liaising with the committee from March.
5. Given the timely completion of prior year audits, GT will look to prioritise the 2023/24 Herefordshire Council audit.
6. The following deadlines were highlighted: Herefordshire's finance team have until the end of May 2024 to produce the draft accounts and GT have until the end of September 2024 to sign them off.

In response to committee questions, it was noted:

- I. An explanation of the differences between internal and external audit was provided.
- II. The DGT explained that the external auditors work is predominantly retrospective and is conducted at the end of the financial year to which they are required to confirm based on testing that the accounts reflect accurately the income, expenditure and the transactions of the council. The DGT highlighted that Herefordshire has a good record as a council for producing complete, accurate and timely accounts.
- III. With regards to a question raised around the national delays in the production of external audit reports it was explained that the quantum of work external auditors needed to do to discharge their role had increased exponentially over the last five years and necessitated firms including GT to recruit more individuals which had proved very challenging and inevitably resulted in a delay across a large number of councils in their accounts being signed off. To clear the backlog of historical accounts and 'reset' the system, the government had introduced a "backstop date" of 30 September 2024 by which point auditors would issue a disclaimer saying that the work was incomplete and would move on to 2023/24 audits.

**Resolved:**

**That:**

- a) **The committee reviewed the external auditor's report, noted the progress in 2022/23 and considered the emerging national issues.**

#### **74. EXTERNAL AUDITOR'S ANNUAL REPORT 2022/23**

The External Auditors Annual Report 2022/23 was published as a supplement to the agenda.

The Head of Strategic Finance (HSF) introduced the report which presents the external auditors review of the council's value for money arrangements and closes the 2022/23 audit. The key points included:

1. The HSF issued her thanks to the Director of Grant Thornton (DGT) and his team for the timely conclusion of the 2022/23 audit.
2. In terms of financial sustainability, a detailed review of the council's savings proposals for the 2023/24 budget and the work that is involved in setting that budget had taken place.
3. In terms of the outcome of the report for financial sustainability and governance criteria, there had been no significant weaknesses identified in respect of the council's economy, efficiency and effectiveness.
4. It was highlighted that in use of resources external audit had identified a continuing significant weakness in respect of improvement in children's services.
5. Attention was drawn to appendix B which gave explanation on the different types of recommendations, the following were highlighted by the DGT.
  - there were no "statutory" recommendations identified for Herefordshire;
  - 1 key recommendation which was the continuing significant weakness in respect of improvement in children's services. This was an improvement from the prior year to which three had been identified.
  - A small number of improvement recommendations had been identified that were not significant.

6. The Value for Money Manager (VFMM) highlighted an error on page 39 in relation to the Audit Governance Committee being unsuccessful in its attempts to appoint an independent person on to the committee. The VFMM confirmed that this was not the case and had been confused with a previous recommendation for the standards panel.

In response to committee questions, it was noted:

- I. The VFMM accepted that a lot of children's services are commissioned from other bodies but the council still retains the statutory responsibility and it is the auditor's responsibility to report on to the council. It was his view that highlighting the council's challenges specifically within the report was not appropriate and he did not want it to become political. It was explained that these reports are fed back to the national audit office (NAO) and back to government so pressure can be exerted appropriately on government ministers or other organisations.
- II. The DGT recognised the challenges the council faced and that certain external providers were commissioned to provide support for children with higher needs but highlighted that other councils were doing a number of different things such as providing and running facilities themselves and were achieving a quality efficient service in Ofsted's view and that there were things within this councils control that could be put in place to be able to demonstrate to Ofsted that arrangements are satisfactory.
- III. The Director of Resources and Assurance (DRA) confirmed the two council representatives for the Hoople board are directors of Hoople limited and are not directors of Balfour Beatty, they are company directors and have all the responsibility of being a director of a limited company.
- IV. The VFMM provided an instance where a local authority had subcontracted their children's services to a children's trust as it had received an inadequate Ofsted inspection and had not made sufficient improvement, however it was highlighted that the statutory responsibility still lies with the council and that they would still fund the trust but would lose some form of control over how the service is managed and decisions are made. It was noted that with the progress Herefordshire was making this would not be the outcome for this council.
- V. The VFMM confirmed that generally when councils received an inadequate Ofsted rating, it does prove challenging retaining and recruiting new members of staff due to association and in order to attract a council would pay a premium but this is not sustainable and can result in budget problems. To resolve this the council is trying to make it more attractive on a longer term basis to avoid paying short-term premiums to consultants and contractors which has been found to have been successful and the director of children and families had been very positive about the direction of travel in terms of getting permanent members of staff on board.
- VI. The HSF confirmed the recommendation for the council to develop more comprehensive and integrated workforce plans to support the recently developed workforce strategy was still ongoing.
- VII. The DGT explained that the improvement recommendations would benefit the council but may require time, effort and there could be cost ramifications and there may be other areas officers believe would be more beneficial to the council to spend that resource on.
- VIII. The HSF explained that management have noted and accepted the advice from the best practice that audit had included in their report but the council had got alternative arrangements in place for addressing some of the concerns that GT had raised.

**Resolved:**

**That:**

- a) **The committee reviewed the external auditor's report, noted its findings and recommendations and considered the management responses.**

## 75. ANTI-FRAUD, BRIBERY & CORRUPTION ANNUAL REPORT

The Counter Fraud Manager (CFM) presented the report, the purpose of which was to provide an overview on all counter fraud activity across the council's services throughout the previous calendar year and represent an up-to-date account of the work undertaken, including progress and outcomes aligned with the council's strategy and core objectives.

The following key points were highlighted:

1. During 2023, there had been a significant increase in the number of referrals being made to the counter fraud service which provided assurance to the committee that effective reporting avenues were in place and that Individuals felt confident to use them to report allegations of suspected fraud.
2. There had been a two-fold increase in the number of fraud alerts that were raised internally to council services and a threefold increase in the number of cases that were investigated to completion during 2023. This had been achieved through collaboration and effective partnership with internal services and external agencies.

In response to committee questions, it was noted

- I. The CFM in relation to the cyber fraud graph confirmed that different ways of presenting the data such as monthly would be explored with the security team.
- II. The CFM explained that it would be speculative on why there may be an uplift in cyber related incidents, but the committee could take assurance that none of the incidents targeting the council or Hoople Ltd were successful during 2023, demonstrating the robust controls in place to prevent cyber-attacks.
- III. The CFM highlighted in 2023 the counter fraud service (CFS) undertook and led an extensive fraud risk assessment, during which the CFM met with directors, managers and operational workers across service areas within the council. This risk assessment ensured that services proactively acknowledged and took ownership of their fraud risks. The corporate performance team had since integrated all fraud risks into the council's risk registers and the CFS has worked closely with SWAP internal audit to ensure that fraud risks are considered during the assessment of any relevant new audit.
- IV. The CFM suggested that the visual metrics could be looked at and revamped to include deterrence but assured members that deterrence is included as part of the risk assessment and is included as part of the overall control metric. Examples of deterrence were given such as; publishing successful prosecutions/ outcomes, raising awareness and statements and declarations integrated into procedures and policy application forms.
- V. The CFM explained that referral rates were similar to those seen in previous years. It was highlighted that the public referral hotline and digital reporting form had been introduced in November 2022 and it would seem the visibility and reporting platform had correlated with the increase of referrals.
- VI. The reporting avenues for internal and external users were explored.
- VII. The CFM informed the committee that resources would need to be reviewed internally if the trend of increased referrals were to continue.
- VIII. In relation to the successful prosecution in December 2023, the CFM highlighted how collaboration and joint working is essential.

### **Resolved**

**That; a) the annual fraud arrangements were reviewed and confirmed as satisfactory by the committee to provide members with an accurate account of the latest counter fraud activity across services.**

Action 2023/24-018 The CFM in collaboration with the security team would look at other ways to present the data on cyber fraud for future reports.

Action 2023/24-019 The CFM to explore the visual metrics to include deterrence.

## **76. UPDATE TO FINANCE AND CONTRACT PROCEDURE RULES**

The Head of Strategic Finance (HSF) introduced the report, the purpose of which was to inform the committee of the update to the finance and contract procedure rules (CPR). The CPR had been updated to reflect new thresholds, and to be compliant with current legislation and regulations. The finance procedures had been updated to incorporate additional evidence requirements for journal transaction postings in year and to provide clarity around roles and responsibilities for the delivery of projects across the council.

In response to committee questions, it was noted:

- I. The HSF explained that the CPR provides the framework by which the council test on if value for money has been achieved. External auditors also provide their assessment of that activity in the year.
- II. The Commercial Services Manager (CSM) confirmed that it was not always the cheapest price that would be awarded a contract but it would be based on quality as well the most economically advantageous response. CIFAS checks are conducted on suppliers as well other checks as part of the standard procurement process.
- III. The CSM explained under the CPR for low and medium value contracts, a minimum of four suppliers can be invited to tender to which officers are encouraged to invite at least two local businesses that are interested and capable to provide those services. When the opportunity arises contracts could be divided which encourages smaller local business to bid for contracts.
- IV. The CSM explained the use of social value included within procurements potentially encourages larger contractors to employ local people or use local supply chains.
- V. In terms of advertising, all information can be found on [Hereford Council's Website](#) to which businesses are encouraged to sign up to a portal which will keep them informed of relevant opportunities as they arise and enable them to bid for a tender. If suppliers are having difficulties registering there is a dedicated member of the commercial services team who is on hand to take calls and emails. Suppliers are also invited and encouraged to attend "Meet the buyer events".
- VI. The CSM explained that pre-qualifying questions are asked as part of the tender response to ensure the capability and competency of a supplier and are proportionate and relevant to the procurement and the value of the contract.
- VII. The HSF informed the committee that payments were fairly standard but highlighted from 1<sup>st</sup> April it was hoped a new scheme through oxygen finance which enables payments to go through "on day one" with a small discount in services for the Council would be fully introduced for small businesses. Local suppliers would be contacted shortly.
- VIII. The CSM confirmed there were no resource issues within the team currently, but if this did become a problem they would potentially seek to appoint an external advisor to support.

### **Resolved**

**That the committee reviewed and approved the following updates as technical changes to the constitution:**

- a) The Contract Procedure Rules at Appendix 1;**
- b) Financial Procedure Rules at Appendix 2**

## c) Financial Procedure Rules Guidance Notes at Appendix 3

### 77. INTERNAL AUDIT UPDATE REPORT QUARTER 3 2023-24

The Director of Continuous Improvement (DCI) South West Audit Partnership (SWAP) presented the report on internal audit activity for quarter 3 2023/24, with attention drawn to the following:

- The indicative opinion was of reasonable assurance, with a sound system of governance, risk management and control in place.
- 89% of the opinion related work found the control environment to be either substantial or reasonable assurance.
- There were no significant corporate risks to be reported, but there was an assignment with a “Limited Assurance”- audit opinion on ICT back-ups.
- Feedback from officers in terms of the areas that have been audited remains strong. The DCI confirmed data was based on 11 responses which represented a response rate of around 75%. It was noted that the request from a previous meeting to include responses figures had not yet, but would be implemented for the next report.
- A follow up of the registration services audit would be planned for Quarter 4.
- Swap were facilitating an “Audit Committee Webinar” on Thursday 1st February at 3:30pm to which committee members were welcome to attend.

In response to committee questions, it was noted:

- i. In relation to the “corporate priority” chart on Page 139 it was clarified that there was a joint responsibility in improving those ratings. SWAP would speak to officers about the coverage and the program of internal audit work and hopefully agree a balance and proportionate internal audit plan that provides reasonable coverage across all areas. Members could comment and if they believe that coverage should be reallocated they could provide that feedback and SWAP would have discussions with officers to realign the audit plan if possible. It was clarified that the first column represents of how many audits SWAP have done in that area and the second column represents the outcomes of those audits within that area.
- ii. With regards to the deferment of the “Proactive Fraud Work Tax Evasion” the Head of Strategic Finance (HSF) confirmed this was due to the HMRC undertaking a routine compliance check which the findings would be presented to SWAP and avoided a duplication of efforts.
- iii. In relation to the “follow up of the Public Realm/ BBLP Related Audits” the DCI confirmed this was still in progress. It was clarified by the Principal Auditor that this was a follow up of all the internal audit actions that SWAP had made relating to BBLP and the public realm and was to ensure the council had done what they outlined they were going to do.
- iv. The Director of Resources and Assurance (DRA) would provide a response on the bus service improvements grant with the approaching deadline of 31 March 2024.
- v. The DCI would provide a written response on the separation between the ICT Backup and Disaster recovery items.
- vi. It was highlighted that the “6 Special/ Advisory” figure in the assurance opinions table on page 138 did not relate to a specified piece of work and was suggested could be an error and would be looked into.



## **Resolved**

**That the committee:**

**a) Reviewed the areas of activity and concerns and were satisfied that necessary improvements are outlined and delivered; and**

**b) Note the report and considered the assurances provided and the recommendations which the report makes, commenting on its content as necessary.**

Action 2023/24-020 SWAP to include “response figures” within the quality assurance client feedback data.

Action 2023/24-021 The DRA to provide a response on the bus service improvements grant.

Action 2023/24-022 The DCI / SWAP would provide a written response on the separation between the ICT Backup and Disaster recovery items.

Action 2023/24-023 The DCI / SWAP to investigate a possible error in the assurance opinions table on page 138 relating to “6 Special/ Advisory”.

## **78. WORK PROGRAMME**

The committee’s updated work programme was presented, showing amendments which included the Approach to Strategic Risk Management Update report being moved to the work plan for March and the Head of Strategic Finance confirmed the External Auditor's Draft Plan (including indicative fee) would need moving from the meeting in March to June.

It was highlighted that the meeting scheduled for 4 June had now been moved to 11 June to accommodate the Draft Annual Governance Statement and 2023/24 Draft Statement of accounts.

### **RESOLVED**

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

## **79. DATE OF NEXT MEETING**

Tuesday 26 March 2024.

The meeting ended at 4.48 pm

**Chairperson**