

MINUTES of the meeting of Audit and Governance Committee held at The Library, Shire Hall on Monday 12 November 2012 at 2.00 pm

Present: Councillor J Stone (Chairman)
Councillor JW Millar (Vice Chairman)

Councillors: CNH Attwood, EMK Chave, PGH Cutter, Brig P Jones CBE and PJ McCaull

In attendance: Councillor A Seldon, in his capacity as Chairman of the Overview and Scrutiny Committee

[Note: the meeting was scheduled to take place in the Assembly Hall at the Shire Hall, but was transferred to the Library at the Shire Hall due to the planned meeting space requiring additional cleaning and re-arranging. All members of the public and the Committee were re-directed to the Library.]

25. APOLOGIES FOR ABSENCE

Apologies were received from Councillor AJ Hempton-Smith and Councillor TM James. The Committee also noted that Councillor KS Guthrie was no longer a member of the Committee, having transferred to the new Health Overview and Scrutiny Committee. A replacement Member would be appointed to the Audit and Governance Committee in due course. The Committee expressed their thanks to Councillor Guthrie for her excellent contribution to its role and work.

In addition, the Committee noted that Councillor MAF Hubbard had been invited to attend the meeting in respect of Agenda Item 10 (Report of the Standards Panel: Breach of the Members' Code of Conduct by Councillor MAF Hubbard), and had declined due to other Council commitments.

26. NAMED SUBSTITUTES (IF ANY)

There were no named substitutes.

27. DECLARATIONS OF INTEREST

There were no declarations of interest made.

28. MINUTES

RESOLVED: that the minutes of the meeting held on 21 September 2012 be approved and signed as a correct record by the Chairman, subject to the following amendment:

Minute 15 (Annual governance Report 2011/12): First bullet point, delete last sentence.

In addition, the following points were made in relation to matters arising from the minutes:

Minute 14 (Statement of Accounts): The Head of Corporate Finance circulated information to the Committee about the Council's current position at the half-year stage in respect of Reserves.

The Chief Officer (Finance and Commercial Services) said that he would forward a Pay Policy Statement to Councillor McCaull, and details of Members' allowances to Councillor Chave, after the meeting.

Minute 15 (Annual Governance Report): Councillor Attwood thanked the Chief Officer (Finance and Commercial) for providing a financial breakdown of costings relating to Hoople. The Chief Officer (Finance and Commercial) agreed to circulate this information to all members of the Committee later that day. Councillor Attwood emphasised the importance of having access to accounts for all of the Council's partners in addition to Hoople, so that the Committee was in a position of being able to provide information and answer questions when asked.

Minute 17 (Annual Assurance Report): The Committee agreed to hold a private meeting with the Head of both Internal and External Audit, starting at 12.30 p.m., after its meeting programmed for 18 January 2013. The meeting would be an informal opportunity to ask questions of the auditors without Council officers being present. The Head of Audit Services emphasised that this was a recommended and standard practice for all local authorities nationally, and was being suggested for this reason only.

29. ANNUAL ACCOUNTS ACTION PLAN

The Chief Officer (Finance and Commercial) reported on the Audit Commission's Annual Audit Letter for 2011/12, and outlined the proposed action plan for closure of the 2012/13 accounts. The Committee noted that the Audit Commission had issued an unqualified opinion on the Council's financial statements, both in terms of the overall audit, and value for money. The Commission had concluded that the Council had made proper arrangements to secure economy, efficiency and effectiveness in its use of resources. Four principal issues had been identified for the Council for 2012/13, namely:

- Financial Position;
- Adult Social Care;
- Waste Disposal PFI Contract; and
- The Health and Social Care Act.

The Committee considered the action plan, comprising eight recommendations, noting that some of these had already been implemented, others agreed and supported by a timetable, and others not fully accepted by the Council. Measures being taken by the Council included:

- Working with the Local Government Association to improve its arrangements for managing outsourced contracts (procurement);
- A review of the financial reporting process with particular reference to Adult Social Care. This service had benefitted from a period of stability in leadership, enabling firm plans to be drawn up for improving strategic service delivery, and strengthening financial management. The Commission's view was that the Council should re-consider its Adult Social Care budget, particularly in view of Herefordshire's challenging demographic profile which indicated a higher than average population of older people;
- Following a review of joint arrangements under the Waste Disposal Contract, Cabinet had approved a set of criteria – including financial parameters – which must be met before any variation of the contract could be approved. The Council had also commissioned a separate review on whether a revision of the contract was the most suitable approach.

In response to questions from Members of the Committee, the following points were made:

- The Chief Officer (Finance and Commercial) reported that there had been challenges in accumulating procurement savings over the time period, although some progress had been made. It was likely that these would not be fully delivered until 2013/14 due to the lengthy processes involved;
- In future years, it would be possible to circulate the accounts to the Audit and Governance Committee at least two weeks prior to signing-off, through bringing the entire accounts timetable forward and creating further efficiencies in the process;
- The Chief Officer (Finance and Commercial) confirmed that the Safeguarding budget would experience additional budget pressure during the current financial year as a result of the need to deliver some short-term remedies following an external inspection.
- The current Root and Branch Review process was expected to identify further budgetary savings. An all-Member seminar on the budget would be held in the near future to keep members apprised of the current situation, and to take account of any announcements from Central Government.

RESOLVED: that

(a) the Audit Commission's Annual Audit and Inspection Letter for 2011/12 be noted; and

(b) the action plan for the 2012/13 accounts be approved.

30. WORK PROGRAMME 2012/13

Members considered a proposed forward work programme, which would assist the Audit and Governance Committee in discharging its responsibilities in an effective and timely manner. The work programme focussed on the transaction of financial and audit business, recognising that governance matters would require a greater degree of flexibility. For this reason, the proposed frequency of meetings would remain as monthly, to allow for *ad hoc* items such as complaints against Councillors, and necessary changes to the Constitution, to be dealt with quickly and at short notice. This was necessary to ensure that there was a minimum delay in responding to governance matters.

The Committee acknowledged that officers involved only in financial and audit business would not be required to attend meetings which were considering only governance business. In addition, it was noted that the Chairman and key officers would take a view on the expediency of any business to be transacted ahead of each meeting, and would agree to cancel any unnecessary meetings during the course of the year.

In response to a question, the Chairman confirmed that if Members wished to raise any items of business for the Committee, they were welcome to do so either during the course of the meeting, or in between meetings in consultation with himself and the Vice-Chairman.

In response to an observation that some paragraphs in the Committee's Terms of Reference required updating, the Assistant Director (Law, Governance and Resilience) said that this was currently being completed as part of a general review of the Constitution, which would be considered by Council at its next meeting.

RESOLVED: that

(a) the Audit and Governance Committee work programme be approved as a basis for future agenda items; and

(b) the frequency of meetings will continue as monthly, to further the efficient management of governance issues, with the Chairman and key officers taking a view in advance on whether certain meetings can be cancelled if there is insufficient business.

31. INTERNAL AUDIT PROGRESS REPORT

The Head of Audit Services apprised Members on progress made with internal audit work, and drew their attention to key internal control issues arising from work recently completed. Recently completed audits included Public Health (Food Licensing), review of income collection procedures over three separate Council functions, Car Parking, and the ISO 27001 review of the Council's Modern Records Unit. No significant issues had been identified with any of the completed audits.

RESOLVED: that the report be noted.

32. HEALTH AND SAFETY

Members considered a report which identified how the Council was currently managing its Health and Safety issues, and welcomed Ms Nia Rowlands-Cranham, Health and safety Officer, to the meeting. Ms Rowlands-Cranham addressed the main points in the report and answered Members' questions arising therefrom. The report had arisen from a request by the Audit and Governance Committee at its meeting on 21 September 2012.

The following key points were made during the discussion:

- The management of Health and Safety issues has been improved through the formation of the Resilience Team and recruitment of staff in April 2012. An integrated approach to risk management had been achieved through the formation of a Resilience Group, which was chaired by the Deputy Chief Executive, and was responsible for providing a steer on all areas of risk.
- A comprehensive audit programme for Health and Safety in schools had been established during late 2011 and to date almost 100% of schools had been inspected.
- KPMG had conducted an audit early in 2012 which identified some key areas of non-compliance with Health and Safety policies. The policies had subsequently been completely revised and updated to ensure compliance with current legislation.
- A Council-wide Health and Safety training programme had been implemented and substantially expanded to ensure that all Managers were able to meet all of the necessary requirements. The training had been accredited by the Institute of Occupational Safety and Health (IOSH), and had also been tailored to meet certain specific local requirements where needed.
- A performance framework was being devised so that progress on Health and Safety improvements could be monitored and reported as a matter of routine, and any problem areas could be identified and addressed rapidly.
- Further work would be undertaken with the Council's partners to ensure that robust contractual arrangements existed, which supported the Council's Health and Safety policies.

In response to questions from the Committee, the Health and Safety Officer confirmed the following:

- Academies were able to buy into the Council's Health and Safety programme if they wished, or alternatively, they could seek the provision of Health and Safety management from an external provider. She confirmed that 80% of Academies had currently bought into the Council's scheme.
- The Council's Health and Safety policies were linked to its disaster recovery and management plans through the Emergency Planning and Resilience Teams.
- The Health and Safety Executive did not tend to conduct unannounced spot checks, but would always investigate promptly whenever a specific Health and Safety issue was raised. She said that she would ask the Health and Safety Executive to provide information about the bases that it used for any urgent or unannounced audits.
- The most influential factor in ensuring that the Council was compliant with Health and Safety legislation and policies was the provision of training on workplace inspection to all Managers. The Council's insurers would also expect the Council to review its procedures and its risk management regularly, thereby keeping up-to-date with changes in Health and Safety legislation. The Chief Officer (Finance and Commercial) confirmed that officers regularly met with the insurers to consider any important Health and Safety issues.

RESOLVED: that

- (a) the report, and the actions undertaken in response to the KPMG audit of the Health and Safety management system in January 2012, be noted;**
- (b) the improvements made by the Health and Safety Team and the Resilience Group be noted; and**
- (c) the Committee supports and communicates the work in progress in order to raise the Corporate Assurance Grading in respect of Health and Safety performance, in readiness for the follow-up audit by KPMG.**

33. THE MONITORING OFFICER'S ANNUAL REPORT

The Assistant Director (Law, Governance and Resilience), presented his annual report in respect of his role as the Council's Monitoring Officer. This included substantial work on major corporate projects, such as the proposed Retail Quarter, the Waste Disposal PFI Contract and the Broadband Contract. He had also overseen the restructure of the Law, Governance and Resilience department, improvements to the Constitution, observations on the Hoople Board during its first year of trading, and the introduction of a new standards regime under the Localism act 2011. As part of the latter, he gave an outline of the way that the Standards Committee had dealt with 55 complaints lodged against Councillors during the course of the year.

RESOLVED: that the report be noted.

34. REPORT OF THE STANDARDS PANEL: BREACH OF THE MEMBERS' CODE OF CONDUCT BY COUNCILLOR MAF HUBBARD

The Assistant Director (Law Governance and Resilience) reported on a breach of the Code of Conduct by Councillor MAF Hubbard, which had been reported as a standards complaint by the Chief Executive of Herefordshire Council.

The complaint had been investigated independently by Ms Olwen Dutton of Bevan Brittan LLB, and she had published her findings in a report. On 2nd November 2012, the Standards Panel, comprising Mr Jake Bharier (Appointed Independent Person), Councillor Chris Chappell (Local Authority Advisor) and Mr Richard Gething (Parish and Town Council Advisor), had met Councillor Hubbard to consider the report and all aspects of the complaint.

The Committee considered the Appointed Independent Person's report which concluded that Councillor Hubbard had breached the Members' Code of Conduct on two counts: (1) that he had failed to comply with one of the ten general principles of public life – namely honesty and integrity – by removing a confidential document from a Council office, to which he was not entitled; and (2) that he had failed to comply with Paragraph 4(a)(iv) of the Code of Conduct, by disclosing to the Hereford Times a document which was exempt from publication for reasons of commercial confidentiality.

The Assistant Director (Law Governance and Resilience) circulated the full list of sanctions available to be administered by the Audit and Governance Committee. The Committee also considered the sanctions which were recommended by the Appointed Independent Person, namely:

- The Audit and Governance Committee would present a report on the investigation and the consideration of the complaints to the next full Council meeting; and
- Training should be arranged for Councillor Hubbard to ensure that he is fully apprised of the established processes for seeking advice;

The Committee also discussed the following issues relating to the complaint:

- Whether there were any alternative or additional options available in terms of sanctions, and whether the sanctions proposed by the Appointed Independent Person were sufficiently, or insufficiently stringent. It was agreed that the sanctions proposed should be administered as set out in the report;
- Whether the decision of the Appointed Independent Person was fair and balanced, given the facts. It was agreed that it was.
- The Assistant Director (Law governance and Resilience) advised the Committee that it also had powers to direct that any complaint be re-investigated if appropriate. Members decided that in this case, the investigation had been thorough and satisfactory, and that no further investigations were necessary.

The Committee also noted as a general issue which was separate from this complaint case, that under the previous Standards regime, the sanctions system was more clearly defined. Members felt that the Localism Act, by enabling local authorities to self-regulate, had introduced a lesser-defined set of sanctions without a finite number of examples. Some limitations were clear, such as not allowing any sanction which would impinge upon Members' powers to assist their electorate, but others were not, such as directing a member to write an apology for a particular action. The Committee agreed that there was merit in considering in greater detail, the powers and sanctions available to it for Standards cases, at a future meeting.

RESOLVED: that

- (a) the Audit & Governance Committee approves the recommendations of the Appointed Independent Person following the Standards Panel meeting on 2nd November;**
- (b) the Audit & Governance Committee reports the outcome of these breaches to Council; and**

- (c) **the Audit and Governance Committee, at a future meeting, considers the powers and sanctions available to it in respect of Standards Cases under the Localism Act 2011.**

35. DATE AND TIME OF NEXT MEETING

Members noted that the Committee's next meeting would be held on Wednesday 5th December 2012, at 10.00 a.m. in the Council Chamber at Brockington.

The meeting ended at 3.51 pm

CHAIRMAN