

Minutes of the meeting of audit and governance committee held at Committee Room 1, Shire Hall, St. Peter's Square, Hereford, HR1 2HX on Wednesday 29 November 2017 at 2.00 pm

Present: Councillor PD Newman OBE (Chairman)
Councillor ACR Chappell (Vice-Chairman)

Councillors: CR Butler, EPJ Harvey, RJ Phillips, AJW Powers and J Stone

Officers: Lee Davis, Steve Hodges, Andrew Lovegrove, Anthony Sawyer and Claire Ward

239. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor LC Tawn.

240. NAMED SUBSTITUTES (IF ANY)

In accordance with paragraph 4.1.23 of the council's constitution, Cllr AJW Powers attended the meeting as a substitute member for Cllr LC Tawn.

241. DECLARATIONS OF INTEREST

There were no declarations of interest.

242. MINUTES

It was noted that an action in relation to when senior managers were aware of the issues in connection Blue School House was still outstanding. It was agreed that this would be included in the report about progress of the internal control improvement board due in January 2018.

RESOLVED:

That the minutes of the meeting held on 20 September 2017 be confirmed as a correct record and signed by the chairman.

243. QUESTIONS FROM MEMBERS OF THE PUBLIC (Pages 11 - 12)

One question had been received and the response given is attached as appendix 1 to the minutes.

244. QUESTIONS FROM COUNCILLORS

There were no questions from councillors.

245. EXTERNAL AUDIT PROGRESS REPORT

The chairman used his discretion to move the external audit progress report to the first item.

It was noted that the private session due to take place on the rising of the committee would be postponed until after the January meeting. Phil Jones, Grant Thornton, stated that Zoe Thomas, Jon Roberts and himself would be available for the session. A member noted that it was disappointing that the session needed to be postponed and hopefully that it would not be too late for any concerns to be raised.

It was noted that the plan for the 2017/18 audit was currently being developed and that it would hopefully be presented to the January meeting. The fee letter would be presented to the March committee. The signing of the statement of accounts was now scheduled for the committee meeting in July 2018.

Following a query from a member, issues which had occurred during the 2016/17 audit would be taken into account when the audit plan for 2017/18 was developed. It was noted that the chief finance and S151 officer would be presenting a report at the January 2018 meeting which outlined how the issues experienced during the 2016/17 audit would be managed during the 2017/18 audit. The audit plan would be more structured than previously which should assist both the council and Grant Thornton.

The new lead partner (Jon Roberts) would be having early conversations with the chief finance and S151 officer to ensure that all risks areas were reflected in the plan.

The chief finance and S151 officer confirmed that the publications mentioned in the progress update at appendix 1 were considered by officers, and where relevant contact was made with other councils to obtain details of their experiences. It was noted that the publications were there to prompt thoughts as it will depend on the local circumstances. It was agreed that the link to the publications would be forwarded to the cabinet members for their consideration.

RESOLVED

That the report be noted.

246. EXTERNAL AUDIT ANNUAL AUDIT LETTER - 2016/17

The chairman used his discretion to move the external audit progress report to the second item.

The external auditor presented the report. It was noted that the annual audit letter was a condensed version of the detailed audit findings discussed at the September meeting and was a statutory requirement. The audit opinion had been given via the delegated authority granted to the chief finance and S151 officer at the meeting held on 20 September in relation to the signing of the accounts.

Following a query from a member, the external auditor confirmed that all material amendments had been made to the statement of accounts and there was nothing in the accounts which would cause the committee concern. The external auditors would wish to discuss with the council about achieving exemplary / outstanding accounts in the future.

Following a query from a member, external auditor explained the following:

Materiality - they exercise judgement over materiality due to nature or systematic issues. Materiality was not a straightforward judgement and was used for different purposes and should not be used in a literal sense as they do not look at a set financial figure but look at a sample of figures.

Valuation – there were a range of different definitions in relation to valuation. Typically for a council, property valuations were difficult as they cannot be re-valued every year as would be too expensive. The valuation figures were discussed with officers.

Value for money – they used the guidance and legislation to determine this. Using Blue School House as an example, there were deficiencies in governance but there was no evidence of widespread and systematic deficiencies. Following a query from a member in connection with the small holdings being valued at £2m and then marketed at £25m, the external auditor commented that they were probably not reflecting their true valuation but that this would have been disclosed in a key decision in connection with the sale of the smallholdings.

RESOLVED

That the report be noted

247. POTENTIAL DATA BREACH - RECORD OF OFFICER DECISION

The solicitor to the council presented the report.

It was noted that the report which had the potential to breach data protection had not been disclosed outside of council systems and had not affected the criminal prosecution as that was in the public domain. It was confirmed that there was a requirement to notify the information governance team of any potential data breach, which had occurred in this case. It was noted that the relevant date for any data breach was when the knowledge of the data breach started (not when the breach occurred) so historical data breaches should be reported. If the data breach was significant then there was a requirement to report to the Information Commissioners' Office. In this case it was not considered that a data breach had occurred and further training has been provided on redaction in published records in accordance with the access to information rules in the constitution.

RESOLVED

That the report be noted.

248. INFORMATION ACCESS

The information access and records manager presented the report and highlighted the following:

- The team deal with freedom of information, subject access, and environmental information regulation requests, together with complaints and various requests from police. The team do not operate in isolation and rely on other teams for information.
- The council receives approximately 90-100 requests per month and the response rate compares well with other councils. The request trend tends to be either local issues or what is in the media.
- The number of subject access requests which are requests for sight of personal information held by the council on an individual have grown significantly. The fee for making a request will be removed in most cases and the time limit will be reduced down to 30 days from 40 days from April 2018. It was indicated that this may cause a resource implication.
- Overall of the 600-700 complaints received approximately 20% are upheld by the council.
- The Local Government Ombudsman had recently provided training to social care staff on how to conduct complaint investigations.

It was confirmed that learning from LGO complaints was captured and that the LGO did check that their recommendations had been actioned.

It was noted that a significant theme was poor communication. A member of the committee suggested that how the information is structured on the website is looked at so that it is more easily searchable.

The information access and records manager confirmed that when requests are not accepted on commercially confidential grounds a full explanation is given to the requester as there was an internal review process or the requester could go to the Information Commissioners' Officer.

RESOLVED

That the report be noted.

249. PROGRESS REPORT ON 2017/18 INTERNAL AUDIT PLAN

Members were presented with an update on the progress of the internal audit work.

It was noted that since the last report 12 audits and 4 follow up audits had been completed. Within the 12 audits there had been 2 partial assurance audits:

- Data Sharing Protocols
- Online choice based letting scheme – Home Point

SWAP were on target to complete the internal audit plan by the end of the financial year.

Following a query from a member, it was confirmed that the pie chart summary of control assurance (page 45 of the agenda pack) was reasonable at the moment. SWAP would expect to see the reasonable section to grow. It was noted that SWAP were auditing areas of more concern earlier in the year which explained why the partials were at 40%.

Data sharing protocols

Following a query from a member of the committee, it was noted that the information governance team were carrying out audits to ensure that data sharing protocols were in place or being updated. The information access and records manager indicated that there were issues with the ability to share information easily. The information access and records manager agreed to feed into the refresh of the digital strategy the opportunity to learn from the defence / military sector as they had systems in place to share information.

Online choice based letting scheme

The head of prevention and support indicated that a revised allocations policy would be presented to cabinet for approval early in 2018. It was anticipated that this would introduce a better system for reporting on the access and state of social housing within Herefordshire. The progress of the individual recommendations within the audit would be reported through the bi-annual report on internal audit recommendation tracking.

The chief finance and S151 officer agreed to find out the reasons for the delay in providing the management response in relation to the phase 1 small holdings audit report as the phase 2 audit was currently underway.

A member expressed concern that the audit on the new communications strategy had been dropped, especially as poor communication was a dominant thread in complaints

received by the council. The chief finance and S151 officer agreed to discuss whether there was capacity within the current audit plan to undertake this audit.

RESOLVED

That the report be noted.

250. TRACKING OF INTERNAL AUDIT RECOMMENDATIONS

The directorate service team leader presented the report and highlighted:

- We had previously reported to committee in May that there were 25 overdue recommendations up to the end of March. 20 of these are now being reported as completed with 5 still outstanding.
- For those 86 recommendations first due between 1 April and 30 September 2017, 65 have been completed. Of the 21 recommendations still In progress, 4 are priority 4.

A member noted that most of actions due to be completed by March 2018 had slipped more than once. If a date has been revised, it should be marked overdue. It was further noted that with regard to the priority 4 Deprivation of Liberties actions, the committee had been assured that actions were being progress and there were still actions outstanding from January 2017. The directorate services team leader agreed to raise this with colleagues within the adults and wellbeing directorate.

The committee were pleased with the progress being made but noted that the management responses needed to ensure that the dates were realistic.

The directorate services team leader agreed to ascertain whether further detail about S106 funding by ward could be provided.

Councillor RJ Phillips left the meeting at 15:58

RESOLVED

That the report be noted.

The meeting adjourned at 15:59.

251. COUNCIL CONSTITUTION

The meeting reconvened at 16:10.

The solicitor to the council presented the report.

It was noted that it was important to have a system in place for reviewing the constitution and it was being recommended to the committee that a survey attached at appendix 1 be sent to all members for completion. The recommendation was for a working group be set up to conduct the review and then make recommendations for consideration by the committee.

During the discussion, it was agreed:

- That a working group be set up which was politically representative and the previous members of the constitution working group be invited and other member

volunteers. Councillors Chappell, Newman and Harvey agreed to be part of the group

- The working group consider whether officers and members of the public be consulted over the way the new constitution was working.
- That a meeting of the working group be arranged for December.
- That the working group act as a consultee on the employee code of conduct. It was noted that whilst the employee code of conduct formed part of the constitution, the responsibility for approval sat with the chief executive as head of paid service.
- The words "light touch" be removed from the proposed terms of reference at paragraph 4 of the report.

RESOLVED

That

- (a) The questionnaire in appendix 1 is approved for circulation to all members;**
- (b) A constitution working group be established with terms of reference as set out in paragraph 4 as amended during the meeting (with light touch being removed) to consider any revised changes to the constitution;**
- (c) That a working group be established with membership as set out in the meeting.**

252. CORPORATE RISK REGISTER

The directorate services team leader presented the report. The committee were reminded that their role was to ensure that risks were rated in accordance with the performance, risks, opportunities management (PROM) framework.

Following a query from a member, the directorate services team clarified that the corporate risk register was discussed at directorate management team meetings and that risks were endorsed by the relevant assistant director and director. There were various points in the process where risks are reviewed and updated. The corporate risk register is also regularly reviewed by management board. A member raised concerns that they did not feel assured that there was testing of the revised risk score, especially in connection:

- The medium term financial strategy (MTFS) moving from 20 to 3 given the forecast of an overspend in children's wellbeing.
- Information governance as a report received earlier in the meeting had indicated that there were potential resource issues.
- Accommodation moving from 12 to 4.
- good decision making from 12 to 2.

It was agreed that the corporate risk register would be considered at the March meeting and then the possibility of moving to six monthly reporting would be considered.

RESOLVED

That the report be noted.

253. CONFIDENTIAL REPORTING CODE (WHISTLEBLOWING)

The solicitor to the council presented the report and highlighted that the confidential reporting code (whistleblowing) was out of date. The recommendation was that as the

code formed part of the constitution that the working group be asked to look at the document.

RESOLVED

That

- (a) The constitution working group be asked to consider any revised changes to the code.**

254. CODE OF CONDUCT QUESTIONS

The chairman stated that he was disappointed to see this on the agenda as the matter had been discussed at the meeting on 20 September 2017.

Question 1

A response to this question had been given in September 2017. The council is not obliged to publish the names of the parish councils involved in code of conduct complaints but that does not mean that the committee could not look at providing this information if it helps the public to understand the code of conduct.

The chairman proposed that this issue be deferred until the next code of conduct report which was due in September 2018, seconded by Councillor John Stone.

For: 3
Against: 3

The chairman's casting vote was used. The issue of publishing the names of the towns and parish councils involved in code of conduct complaints deferred until September 2018.

Question 2

It was noted that a working group of the committee had determined that monitoring officer resolution was appropriate and can be relied upon. It was for the committee to determine whether or not they were happy with the procedure. It was agreed that this issue be moved to the working group as the code of conduct formed part of the constitution.

RESOLVED

That:

- (a) the issue of publishing the names of town and parish councils involved in code of conduct complaints be deferred until September 2018; and**
- (b) that the constitution working group be asked to look at whether monitoring officer resolution was still appropriate**

255. INTERNAL CONTROL WORKING GROUP UPDATE

The chief finance and S151 introduced the internal control working group update and provided an update on the HR investigation.

It was noted that the HR report had been received by the chief executive who was looking at the responses to the recommendations. It was not intended to make the

report public as it concentrated on why people acted the way they did which would be difficult to release, but there would be lessons learnt. The chief executive would be attending the meeting on 24 January so the committee would be able to ask him questions about the report. It was noted the public would want to more detail on the investigation.

It was noted that more detailed improvements had been identified and that the committee should see more substantial changes. There would be a corporate peer review which may also have recommendations which would need consideration and there would also be a re-audit of the Blue School House recommendations.

It was confirmed that the officer internal control improvement board did have senior representatives from all directorates and that the issues were being considered very seriously.

RESOLVED

That the report be noted.

256. WORK PROGRAMME UPDATE

The committee's updated work programme was discussed.

RESOLVED

That the work programme be agreed.

The meeting ended at 5.25 pm

Chairman

**PUBLIC QUESTIONS TO AUDIT AND GOVERNANCE COMMITTEE
29 November 2017**

Question

Mrs E Morawiecka, Breinton

The Code of conduct report at para 12 says “this committee has determined that monitoring officer resolution is appropriate, proportionate and can be relied upon for upholding high standards of conduct. How can the Monitoring officer be relied upon for upholding high standards of conduct?”

Answer

I have taken this to be a structural question and not a personal question.

The council has a statutory duty to promote and maintain high standards of conduct by members and co-opted members of the council; the monitoring officer provides assistance to the council in meeting that duty.

The code of conduct complaints procedure was approved by this committee in May 2016 following a review overseen by a member working group and supported by the advice of our then independent person Mr John Sharman. Views from parish councils were also sought on the procedure.

The procedure sets out, amongst other things, the processes to be followed and the criteria to be applied by the monitoring officer in assessing or resolving complaints. The monitoring officer has unfettered access to the council’s appointed independent persons and seeks their view in coming to a resolution.

This committee receives reports on numbers of complaints received and resolved, and monitors trends; this information, together with consultation feedback from councillors and parish councils, is used to inform periodic reviews of both the code of conduct itself, and the associated complaints procedure to ensure they remain fit for purpose.

In addition, the monitoring officer raises awareness of the expected standards of conduct through training and advice offered to elected members of Herefordshire Council, and parish councillors and their clerks throughout the county.

